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GOVERNOR

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SECRETARY

State of Louisiana

DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF THE SECRETARY

November 22, 2016

Mr. Ron Curry
Regional Administrator (6RA)
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Re: Louisiana State Implementation Plan (SIP) Update
Response to EPA's SSM SIP Call

Dear Mr. Curry:

On June 12, 2015, the U.S. Environmental Protection Agency (EPA) promulgated a rule entitled "State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction."[1]

This action concluded that several Louisiana air quality regulations are "substantially inadequate to meet [Clean Air Act] requirements" because they provide "automatic exemptions" or "impermissible discretionary exemptions" from otherwise applicable SIP emission limitations. Consequently, EPA issued a SIP call directing the state to submit corrective SIP revisions by November 22, 2016.

In response to EPA's SIP call, the State of Louisiana, through the Louisiana Department of Environmental Quality (LDEQ), transmits to EPA for incorporation into the state's SIP the regulatory actions summarized in the table below.

Rule	Title	Proposed	Public Hearing	Promulgated
AQ360	Repeal of LAC 33:III.1507.A & B	June 20, 2016	July 27, 2016	October 20, 2016
AQ361	Repeal of LAC 33:III.1107.A	April 20, 2016	May 25, 2016	October 20, 2016
AQ362	Repeal of LAC 33:III.2153.B.1.i	April 20, 2016	May 25, 2016	October 20, 2016
AQ363	Repeal of LAC 33:III.2307.C	June 20, 2016	July 27, 2016	October 20, 2016
AQ364	Work Practice Standards During Start-up and Shutdown	June 20, 2016	July 27, 2016	February 20, 2017[2]

[1] 80 FR 33840

[2] AQ364 will be promulgated after November 22, 2016. However, because LAC 33:III.Chapter 22 applies only during the ozone season, defined as "May 1 to September 30, inclusive," this date will not delay the repeal of the exemption provided by LAC 33:III.2201.C.8.

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LDEQ's submittal includes a:

- summary of sections 110(l) and 193 of the Clean Air Act (CAA or Act);
- description of each impacted rule, the basis for the proposed rule amendments, and an analysis demonstrating how such amendments comply with sections 110(l) and 193 of the Act, as applicable;
- discussion of how the proposed work practice standards under LAC 33:III.2201.K.3 comport with EPA's seven considerations for emission limitations in SIP provisions that apply during startup and shutdown;[3] and
- discussion of how the aforementioned work practice standards meet applicable stringency requirements (i.e., reasonably available control technology, or RACT).

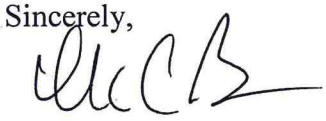
Supporting documentation for each rule includes:

- the rule text in an "underline/strikethrough" format;[4]
- the proposed and final rule as published in the *Louisiana Register*;[5]
- copies of the public comments received, the public hearing transcript, and LDEQ's Comment Summary Response & Concise Statement; and
- for AQ364, the proposed substantive changes intended to address EPA's August 3, 2016, comments on the proposed rule (now identified as AQ364S).

Note that a separate public hearing on LDEQ's proposed SIP revisions was conducted on August 25, 2016. No additional comments were received during the comment period or at the public hearing. The *Louisiana Register* notice announcing the hearing and the public hearing transcript have also been included herein.

Should you have any questions concerning this matter or require additional documentation, please contact Bryan D. Johnston of the Air Permits Division at (225) 219-3450.

Sincerely,



Chuck Carr Brown, Ph.D.
Secretary

CCB:BDJ

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[3] 80 FR 33980

[4] For AQ360, AQ361, AQ362, and AQ363, promulgated October 20, 2016, no changes were made to the proposed rules.

[5] Copies of proposed and final rules are also published on LDEQ's website at http://www.deq.louisiana.gov/portal/DIVISIONS/LegalAffairs/RulesandRegulations/MonthlyRegulationChanges.aspx.

Sections 110(l) and 193 of the CAA

Section 110(l) of the CAA reads, in relevant part:

> The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title), or any other applicable requirement of this chapter.[6]

Section 193 of the CAA reads:

> Each regulation, standard, rule, notice, order and guidance promulgated or issued by the Administrator under this chapter, as in effect before November 15, 1990, shall remain in effect according to its terms, except to the extent otherwise provided under this chapter, inconsistent with any provision of this chapter, or revised by the Administrator. No control requirement in effect, or required to be adopted by an order, settlement agreement, or plan in effect before November 15, 1990, in any area which is a nonattainment area for any air pollutant may be modified after November 15, 1990, in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.[7]

According to EPA, Section 110(l) is primarily an "antibacksliding" provision, meant to assure that if a state seeks to revise its SIP to change existing provisions that EPA has previously approved, there must be a showing that the revisions of such provisions would not interfere with attainment of the national ambient air quality standards (NAAQS), reasonable further progress, or any other requirement of the CAA.[8]

Section 193 prohibits states from modifying regulations in place prior to November 15, 1990, unless the modification ensures equivalent or greater reductions of the regulated pollutant.[9]

Applicability of sections 110(l) and 193 to the regulatory actions promulgated by LDEQ in response to EPA's SSM SIP call is addressed in the following table.

Rule	Affected Citations	Promulgated	Section 110(1)	Section 193
AQ360	LAC 33:III.1507.A.1	December 1987	✔	✔
	LAC 33:III.1507.B.1	December 1987	✔	✔
AQ361	LAC 33:III.1107.A	December 1987	✔	✔
AQ362	LAC 33:III.2153.B.1.i	September 1995	✔	
AQ363	LAC 33:III.2307.C.1.a	December 1987	✔	✔
	LAC 33:III.2307.C.2.a	December 1987	✔	✔
AQ364	LAC 33:III.2201.C.8	February 2002	✔	

[6] 42 U.S.C. § 7410(l)
[7] 42 U.S.C. § 7515
[8] 80 FR 33941
[9] 80 FR 33982

The nature of the technical demonstration needed under sections 110(l) and 193 to support approval of a SIP revision depends on the facts and circumstances of the SIP revision at issue. However, EPA has provided general guidance on the considerations and the nature of the analysis for several common scenarios. The two examples repeated below are relevant to the regulatory actions promulgated by LDEQ in response to EPA's SSM SIP call.[10]

Example 1:

> A state elects to revise an existing SIP provision by removing an existing automatic exemption provision, director's discretion provision, enforcement discretion provision or affirmative defense provision, without altering any other aspects of the SIP provision at issue (e.g., elects to retain the emission limitation for the source category but eliminate the exemption for emissions during SSM events). Although the EPA must review each SIP submission for compliance with section 110(l) and section 193 on the facts and circumstances of the revision, the Agency believes in general that this type of SIP revision should not entail a complicated analysis to meet these statutory requirements. Presumably, removal of the impermissible components of preexisting SIP provisions would not constitute backsliding, would in fact strengthen the SIP and would be consistent with the overarching requirement that the SIP revision be consistent with the requirements of the CAA. Accordingly, the EPA believes that this type of SIP revision should not entail a complicated analysis for purposes of section 110(l). If the SIP revision is also governed by section 193, then elimination of the deficiency will likewise presumably result in equal or greater emission reductions and thus comply with section 193 without the need for a more complicated analysis.[11]

Example 2:

> A state elects to revise its SIP provision by replacing an automatic exemption for excess emissions during startup and shutdown events with an appropriate alternative emission limitation (e.g., a different numerical limitation or different other control requirement) that is explicitly applicable during startup and shutdown as a component of the revised emission limitation. Although the EPA must review each SIP revision for compliance with section 110(l) and section 193 on the facts and circumstances of the revision, the Agency believes in general that this type of SIP revision should not entail a complicated analysis to meet these statutory requirements. Presumably, the replacement of an automatic exemption applicable to startup and shutdown with an appropriate alternative emission limitation would not constitute backsliding, would strengthen the SIP and would be consistent with the overarching requirement that the SIP revision be consistent with the requirements of the CAA. The state should develop that alternative emission limitation in accordance with the EPA's guidance recommendations for such provisions to assure that it would meet CAA requirements. In addition, that alternative emission limitation would both need to meet the overarching CAA applicable requirements that the emission limitation is designed and intended to meet (e.g., RACT-level controls for the source category in an attainment area for a NAAQS) and need to be legally and practically enforceable (e.g., have adequate recordkeeping, reporting, monitoring or other features requisite for enforcement). If a state has developed the alternative emission limitation consistent with these criteria, then the EPA anticipates that the revision of the emission limitation to

[10] Example 1 is relevant to AQ360, AQ361, AQ362, & AQ363; example 2 is relevant to AQ364.
[11] 80 FR 33975

> replace the exemption with an alternative emission limitation applicable to startup and shutdown would not be backsliding, would be a strengthening of the SIP and would be consistent with the requirement of section 110(l) that a SIP revision be consistent with the requirements of the CAA. Similarly, if section 193 applies to the emission limitation that the state is revising, then the replacement of an exemption applicable to emissions during startup and shutdown with an appropriately developed alternative emission limitation that explicitly applies during startup and shutdown would presumably result in equal or greater emission reductions and thus should meet the requirements of section 193 without the need for a more complicated analysis.[12]

AQ360 – Repeal of LAC 33:III.1507.A & B

LAC 33:III.1507.A & B apply to existing sulfuric acid plants (i.e., those constructed or last modified on or before August 17, 1971, and therefore not subject to 40 CFR 60.82 and 60.83 of Subpart H).

LAC 33:III.1507.A states, in relevant part, that a "four-hour (continuous) start-up exemption from the [SO_2 and sulfuric acid mist] emission limitations of LAC 33:III.1503.A will be authorized by the administrative authority for facilities not subject to 40 CFR 60.82 and 60.83." LAC 33:III.1507.B provides a similar exemption "where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition." These provisions were approved by EPA into Louisiana's SIP on July 15, 1993.[13]

Based on a review of effective permits, LDEQ determined that no sulfuric acid plants are eligible for the aforementioned exemptions because 40 CFR 60 Subpart H (Standards of Performance for Sulfuric Acid Plants) applies to each such facility located in the state. Therefore, in response to EPA's SIP call, LDEQ proposed to repeal LAC 33:III.1507.A & B.

AQ360 will not result in an increase in SO_2 or sulfuric acid mist emissions or otherwise interfere with attainment of the NAAQS, reasonable further progress, or any other requirement of the CAA. Therefore, the proposed regulatory action is not prohibited by sections 110(l) or 193 of the Act.

AQ361 – Repeal of LAC 33:III.1107.A

LAC 33:III.1105 (Smoke from Flaring Shall Not Exceed 20 Percent Opacity) provides, in relevant part, that the "emission of smoke from a flare or other similar device used for burning in connection with pressure valve releases for control over process upsets shall be controlled so that the shade or appearance of the emission does not exceed 20 percent opacity … for a combined total of six hours in any 10 consecutive days."

LAC 33:III.1107.A allows LDEQ to grant an exemption from the provisions of LAC 33:III.1105 "during start-up and shutdown periods if the flaring was not the result of failure to maintain or repair equipment." This exemption was approved by EPA into Louisiana's SIP on July 5, 2011.[14]

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[12] 80 FR 33975-6
[13] 58 FR 38060
[14] 76 FR 38977

In response to EPA's SIP call, LDEQ proposed to repeal LAC 33:III.1107.A for two primary reasons. One, there is incongruity between the provisions of LAC 33:III.1105 and LAC 33:III.1107.A – §1105 applies to flaring associated with process upsets, whereas §1107.A addresses startup and shutdown periods (not malfunctions or upsets). Two, other commonly applicable standards for flares are much more stringent than §1105. For example, 40 CFR 63.11(b)(4) requires flares to "be designed for and operated with no visible emissions, except for periods not to exceed a total of 5 minutes during any 2 consecutive hours."

AQ361 will not result in an increase in smoke (i.e., particulate emissions) or otherwise interfere with attainment of the NAAQS, reasonable further progress, or any other requirement of the CAA. Therefore, the proposed regulatory action is not prohibited by sections 110(l) or 193 of the Act.

AQ362 – Repeal of LAC 33:III.2153.B.1.i

LAC 33:III.2153 (Limiting VOC Emissions from Industrial Wastewater) requires "affected VOC wastewater streams" to be controlled. More specifically, LAC 33:III.2153.B.1.d.i requires vents on covers and on certain junction boxes to be "equipped with either a control device or a vapor recovery system that maintains a minimum control efficiency of 90 percent VOC removal or a VOC concentration of less than or equal to 50 parts per million by volume."

LAC 33:III.2153.B.1.i provides that the requisite control device or recovery device is "not … required to meet the 90 percent removal efficiency or 50 ppmv concentration during periods of malfunction or maintenance on the devices for periods not to exceed 336 hours per year." This exemption was approved by EPA into Louisiana's SIP on July 5, 2011.[15]

An LDEQ query of effective air permits returned no documents identifying LAC 33:III.2153.B.1.i as an applicable requirement. In order to ensure that any affected VOC wastewater streams were not inadvertently overlooked, LDEQ engaged the regulated community, inquiring if any affected source relied upon this exemption as a means to comply with LAC 33:III.2153. No affirmative responses were received. Therefore, in response to EPA's SIP call, LDEQ proposed to repeal LAC 33:III.2153.B.1.i.

Following proposal of the rule on April 20, 2016, LDEQ generated a list of air permits with Specific Requirements referencing *any* §2153 citation. LDEQ reviewed the 23 permits on this list and contacted permittees subject to LAC 33:III.2153.B (Control Requirements) to reassess the impact of repealing LAC 33:III.2153.B.1.i. In each case, the permittee reported that the repeal of the exemption would not be problematic.

AQ362 will not result in an increase in VOC emissions or otherwise interfere with attainment of the NAAQS, reasonable further progress, or any other requirement of the CAA. Therefore, the proposed regulatory action is not prohibited by section 110(l) of the Act.

AQ363 – Repeal of LAC 33:III.2307.C

LAC 33:III.2307.C applies to nitric acid plants that are not subject to 40 CFR 60 Subpart G (Standards of Performance for Nitric Acid Plants).

[15] *Id.*

LAC 33:III.2307.C.1.a states, in relevant part, that a "four-hour start-up exemption from [the NO_X] emission [limitation of LAC 33:III.2307.D] may be authorized by the administrative authority for plants not subject to 40 CFR Part 60, Subpart G." LAC 33:III.2307.C.2.a provides a similar exemption "where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition." These provisions were approved by EPA into Louisiana's SIP on July 5, 2011.[16]

Based on a review of effective permits, LDEQ identified only one nitric acid plant not subject to 40 CFR 60 Subpart G, that being Nitric Acid Train 4 (NNA4-1, EQT 0007) located at PCS Nitrogen Fertilizer's (PCS's) Geismar Agricultural Nitrogen & Phosphate Plant (Agency Interest No. 3732). Nitric Acid Train 4 is currently operating under Permit No. 2240-V10, issued July 15, 2016.

A Consent Decree between EPA, LDEQ, and PCS (Civil Action No. 14-707-BAJ-SCR), entered February 26, 2014, requires PCS to install NO_X control equipment (i.e., selective catalytic reduction, or SCR) on Nitric Acid Train 4 as a supplemental environmental project by no later than February 26, 2017. Based on discussions with representatives of PCS, LDEQ understands that after the SCR control device is installed, the exemptions provided by LAC 33:III.2307.C will no longer be needed. Therefore, in response to EPA's SIP call, LDEQ proposed to repeal LAC 33:III.2307.C.

AQ363 will not result in an increase in NO_X emissions or otherwise interfere with attainment of the NAAQS, reasonable further progress, or any other requirement of the CAA. Therefore, the proposed regulatory action is not prohibited by sections 110(l) or 193 of the Act.

AQ364 – Work Practice Standards During Start-up and Shutdown

LAC 33:III.2201 establishes NO_X standards for certain boilers, process heaters/furnaces, stationary gas turbines, and stationary internal combustion engines located at affected facilities in the following nine parishes: Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, and West Feliciana.

LAC 33:III.2201.C.8 provides an exemption from Chapter 22 "during start-up and shutdown … or during a malfunction." Notably, this exemption does not apply to units that are shut down intentionally on a routine basis (i.e., more than once per month). This provision was approved by EPA into Louisiana's SIP on July 5, 2011.[17]

According to EPA's "SSM SIP Policy as of 2015" (hereafter SSM SIP Policy),[18] SIP emission limitations "must be applicable to the source continuously," but

- do not need to be numerical in format;
- do not have to apply the same limitation (e.g., numerical level) at all times; and
- may be composed of a combination of numerical limitations, specific technological control requirements and/or work practice requirements, with each component of the emission limitation applicable during a defined mode of source operation.

[16] *Id.*
[17] *Id.*
[18] 80 FR 33976

In response to EPA's SIP call, LDEQ proposed to repeal the exemption set forth in LAC 33:III.2201.C.8 and amend Chapter 22 to allow owners or operators of affected point sources to comply either with the emission factors imposed by LAC 33:III.2201.D at all times (including periods of startup and shutdown) or with newly-established work practice standards designed to minimize NO_X emissions during periods of startup and shutdown.

In developing the proposed work practice standards, LDEQ looked to the guidance provided by EPA in its SSM SIP Policy.[19]

> The federal NESHAP and NSPS regulations and the technical materials in the public record for those rules may provide assistance for states as they develop and consider emission limitations and alternative emission limitations for sources in their states, and definitions of startup and shutdown events and work practices for them found in these regulations may be appropriate for adoption by the state in certain circumstances. In particular, the NSPS regulations should provide very relevant information for sources of the same type, size and control equipment type, even if the sources were not constructed or modified within a date range that would make them subject to the NSPS. The EPA therefore encourages states to explore these approaches.[20]

Although EPA stresses that "NSPS regulations should provide very relevant information," LDEQ notes that in many instances, the applicable emission limit does not apply during periods of startup and shutdown.[21] Nevertheless, LDEQ reviewed all federal standards potentially applicable to the source types regulated under Chapter 22 – electric power generating system boilers, industrial boilers, stationary gas turbines, process heaters and furnaces, and stationary internal combustion engines.

Electric Power Generating System Boilers

LDEQ first reviewed 40 CFR 60 Subpart D (Standards of Performance for Fossil-Fuel-Fired Steam Generators). Subpart D regulates NO_X emissions; however, consistent with 40 CFR 60.8(c), it does not require steam generating units to meet applicable NO_X limits during periods of startup or shutdown, nor does it establish work practice standards designed to minimize emissions during periods of startup and shutdown.

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[19] EPA notes that "[a]doption of work practice standards from a NESHAP or NSPS as a component of an emission limitation to satisfy SIP requirements is addressed in this document not as a requirement or even as a recommendation but rather as an approach that a state may use at its option" (80 FR 33916). To be fair, EPA points out that "it cannot automatically be assumed that emission limitation requirements in recent NESHAP and NSPS are appropriate for all source regulated by SIPs" because, for example, the "pollutants regulated under the NESHAP (*i.e.*, HAPs) are in many cases different than those that would be regulated for purposes of attaining and maintaining the NAAQS." *Id*. However, in the instant case, LDEQ identified work practice standards that function to minimize emissions of NO_X (and, in some cases, other pollutants as well).

[20] 80 FR 33980

[21] 40 CFR 60.8(c) specifies that "emissions in excess of the level of the applicable emission limit during periods of startup, shutdown, and malfunction [shall not] be considered a violation of the applicable emission limit unless otherwise specified in the applicable standard."

LDEQ also reviewed 40 CFR 60 Subpart Da (Standards of Performance for Electric Utility Steam Generating Units). Subpart Da regulates NO_X emissions; however, with respect to affected facilities for which construction, modification, or reconstruction commenced before May 4, 2011,[22] the applicable NO_X limit under §60.44Da does not apply during periods of startup and shutdown per 40 CFR 60.48Da(a). Further, Subpart Da does not establish work practice standards designed to minimize NO_X emissions during periods of startup and shutdown.[23]

Finally, LDEQ reviewed 40 CFR 63 Subpart UUUUU (National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units). While Subpart UUUUU does not establish emission limitations for NO_X, some NESHAPs establish work practice standards which function to minimize emissions of non-HAP pollutants, including NO_X, during startup and shutdown events. Such is the case here. Notably, Table 3 to Subpart UUUUU requires owners or operators to start SCR systems "appropriately to comply with relevant standards applicable during normal operation." As previously discussed, SCR is a post-combustion control strategy employed to control NO_X emissions.[24]

Industrial Boilers

LDEQ reviewed 40 CFR 60 Subpart Db (Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units). Here, the NO_X standards under 40 CFR 60.44b apply at all times, including periods of startup and shutdown, per 40 CFR 60.44b(h). However, in most cases, the applicable NO_X limit set forth in 40 CFR 60.44b(a) is substantially higher than the 0.10 lb/MM Btu limit of LAC 33:III.2201.D. Indeed, these limits range from 2 times higher (in the case of natural gas and distillate oil-fired units that have a high heat release rate or that are duct burners in a combined cycle system) to 7 times higher (in the case of pulverized coal-fired units).[25]

LDEQ also reviewed 40 CFR 60 Subpart Dc (Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units). Subpart Dc does not regulate NO_X emissions, nor does it establish work practice standards designed to minimize emissions during periods of startup and shutdown.

Finally, LDEQ reviewed 40 CFR 63 Subpart DDDDD (National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters). Like Subpart UUUUU, Subpart DDDDD does not specifically regulate NO_X, but it does establish work practice standards designed to minimize emissions (including NO_X) during periods of startup and shutdown. Table 3 to Subpart DDDDD requires SCR systems to be started "as expeditiously as possible."

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[22] This category is most appropriate for affected point sources under Chapter 22, as those constructed on or after May 4, 2011, would likely be exempt per LAC 33:III.2201.C.15.

[23] Notably, for PM, 40 CFR 60.42Da(e) requires affected facilities that commenced construction, reconstruction, or modification after May 3, 2011, to meet the work practice standards specified in Table 3 to Subpart UUUUU or in Table 3 of Subpart DDDDD, as applicable, during periods of startup and shutdown.

[24] Revised Chapter 2 of EPA's Air Pollution Control Cost Manual indicates that "[i]n the U.S. alone, more than 1,000 SCR systems have been installed on a wide variety of sources in many different industries, including utility and industrial boilers, process heaters, gas turbines, internal combustion engines, chemical plants, and steel mills" (p. 2-2).

[25] Only a single, narrowly-defined category of steam generating units (i.e., natural gas and distillate oil-fired units that have a low heat release rate and are not duct burners) has a limit equivalent to that imposed by Chapter 22.

Stationary Gas Turbines

LDEQ reviewed 40 CFR 60 Subpart GG (Standards of Performance for Stationary Gas Turbines) and 40 CFR 60 Subpart KKKK (Standards of Performance for Stationary Combustion Turbines), as these provisions specifically regulate NO_X emissions. However, consistent with 40 CFR 60.8(c), neither subpart requires affected facilities to meet applicable NO_X limits during periods of startup or shutdown, nor do they establish work practice standards designed to minimize emissions during periods of startup and shutdown.[26]

LDEQ also reviewed 40 CFR 63 Subpart YYYY (National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines). Subpart YYYY does not regulate NO_X or establish work practice standards which function to minimize emissions of non-HAP pollutants during startup and shutdown events.

Process Heaters and Furnaces

The discussion pertaining to 40 CFR 63 Subpart DDDDD is relevant to process heaters and furnaces.

Stationary Internal Combustion Engines

LDEQ reviewed 40 CFR 60 Subpart JJJJ (Standards of Performance for Stationary Spark Ignition Internal Combustion Engines). Subpart JJJJ regulates NO_X emissions; however, consistent with 40 CFR 60.8(c), it does not require engines to meet applicable NO_X limits during periods of startup or shutdown, nor does it establish work practice standards designed to minimize emissions during periods of startup and shutdown.

LDEQ also reviewed 40 CFR 63 Subpart ZZZZ (National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines). While Subpart ZZZZ does not specifically regulate NO_X, it does establish work practice standards designed to minimize emissions (including NO_X) during periods of startup and shutdown at 40 CFR 63.6625(h). These standards are particularly relevant since Subpart ZZZZ recognizes non-selective catalytic reduction (NSCR) as a possible control technology needed to meet applicable emission limitations. NSCR, as defined in 40 CFR 63.6675, is an "add-on catalytic **nitrogen oxides (NO_X) control device** for rich burn engines that, in a two-step reaction, promotes the conversion of excess oxygen, NO_X, CO, and volatile organic compounds (VOC) into CO_2, nitrogen, and water" (emphasis added). NSCR may be used to comply with the NO_X standards of LAC 33:III.Chapter 22.

As noted in the following table, each work practice standard described in LAC 33:III.2201.K.3 has as its basis a federal provision that serves to limit emissions of NO_X (and, in most cases, other criteria and hazardous air pollutants).

[26] EPA's SSM SIP Call notes that "commenters included the NSPS for Electric Utility Steam Generating Units (40 CFR part 60, subpart Da) and the gas turbine NSPS [Subpart KKKK] as examples of where the EPA itself has established work practice standards rather than numerical emission limitations for periods of startup and shutdown" (80 FR 33916). Other than the reference to the work practice standards of 40 CFR 63 Subparts DDDDD and UUUUU at 40 CFR 60.42Da(e)(2), Subparts Da and KKKK do not establish work practice standards.

LAC 33:III.2201.K.3	Federal Basis
a	40 CFR 63.6(e)
b	Table 3 to Subpart DDDDD; Table 3 to Subpart UUUUU
c	Table 3 to Subpart DDDDD
d	40 CFR 63.6625(h) and Tables 1a, 2a, 2c, & 2d of Subpart ZZZZ
e	40 CFR 63.7555(d)(9) of Subpart DDDDD
f	40 CFR 63.7555(d)(10) of Subpart DDDDD; 40 CFR 63.10032(i) of Subpart UUUUU
g	40 CFR 70.6(a)(3)(ii)(B)

With respect to proposed LAC 33:III.2201.K.3.a, EPA's SSM SIP Policy notes that general duty provisions are generally "[in]sufficient as an alternative emission limitation for any type of event."[27] However, the agency has also recognized that:

- states are free to include general-duty provisions in their SIPs as separate additional requirements, for example, to ensure that owners and operators act consistent with reasonable standards of care;[28] and

- [t]o the extent that such other general-duty requirement is properly established and legally and practically enforceable, the EPA would agree that it may be an appropriate separate requirement to impose upon sources in addition to the (continuous) emission limitation. The EPA itself imposes separate general duties of this type in appropriate circumstances.[29]

AQ364 will not result in an increase in NO_X emissions or otherwise interfere with attainment of the NAAQS, reasonable further progress, or any other requirement of the CAA. Therefore, the proposed regulatory action is not prohibited by section 110(l) of the Act.

EPA's Recommended Considerations for SIP Provisions that Apply During Startup and Shutdown

EPA recommends seven specific criteria as appropriate considerations for developing emission limitations in SIP provisions that apply during startup and shutdown.[30] While some of these recommendations appear to be most relevant to alternative *numerical* emission limitations, LDEQ has addressed each in order to provide a thorough response to EPA.

[27] 80 FR 33979
[28] 80 FR 33904
[29] 80 FR 33890; 80 FR 33979
[30] 80 FR 33890

The revision is limited to specific, narrowly defined source categories using specific control strategies (e.g., cogeneration facilities burning natural gas and using selective catalytic reduction).

LAC 33:III.2201.K.3.b addresses coal and fuel-oil fired electric power generating system boilers and fuel-oil fired stationary gas turbines. This provision requires natural gas to be used during the startup process, as uncontrolled NO_X emissions attributed to the combustion of coal and fuel oil can be significantly higher than those attributed to natural gas.[31] It also requires natural gas to be utilized if another fuel must be used to support the shutdown process. Because this provision targets fuel selection, the "specific control strategies" aspect of EPA's recommendation is not relevant.

LAC 33:III.2201.K.3.c addresses "specific control strategies" which require flue gas temperatures to reach a minimum set point before they can be engaged, such as SCR and selective non-catalytic reduction (SNCR). Because this provision targets the post-combustion control of NO_X emissions, the "specific, narrowly defined source categories" aspect of EPA's recommendation is not relevant. Note that SCR has been applied to all source types regulated under Chapter 22 (see footnote 24).

Finally, LAC 33:III.2201.K.3.d applies only to rich-burn and lean burn spark-ignition stationary internal combustion engines.

Use of the control strategy for this source category is technically infeasible during startup or shutdown periods.

It is widely recognized that there are inherent limitations in both control technologies *and* test methods that render work practice standards preferable to numerical limitations during periods of startup and shutdown.

The constraints of SCR and SNCR during periods of startup and shutdown are well understood and addressed in many EPA publications.[32] In short, the injection of ammonia or urea below a unit-specific minimum operating temperature will not achieve the desired reduction in NO_X emissions, but will result in excess emissions of the unreacted reducing agent. EPA has recently accounted for the limitations of SCR in its rulemaking efforts. For example, in promulgating 40 CFR 63 Subpart UUUUU, EPA "carefully considered … potential operational constraints of air pollution control devices (APCDs) when designing its work practices for periods of startup and shutdown,"[33] concluding:

> The EPA is aware that SCR systems with ammonia injection need to be operated within a prescribed and relatively narrow temperature window to provide NO_X reductions.
>
> * * *
>
> Because these devices have specific temperature requirements for proper operation, the EPA notes in its work practices that it is the responsibility of the operators of EGUs to start their SCR … systems appropriately to comply with relevant standards applicable during normal operation.[34]

---

[31] See, generally, AP-42 Sections 1.1, 1.3, 1.4, and 3.1.

[32] See, for example, EPA's Air Pollution Control Technology Fact Sheets for SCR and SNCR (EPA-452/F-03-032 and EPA-452/F-03-031, respectively) at https://www.epa.gov/catc/clean-air-technology-center-products#factsheets.

[33] 77 FR 9381

[34] *Id.*

Likewise, 40 CFR 63 Subpart DDDDD requires owners or operators to start SCR systems "as expeditiously as possible."

However, the need to account for transient conditions during startup and shutdown is not limited to sources equipped with post-combustion control devices. For example, in promulgating standards of performance for new stationary combustion turbines (i.e., 40 CFR 60 Subpart KKKK), EPA stated:

> We recognize that even for well-operated units with efficient NO_X emission controls, excess emission "spikes" during unit startup and shutdown are inevitable.[35]

In the case of stationary compression ignition engines, EPA describes how emissions during startup are "significantly different than the emissions during normal operation" due to issues such as "variations in speed and load [and] poor atomization of the fuel injection, which leads to variable engine and engine exhaust temperatures, variable exhaust gas flow rates, and variable diluent pollutant concentration."[36] EPA also notes that:

> EPA test methods (*e.g.*, 40 CFR part 60, appendix A, Methods 2, 3A, 4, and 10) do not respond adequately to the relatively short term and highly variable exhaust gas characteristics occurring during these periods.[37]

EPA echoed these statements in recent amendments to 40 CFR 63 Subpart DDDDD, affirming that "emissions testing … is designed for periods of steady state operation."[38]

> [T]est methods are required to be conducted under isokinetic conditions (*i.e.*, steady-state conditions in terms of exhaust gas temperature, moisture, flow rate), which is difficult to achieve during [startup and shutdown] periods where conditions are constantly changing.[39]

Here, EPA even affirmed that "monitoring instrumentation such as continuous emissions monitoring systems (CEMS) … are designed for measurements occurring during periods other than during startup or shutdown when emissions flow are stable and consistent."[40]

The typically short duration of periods of startup and shutdown must also be considered. For example, it is not possible to complete three 1-hour runs as required 40 CFR 63 Subpart ZZZZ when startup of a stationary internal combustion engine is limited to no more than 30 minutes.[41]

Thus, in the absence of a clearly reliable way to establish and verify compliance with numerical limitations during periods of startup and shutdown, it is reasonable to establish alternative emission limitations for such periods in the form of work practice standards.

---

[35] 71 FR 38487-8
[36] 75 FR 9665
[37] *Id.*
[38] 80 FR 72793
[39] *Id.*
[40] *Id.*
[41] 40 CFR 63.6600, 6601, 6602, and 6603. The general need for three runs is also a requirement of 40 CFR 60.8(f) and 63.7(e)(3).

Finally, as evidenced below, the CAA does not mandate (or imply) that numerical limitations must be imposed at all times, nor does it expressly allow for work practice standards *only* when controls or compliance with numeric limitations is technically infeasible.

> The EPA agrees that neither section 110(a)(2)(A) nor section 302(k) inherently requires that SIP emission limitations must be expressed numerically. Furthermore, section 302(k) does not itself require imposition of numerical limitations or foreclose the use of higher numerical levels, specific technological controls or work practices during certain modes of operation.
>
> Although some CAA programs may require or impose a presumption that emission limitations be expressed numerically, the text of section 110(a)(2)(A) and section 302(k) does not expressly state a preference for emission limitations that are in all cases numerical in form.[42]
>
> ***As part of its justification of the SIP revision, the state analyzes the potential worst-case emissions that could occur during startup and shutdown based on the applicable alternative emission limitation.***

Since Chapter 22 was promulgated on February 20, 2002, LAC 33:III.2201.C.8 has exempted "any point source during *start-up* and *shutdown*," provided such source was intentionally shut down no more than once per month. Thus, uncontrolled NO_X emissions during periods of startup and shutdown have been reported to LDEQ's Emissions Reporting and Inventory Center (ERIC) and predecessor databases for many years per LAC 33:III.919 (Emissions Inventory). In fact, LAC 33:III.919.F.1.a.ii calls for the amount of emissions specifically associated with startup and shutdown events during the ozone season to be quantified and reported separately from other "categories" of emissions.

Therefore, presuming the newly-established work practice standards have no demonstrable impact on NO_X emissions (an unnecessarily conservative assumption), LDEQ's historical emissions data represents the potential "worst-case" scenario that could be attributed to the alternative emission limitation.

Since the compliance date of LAC 33:III.2201 (i.e., May 1, 2005), the 8-hour ozone design value of the Baton Rouge area has declined from 96 parts per billion (ppb) in 2005 to 72 ppb (as of November 1, 2016), a 25% decrease (see graphic on page 16). Accordingly, it is readily apparent that the exemption provided by LAC 33:III.2201.C.8 has in no way hindered Baton Rouge from attaining the 1997 8-hour ozone NAAQS or the 2008 8-hour ozone NAAQS. Therefore, the proposed work practice standards, which can only serve to reduce NO_X emissions during periods of startup and shutdown, will not interfere with attainment or reasonable further progress.

> ***The alternative emission limitation requires that the frequency and duration of operation in startup or shutdown mode are minimized to the greatest extent practicable.***
>
> ***The alternative emission limitation requires that all possible steps are taken to minimize the impact of emissions during startup and shutdown on ambient air quality.***

[42] 80 FR 33899

> ***The alternative emission limitation requires that, at all times, the facility is operated in a manner consistent with good practice for minimizing emissions and the source uses best efforts regarding planning, design, and operating procedures.***

These recommendations are addressed by LAC 33:III.2201.K.1 and K.3.a. LAC 33:III.2201.K.1 limits the frequency of startup and shutdown events, while LAC 33:III.2201.K.3.a limits the duration of startup and shutdown events and requires owners or operators to minimize emissions during these periods.

According to LAC 33:III.2201.K.1, owners or operators of affected point sources that are shut down internationally more than once per month must include NO_X emitted during periods of startup and shutdown for purposes of determining compliance with the emission factors set forth in LAC 33:III.2201.D or with an alternative plan approved in accordance with LAC 33:III.2201.E. Therefore, the frequency of startup and shutdown events for which the work practice standards may be applicable has been minimized.

LAC 33:III.2201.K.3.a requires owners or operators of affected point sources to "operate and maintain each affected point source, including any associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions." One such "good air pollution control practice" is to limit the duration of startup and shutdown events to the extent practical.

> *The alternative emission limitation requires that the owner or operator's actions during startup and shutdown periods are documented by properly signed, contemporaneous operating logs or other relevant evidence.*

This recommendation is addressed by LAC 33:III.2201.K.3.e, f, and g. These provisions require owners or operators to maintain records of the calendar date, time, and duration of each startup and shutdown and the type(s) and amount(s) of fuels used during each startup and shutdown for 5 years. These provisions parallel federal requirements at 40 CFR 63.7555(d)(9) and (10) of Subpart DDDDD and 40 CFR 63.10032(i) of Subpart UUUUU.

Reasonably Available Control Technology

Per EPA's SSM SIP Policy, a fully approvable SIP emission limitation must meet "all substantive requirements of the CAA applicable to such a SIP provision, *e.g.*, the statutory requirement of section 172(c)(1) for imposition of reasonably available control measures and reasonably available control technology (RACM and RACT) on sources located in designated nonattainment areas."[43] RACT is defined as "the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility."[44]

Federal Standards

As previously discussed, LDEQ reviewed the federal standards potentially applicable to the source types regulated under Chapter 22 and incorporated all relevant work practices into LAC 33:III.2201.K.3.

[43] On November 4, 2016, EPA proposed to redesignate Baton Rouge to attainment of the 2008 8-hour ozone NAAQS (81 FR 76891).

[44] 44 FR 53762

Control Technique Guidelines and Alternative Control Techniques

LDEQ also considered EPA's Control Technique Guidelines (CTGs). CTGs include "emissions limitations based on reasonably available control technology (RACT) to address ozone nonattainment" and are "used to presumptively define VOC RACT."[45] While there are no CTGs for NO_X,[46] the following Alternative Control Techniques (ACT) documents were found to be relevant. According to EPA, "[w]hile the ACT documents will not contain presumptive RACT emission limits, they will contain extensive background information on control technologies, costs, etc., that can be used by States in making RACT determinations."[47]

- Alternative Control Techniques Document – NO_X Emissions from Stationary Gas Turbines, January 1993 (EPA-453/R-93-007)
- Alternative Control Techniques Document – NO_X Emissions from Stationary Reciprocating Internal Combustion Engines, July 1993 (EPA-453/R-93-032)
- Alternative Control Techniques Document – NO_X Emissions from Process Heaters (Revised), September 1993 (EPA-453/R-93-034)
- Alternative Control Techniques Document – NO_X Emissions from Industrial/ Commercial/Institutional (ICI) Boilers, March 1994 (EPA-453/R-94-022)
- Alternative Control Techniques Document – NO_X Emissions from Utility Boilers, March 1994 (EPA-453/R-94-023)
- Control Techniques for Nitrogen Oxides Emissions from Stationary Sources – Second Edition, January 1978 (EPA-450/1-78-001)

Non-CTG/ACT Sources

LDEQ also reviewed the NO_X RACT discussion on EPA Region 1's "Nitrogen Oxides (NOx) Control Regulations" and "NOx RACT Summary" webpages,[48] as well as the documents mentioned therein, including those developed by the Northeast States for Coordinated Air Use Management (NESCAUM) and State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Officials (STAPPA/ALAPCO).[49] These documents included:

- State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 (57 FR 55620; November 25, 1992)
- Evaluation and Costing of NO_X Controls For Existing Utility Boilers in the NESCAUM Region (EPA 453/R-92-010), December 1992
- Controlling Nitrogen Oxides Under the Clean Air Act: *A Menu of Options*, STAPPA/ALAPCO, July 1994

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45 https://www3.epa.gov/ttn/atw/ctg_act.html
46 The CAA does not require NO_X CTGs.
47 57 FR 55628
48 See https://www3.epa.gov/region1/airquality/nox.html#sipcall and https://www3.epa.gov/region1/airquality/noxract.html, respectively.
49 STAPPA/ALAPCO is now the National Association of Clean Air Agencies (NACAA).

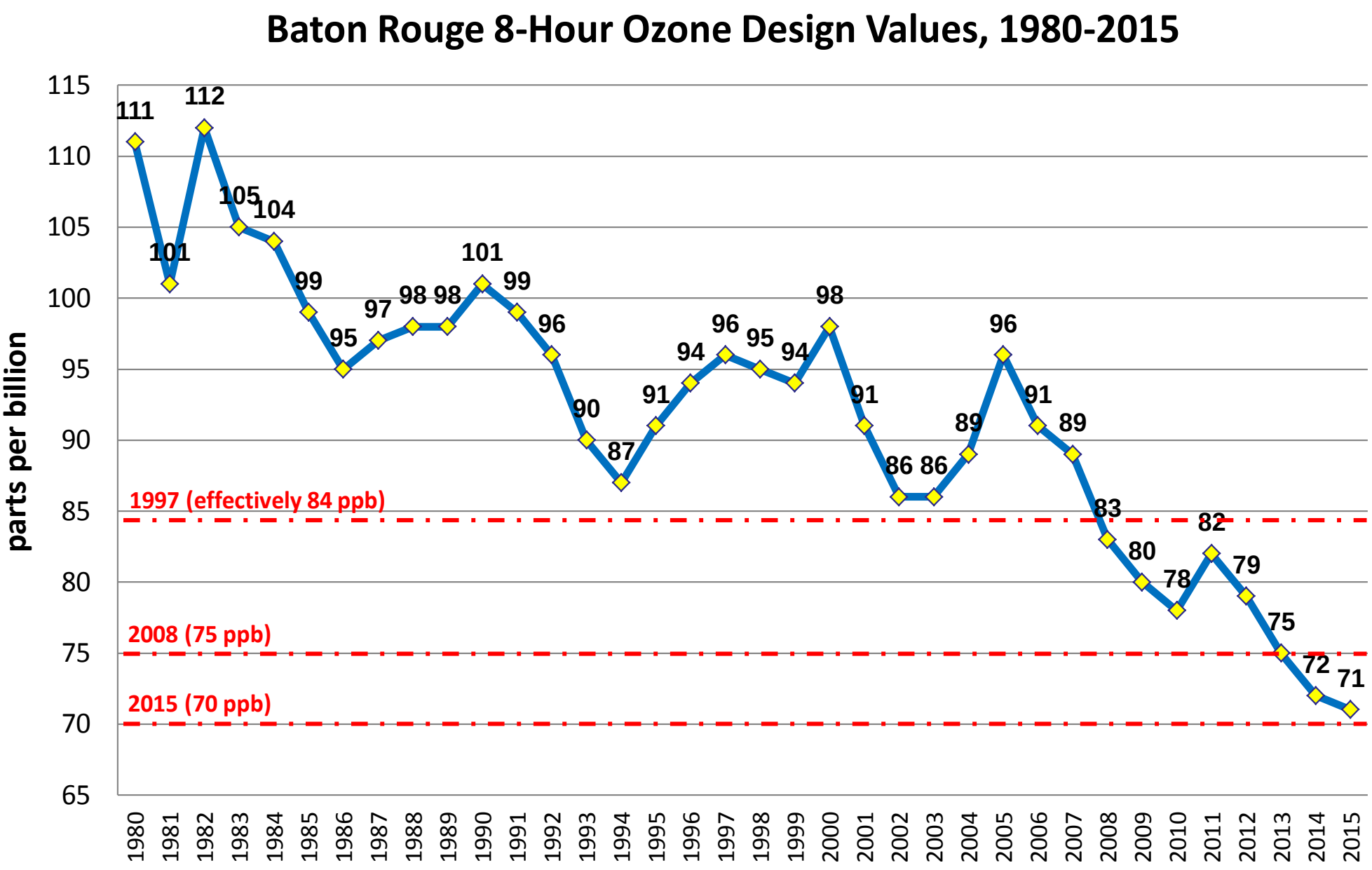
- NESCAUM Stationary Source Committee Recommendation on NO_X RACT for Utility Boilers, August 12, 1992
- NESCAUM Stationary Source Committee Recommendation on NO_X RACT for Industrial Boilers, Internal Combustion Engines and Combustion Turbines, September 18, 1992
- Status Report on NO_X Controls for Industrial Boilers, Gas Turbines, Internal Combustion Engines and Cement Kilns; Control Technologies and Cost Effectiveness, NESCAUM, December 2000
- Status Report on NO_X: Control Technologies and Cost Effectiveness for Utility Boilers, NESCAUM, June 1998
- Applicability and Feasibility of NO_X, SO_2, and PM Emissions Control Technologies for Industrial, Commercial, and Institutional (ICI) Boilers, NESCAUM, November 2008 (revised January 2009)

EPA Memoranda

Finally, LDEQ reviewed the following EPA memos discussing NO_X RACT requirements:

- Helms, G.T., "De Minimus Values for NO_X RACT," January 1, 1995
- Berry, D.K., "Cost-Effective Nitrogen Oxides (NO_X) Reasonably Available Control Technology (RACT)," March 16, 1994

None of the aforementioned documents identify any technologically and economically feasible and "reasonably available" measures or procedures specifically designed to minimize emissions during startup or shutdown periods beyond those already proposed by LDEQ. In sum, the proposed work practice standards under LAC 33:III.2201.K.3 constitute RACT and meet all applicable CAA requirements.


Baton Rouge 8-Hour Ozone Design Values, 1980-2015
parts per billion
115
110
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100
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1997 (effectively 84 ppb)
2008 (75 ppb)
2015 (70 ppb)
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ORIGINAL

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL SERVICES

PUBLIC HEARING IN RE:

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LA. DEPT. OF ENV. QUALITY
LEGAL DIVISION

LOG# 1607POT1

PROPOSED STATE IMPLEMENTATION PLAN

(SIP) REVISIONS

* *

A Public Hearing was held by the Louisiana Department of Environmental Quality, Office of Environmental Services, at the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, Louisiana 70802, beginning at 1:38 p.m. on Wednesday, August 25, 2016.

* *

Reported by:

Susan Erkel

Certified Court Reporter

In and for the State of Louisiana

1 **A P P E A R A N C E S**

2

3 **HEARING OFFICER:**

4 Charlotte Goudeau, Esq,

5 Department of Environmental Quality

6 Office of Environmental Services

7 602 North Fifth Street

8 Baton Rouge, Louisiana 70802

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1 **P R O C E E D I N G S**

2 **MS. GOUDEAU:**

3 Good afternoon. My name is Charlotte
4 Goudeau, and I am employed by the
5 Louisiana Department of Environmental
6 Quality. I'll be serving as the Hearing
7 Officer this afternoon to receive
8 comments regarding proposed amendments
9 to the Air Regulations. These hearings
10 will be for the revision to the State
11 Implementation Plan (SIP) to incorporate
12 these rules.

13 The comment period for AQ361 and
14 AQ362 began on April 20, 2016, when the
15 Notices of Intent were published in the
16 "Louisiana Register". The comment
17 period for AQ360, AQ363, and AQ364 began
18 on June 20, 2016 when the Notices of
19 Intent were published in the "Louisiana
20 Register". The comment period will
21 close at 4:30 p.m. today, August 25,
22 2016 for these rules. It would be
23 helpful to us if all oral comments
24 received today were followed up in
25 writing.

1 This public hearing provides a forum
2 for all interested parties to present
3 comments on the proposed changes. This
4 hearing is not being conducted in a
5 question and answer format. Please
6 remember that the purpose of this public
7 hearing is to allow you, the public, an
8 opportunity to express your thoughts
9 concerning today's proposed amendments.
10 I'll ask that each person commenting
11 come up and sit at the front table and
12 begin by stating his or her name and
13 affiliation for the record.
14 The last amendment is designated by
15 the Log Number AQ364. This Rule will
16 repeal the exemption set forth in LAC
17 33:III.2201.C.8 and replace it with
18 provisions allowing the owner/operator
19 of an affected point source to comply
20 either with the emission factors imposed
21 by LAC 33:III.2201.D at all times
22 (including periods of start-up and
23 shutdown) or with newly-established work
24 practice standards designed to minimize
25 emissions during periods of start-up and

1 shutdown.
2 LAC 33:III.2201 establishes NOX
3 standards for certain boilers, process
4 heaters/furnaces, stationary gas
5 turbines, and stationary internal
6 combustion engines located at affected
7 facilities in the following nine
8 parishes: Ascension, East Baton Rouge,
9 East Feliciana, Iberville, Livingston,
10 Pointe Coupee, St. Helena, West Baton
11 Rouge, and West Feliciana.
12 LAC 33:III.2201.C.8 provides an
13 exemption from the aforementioned NOX
14 standards "during start-up and shutdown
15 or during a malfunction." Notably, this
16 exemption does not apply to units that
17 are shut down intentionally on a routine
18 basis (i.e. more than once per month).
19 This provision was approved by EPA into
20 Louisiana's State Implementation Plan
21 (SIP) on July 5, 2011 (76 FR 38977).
22 However, on June 12, 2015, EPA
23 promulgated a rule finding that several
24 Louisiana air quality regulations,
25 including LAC 33:III.2201.C.8, are

1 "substantially inadequate to meet Clean
2 Air Act requirements" because they
3 provide "automatic exemptions for excess
4 emissions from "otherwise applicable
5 State Implementation Plan (SIP) emission
6 limitations." Consequently, EPA issued
7 a "SIP call" directing affected states
8 to submit corrective State
9 Implementation Plan (SIP) revisions by
10 November 22, 2016.
11 In this same rulemaking, EPA "revised
12 and updated" its Start-up, Shutdown, and
13 Malfunction (SSM) Policy for State
14 Implementation Plan (SIP) provisions.
15 According to EPA's "SSM State
16 Implementation Plan (SIP) Policy as of
17 2015" (80 FR 33976), State
18 Implementation Plan (SIP) emission
19 limitations "must be applicable to the
20 source continuously," but
21 • do not need to be numerical in
22 format;
23 • do not have to apply the same
24 limitation (e.g., numerical level) at
25 all times; and

1 • may be composed of a combination of
2 numerical limitations, specific
3 technological control requirements
4 and/or work practice requirements,
5 with each component of the emission
6 limitation applicable during a
7 defined mode of source operation.
8 In response to EPA's State
9 Implementation Plan (SIP) call, LDEQ
10 will repeal the exemption set forth in
11 LAC 33:III.2201.C.8 and amend Chapter 22
12 to allow the owner/operator of an
13 affected point source to comply either
14 with the emission factors imposed by LAC
15 33:III.2201.D at all times (including
16 periods of startup and shutdown) or with
17 newly-established work practice
18 standards designed to minimize emissions
19 during periods of startup and shutdown.
20 Does anyone care to comment on this
21 regulation?
22 (No response.)
23 If not, the hearing on AQ364 is
24 closed.
25 Thank you for your attention and

1 participation.
2 This hearing is closed.
3
4 (THE HEARING ADJOURNED AT 1:50 P.M.)
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1 **C E R T I F I C A T E**

2 This certification is valid only for a
3 transcript accompanied by my original
4 signature and official seal on this page.
5 I, SUSAN ERKEL, Certified Court
6 Reporter, in and for the State of Louisiana,
7 as the officer before whom this public
8 hearing was taken, do hereby certify that
9 the foregoing 8 pages were reported by me in
10 the voice-writing method, and was prepared
11 and transcribed by me or under my personal
12 direction and supervision, and is a true and
13 correct transcript to the best of my ability
14 and understanding;
15 That the transcript has been prepared in
16 compliance with transcript format guidelines
17 required by statute or by rules of the
18 board, and that I am informed about the
19 complete arrangement, financial or
20 otherwise, with the person or entity making
21 arrangements for deposition services;
22 That I have acted in compliance with the
23 prohibition on contractual relationships, as
24 defined by Louisiana Code of Civil Procedure
25 Article 1434 and in rules and advisory

opinions of the board;

That I have no actual knowledge of any prohibited employment or contractual relationship, direct or indirect, between a court reporting firm and any party litigant in this matter nor is there any such relationship between myself and a party litigant in this matter; and

That I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this matter.

Susan Erkel

SUSAN ERKEL
CERTIFIED COURT REPORTER
LICENSE NO. 24005

1 **R E P O R T E R ' S P A G E**

2

3 I, SUSAN ERKEL, Certified Court Reporter in and for
4 the State of Louisiana, before whom this sworn testimony
5 was taken, do hereby state on the Record:
6 That due to the interaction in the spontaneous
7 discourse of this proceeding, dashes (--) have been used
8 to indicate pauses, changes in thought, and/or talkovers;
9 That same is the proper method for a Court Reporter's
10 transcription of proceedings, and that the dashes (--) do
11 not indicate that words or phrases have been left out of
12 this transcript;
13 That any words and/or names which could not be
14 verified through reference material have been denoted with
15 the phrase "(spelled phonetically)."
16
17
18 Susan Erkel
19 SUSAN ERKEL
20 CERTIFIED COURT REPORTER
21 LICENSE NO. 24005
22
23
24
25

In The Matter Of:

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PUBLIC HEARING IN RE: LOG# 1607POT1

August 25, 2016

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225-216-2036

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In The Matter Of:

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PUBLIC HEARING IN RE: LOG# 1607POT1

August 25, 2016

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STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL SERVICES

PUBLIC HEARING IN RE:

LOG# 1607POT1
PROPOSED STATE IMPLEMENTATION PLAN
(SIP) REVISIONS
* *

A Public Hearing was held by the Louisiana Department of Environmental Quality, Office of Environmental Services, at the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, Louisiana 70802, beginning at 1:38 p.m. on Wednesday, August 25, 2016.

* *

Reported by:
Susan Erkel
Certified Court Reporter
In and for the State of Louisiana

A P P E A R A N C E S

HEARING OFFICER:
Charlotte Goudeau, Esq,
Department of Environmental Quality
Office of Environmental Services
602 North Fifth Street
Baton Rouge, Louisiana 70802

* * * * * * * * * *

P R O C E E D I N G S

MS. GOUDEAU:

Good afternoon. My name is Charlotte Goudeau, and I am employed by the Louisiana Department of Environmental Quality. I'll be serving as the Hearing Officer this afternoon to receive comments regarding proposed amendments to the Air Regulations. These hearings will be for the revision to the State Implementation Plan (SIP) to incorporate these rules.

The comment period for AQ361 and AQ362 began on April 20, 2016, when the Notices of Intent were published in the "Louisiana Register". The comment period for AQ360, AQ363, and AQ364 began on June 20, 2016 when the Notices of Intent were published in the "Louisiana Register". The comment period will close at 4:30 p.m. today, August 25, 2016 for these rules. It would be helpful to us if all oral comments received today were followed up in writing.

This public hearing provides a forum for all interested parties to present comments on the proposed changes. This hearing is not being conducted in a question and answer format. Please remember that the purpose of this public hearing is to allow you, the public, an opportunity to express your thoughts concerning today's proposed amendments.

I'll ask that each person commenting come up and sit at the front table and begin by stating his or her name and affiliation for the record.

The last amendment is designated by the Log Number AQ364. This Rule will repeal the exemption set forth in LAC 33:III.2201.C.8 and replace it with provisions allowing the owner/operator of an affected point source to comply either with the emission factors imposed by LAC 33:III.2201.D at all times (including periods of start-up and shutdown) or with newly-established work practice standards designed to minimize emissions during periods of start-up and

1 shutdown.
2 LAC 33:III.2201 establishes NOX
3 standards for certain boilers, process
4 heaters/furnaces, stationary gas
5 turbines, and stationary internal
6 combustion engines located at affected
7 facilities in the following nine
8 parishes: Ascension, East Baton Rouge,
9 East Feliciana, Iberville, Livingston,
10 Pointe Coupee, St. Helena, West Baton
11 Rouge, and West Feliciana.
12 LAC 33:III.2201.C.8 provides an
13 exemption from the aforementioned NOX
14 standards "during start-up and shutdown
15 or during a malfunction." Notably, this
16 exemption does not apply to units that
17 are shut down intentionally on a routine
18 basis (i.e. more than once per month).
19 This provision was approved by EPA into
20 Louisiana's State Implementation Plan
21 (SIP) on July 5, 2011 (76 FR 38977).
22 However, on June 12, 2015, EPA
23 promulgated a rule finding that several
24 Louisiana air quality regulations,
25 including LAC 33:III.2201.C.8, are

1 "substantially inadequate to meet Clean
2 Air Act requirements" because they
3 provide "automatic exemptions for excess
4 emissions from "otherwise applicable
5 State Implementation Plan (SIP) emission
6 limitations." Consequently, EPA issued
7 a "SIP call" directing affected states
8 to submit corrective State
9 Implementation Plan (SIP) revisions by
10 November 22, 2016.
11 In this same rulemaking, EPA "revised
12 and updated" its Start-up, Shutdown, and
13 Malfunction (SSM) Policy for State
14 Implementation Plan (SIP) provisions.
15 According to EPA's "SSM State
16 Implementation Plan (SIP) Policy as of
17 2015" (80 FR 33976), State
18 Implementation Plan (SIP) emission
19 limitations "must be applicable to the
20 source continuously," but
21 do not need to be numerical in
22 format;
23 do not have to apply the same
24 limitation (e.g., numerical level) at
25 all times; and

1 may be composed of a combination of
2 numerical limitations, specific
3 technological control requirements
4 and/or work practice requirements,
5 with each component of the emission
6 limitation applicable during a
7 defined mode of source operation.
8 In response to EPA's State
9 Implementation Plan (SIP) call, LDEQ
10 will repeal the exemption set forth in
11 LAC 33:III.2201.C.8 and amend Chapter 22
12 to allow the owner/operator of an
13 affected point source to comply either
14 with the emission factors imposed by LAC
15 33:III.2201.D at all times (including
16 periods of startup and shutdown) or with
17 newly-established work practice
18 standards designed to minimize emissions
19 during periods of startup and shutdown.
20 Does anyone care to comment on this
21 regulation?
22 (No response.)
23 If not, the hearing on AQ364 is
24 closed.
25 Thank you for your attention and

1 participation.
2 This hearing is closed.
3
4 (THE HEARING ADJOURNED AT 1:50 P.M.)
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1 C E R T I F I C A T E
2 This certification is valid only for a
3 script accompanied by my original
4 ature and official seal on this page.
5 I, SUSAN ERKEL, Certified Court
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7 he officer before whom this public
8 ing was taken, do hereby certify that
9 foregoing 8 pages were reported by me in
10 voice-writing method, and was prepared
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13 ect transcript to the best of my ability
14 understanding;
15 That the transcript has been prepared in
16 liance with transcript format guidelines
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20 rwise, with the person or entity making
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23 ibition on contractual relationships, as
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25 cle 1434 and in rules and advisory

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2 That I have no actual knowledge of any
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Page 11

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2
3 I, SUSAN ERKEL, Certified Court Reporter in and for
4 State of Louisiana, before whom this sworn testimony
5 taken, do hereby state on the Record:
6 That due to the interaction in the spontaneous
7 ourse of this proceeding, dashes (--) have been used
8 ndicate pauses, changes in thought, and/or talkovers;
9 That same is the proper method for a Court Reporter's
10 scription of proceedings, and that the dashes (--) do
11 indicate that words or phrases have been left out of
12 transcript;
13 That any words and/or names which could not be
14 fied through reference material have been denoted with
15 phrase "(spelled phonetically)."
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Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 15. Emission Standards for Sulfur Dioxide

§1507. Exemptions

A. ~~Start-Up Provisions~~Reserved.

~~1. A four-hour (continuous) start-up exemption from the emission limitations of LAC 33:III.1503.A will be authorized by the administrative authority for facilities not subject to 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, that have been shut down.~~

~~a. A written report explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to SPOC within seven calendar days of the occurrence.~~

~~b. The report shall be signed by a responsible official, who shall certify:~~

~~i. that the excess emissions were not the result of failure to operate, maintain, or repair equipment in a manner consistent with good engineering practice;~~

~~ii. that the excess emissions were not due to error resulting from careless operations;~~

~~iii. that the excess emissions were not the result of failure to follow written procedures;~~

~~iv. that actions were taken to minimize the duration and magnitude of the excess emissions; and~~

~~v. that no ambient air quality standard was jeopardized.~~

~~c. All necessary data required to support the certifying statements shall be recorded and retained on-site and made available to department personnel upon request.~~

~~2. This provision is applicable to infrequent start-ups only. Before the exemption can be granted the administrative authority must determine the excess emissions were not the result of failure to maintain or repair equipment. In addition the duration of excess emission must be minimized and no ambient air quality standard may be jeopardized.~~

B. ~~On-Line Operating Adjustments~~Reserved.

~~1. A four-hour (continuous) exemption from emission limitations of LAC 33:III.1503.A will be extended by the administrative authority to facilities not subject to 40 CFR 60.82 and 60.83, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition.~~

~~a. A written report explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emissions shall be submitted to SPOC within seven calendar days of the occurrence.~~

~~b. The report shall be signed by a responsible official, who shall certify:~~

~~i. that the excess emissions were not the result of failure to operate, maintain, or repair equipment in a manner consistent with good engineering practice;~~

~~ii. that the excess emissions were not due to error resulting from careless operations;~~

~~iii. that the excess emissions were not the result of failure to follow written procedures;~~

~~iv. that actions were taken to minimize the duration and magnitude of the excess emissions; and~~

~~v. that no ambient air quality standard was jeopardized.~~

~~c. All necessary data required to support the certifying statements shall be recorded and retained on-site and made available to department personnel upon request.~~

~~2. This provision is applicable to infrequent on-line adjustments only. Before the exemption can be granted the administrative authority must determine the excess emissions were not the result of failure to maintain or repair equipment. In addition, the duration of excess emissions must be minimized and no ambient air quality standard may be jeopardized.~~

C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), LR 23:1678 (December 1997), LR 24:1284 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), LR 33:1011 (June 2007), LR 33:2085 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:**.

Comment Summary Response & Concise Statement –
Repeal of LAC 33:III.1507.A and B
LAC 33:III.1507.A and B
Log Number AQ360

COMMENT 1: Louisiana's SIP submittal letter should include a statement that Louisiana is requesting the EPA's review/approval of the removal of the sections identified above from the Louisiana SIP, as required by the EPA's SSM SIP Call of June 12, 2015 (80 FR 33967).

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 1: Louisiana's State Implementation Plan (SIP) submittal will be worded as suggested by EPA.

COMMENT 2: Due to the fact that Louisiana is proposing to remove certain provisions from the Louisiana SIP, a demonstration under Section 110(l) of the federal Clean Air Act (CAA) is a necessary component of Louisiana's SIP submittal to the EPA. (See Enclosure 80 FR 33975, (June 12, 2015).) If you require assistance with the requirements for an appropriate Section 110(l) demonstration, the EPA Regional staff can provide such assistance.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 2: Louisiana's SIP submittal will contain an analysis demonstrating how the proposed amendments to Chapters 11, 15, 21, 22, and 23 comply with sections 110(l) and 193 of the Act, as applicable. See LDEQ's proposed response to EPA's SSM SIP Call at http://www.deq.louisiana.gov/portal/Default.aspx?tabid=2381.

COMMENT 3: We believe all sources should meet SIP emission limits at *all* times, and, we are pleased to see Louisiana is proposing to remove unlawful SSM exemptions in our State SIP, including the repeal of the following exemptions: … LAC 33:III.1507.A and B (AQ 360) (proposing to remove excess emission exemptions for sulfur dioxide)

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 3: LDEQ appreciates the support.

* indicates a fast-track regulation

Comment Summary Response & Concise Statement –
Repeal of LAC 33:III.1507.A and B
LAC 33:III.1507.A and B
Log Number AQ360

COMMENT #	SUGGESTED BY
1 - 2	Guy Donaldson, Chief, Air Planning Section U.S. Environmental Protection Agency, Region 6
3	Suzanne Kneale, Officer Concerned Citizens Around Murphy

Comments reflected in this document are taken verbatim from the written submittals.

Total Commenters: 2
Total Comments: 3

* indicates a fast-track regulation

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 11. Control of Emissions of Smoke

§1105. Smoke From Flaring Shall Not Exceed 20 Percent Opacity

A. The emission of smoke from a flare or other similar device used for burning in connection with pressure valve releases for control over process upsets shall be controlled so that the shade or appearance of the emission does not exceed 20 percent opacity (LAC 33:III.1503.D.2, Table 4) for a combined total of six hours in any 10 consecutive days. If it appears the emergency cannot be controlled in six hours, SPOC shall be notified by the emitter in accordance with LAC 33:I.3923 as soon as possible after the start of the upset period. ~~Such notification does not imply the administrative authority will automatically grant an exemption to the source(s) of excessive emissions.~~

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 25:656 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000), LR 30:1671 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2084 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:**.

§1107. Exemptions

A. ~~Exemptions from the provisions of LAC 33:III.1105 may be granted by the administrative authority during start-up and shutdown periods if the flaring was not the result of failure to maintain or repair equipment. A report in writing, explaining the conditions and duration of the start-up or shutdown and listing the steps necessary to remedy, prevent, and limit the excess emission, shall be submitted to SPOC within seven calendar days of the occurrence. In addition, the flaring must be minimized and no ambient air quality standard may be jeopardized~~Repealed.

B. - B.6. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2084 (October 2007), LR 37:1144 (April 2011), amended by the Office of the Secretary, Legal Division, LR 42:**.

Comment Summary Response & Concise Statement –
Repeal of LAC 33:III.1107.A
LAC 33:III.1105.A and 1107.A
Log Number AQ361

COMMENT 1: Louisiana's SIP submittal letter should include a statement that Louisiana is requesting the EPA's review/approval of the removal of sections identified above from the Louisiana SIP, as required by the EPA's SSM SIP Call of June 12, 2015 (80 FR 33967).

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 1: Louisiana's SIP submittal will be worded as suggested by EPA.

COMMENT 2: Due to the fact that Louisiana is proposing to remove certain provisions from the SIP, a demonstration under Clean Air Act Section 110(l) is a necessary component of your SIP submittal to the EPA. See 80 FR 33975, June 12, 2015. If you require assistance with the requirements for an appropriate Section 110(l) demonstration, the EPA Regional staff can provide such assistance.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 2: Louisiana's SIP submittal will contain an analysis demonstrating how the proposed amendments to Chapters 11, 15, 21, 22, and 23 comply with sections 110(l) and 193 of the Act, as applicable.

COMMENT 3: The April 20, 2016 Notice of Intent for AQ361, the fourth paragraph refers to "LAC 33:III.1507.A and B." However, the rule change does not reflect revisions to these sections. Is this a typographical error? Please explain.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 3: The first sentence of the fourth paragraph of the Notice of Intent for AQ361 published on LDEQ's website incorrectly identifies the affected regulation as LAC 33:III.1507.A and B. It should read:

> However, on June 12, 2015, EPA promulgated a rule* finding that several Louisiana air quality regulations, including LAC 33:III.1107.A, are

* indicates a fast-track regulation

> "substantially inadequate to meet [Clean Air Act] requirements" because they provide "impermissible discretionary exemptions" from "otherwise applicable SIP emission limitations."

Note, however, that the Notice of Intent published in the *Louisiana Register* was worded correctly.

COMMENT 4: The SSM SIP Call also identified several other provisions of the Louisiana SIP, LAC 33:III.2201.C.8, LAC 33:III.1507.A.1, LAC 33:III.1507.B.1, LAC 33:III.C.1.a, and LAC 33:III.2307.C.2.a, as substantially inadequate. See 80 FR 33975, June 12, 2015. Please note that these sections will also need to be addressed to comply with the SSM SIP call.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 4: In response to EPA's SSM SIP Call, LDEQ will also propose to repeal LAC 33:III.1507.A & B (AQ360) and LAC 33:III.2307.C (AQ363). In addition, LDEQ will propose to repeal the exemption set forth in LAC 33:III.2201.C.8 and amend Chapter 22 to allow the owner/operator of an affected point source to comply either with the emission factors imposed by LAC 33:III.2201.D at all times (including periods of start-up and shutdown) or with newly-established work practice standards designed to minimize NO_X emissions during periods of start-up and shutdown (AQ364). AQ360, AQ363, and AQ364 will be proposed on June 20, 2016; and a public hearing will be held on July 27, 2016.

COMMENT 5: LCA notes that EPA SSM policy provides LDEQ with flexibility in revising the Louisiana SIP to address emissions during SSM events – repeal of Section 1107.A is not the only solution to correct the alleged SIP deficiencies cited in the SSM SIP Call. LCA requests that LDEQ exercise its due diligence in examining the history of the [*sic*] each of the provisions at issue, the continued necessity of providing relief for startup and shutdown emissions from flares that are not otherwise subject to NSPS or NESHAP standards, and whether there is benefit to enacting regulatory provisions to include criteria and procedures for the use of enforcement discretion by Department personnel to address emissions during such startup and shutdown events. LCA requests that the Department employ all approaches suggested by the EPA SSM policy, when appropriate, to address emissions during startup and shutdown events.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 5: LDEQ recognizes that EPA's "SSM SIP Policy as of 2015" (80 FR 33976) describes several approaches that states can use to address excess emissions during start-up and shutdown events.

For example, SIPs may establish alternative emission limitations that apply to affected sources during start-up, shutdown, or other "normal" modes of operation. In fact, EPA's SSM SIP Policy states that SIP emission limitations must be applicable to the source continuously, but

- do not need to be numerical in format;
- do not have to apply the same limitation (e.g., numerical level) at all times; and
- may be composed of a combination of numerical limitations, specific technological control requirements and/or work practice requirements, with each component of the emission limitation applicable during a defined mode of source operation.

SIPs may also include criteria and procedures for the use of enforcement discretion. As part of state programs governing enforcement, states can include regulatory provisions or may adopt policies setting forth criteria for how they plan to exercise their own enforcement authority.

However, affirmative defense provisions are not a viable corrective action. According to EPA, such provisions "by their nature purport to limit or eliminate the authority of federal courts to find liability or to impose remedies through factual considerations that differ from, or are contrary to, the explicit grants of authority in section 113(b) and section 113(e). These provisions are not appropriate under the [Clean Air Act], no matter what type of event they apply to, what criteria they contain or what forms of remedy they purport to limit or eliminate."

See also Responses to Comments 6, 7, and 8.

COMMENT 6: In lieu of use of Section 1107.A, LCA urges LDEQ to develop category specific flare exemptions … to recognize appropriate startup and shutdown conditions for flares that recognize the need for limited smoking in situations that do not threaten any NAAQS.

* * *

If LDEQ remains intent on eliminating Section 1107.A. due to the SIP Call, LCA urges LDEQ to supplant the rule with appropriate source specific provisions where smokeless operation is not technically feasible during startup and shutdown events.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 6: As noted in the Notice of Intent, the provisions of LAC 33:III.1105.A apply to "burning in connection with pressure valve releases for control over process upsets," whereas LAC 33:III.1107.A addresses start-up and shutdown periods (not upsets). The incongruity between these two provisions was a key factor in LDEQ's decision to propose the repeal of LAC 33:III.1107.A. Thus, at face value, LAC 33:III.1105.A is not applicable during periods of start-up and shutdown.

COMMENT 7: In lieu of use of Section 1107.A, LCA urges LDEQ to develop … appropriate guidance for use of enforcement discretion to recognize appropriate startup and shutdown conditions for flares that recognize the need for limited smoking in situations that do not threaten any NAAQS.

* * *

LCA also urges LDEQ to enact appropriate guidance with regard to the use of enforcement discretion in situations involving flare startup and shutdown situations.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 7: As noted above, SIPs may include criteria and procedures for the use of enforcement discretion. However, EPA cautions that "such provisions cannot bar enforcement by the EPA or by other parties through a citizen suit," as "EPA and citizens, and any federal court in which they seek to pursue an enforcement claim for violation of SIP requirements, must retain the authority to evaluate independently whether a source's violation of an emission limitation warrants enforcement action."

* indicates a fast-track regulation

Moreover, EPA advises states not to adopt overly broad enforcement discretion provisions for inclusion in their SIPs. Section 110(a)(2) requires states to have adequate enforcement authority, and "overly broad enforcement discretion provisions would run afoul of this requirement if they have the effect of precluding adequate state authority to enforce SIP requirements."

In any event, development of policies and/or guidance pertaining to enforcement discretion is under the purview of the Office of Environmental Compliance and is outside the scope of this rulemaking.

COMMENT 8: With respect to future rulemakings to address other SSM SIP provisions, LCA requests that the Department carefully examine each provision to determine whether other actions, short of repeal, would also satisfy the directive set forth by EPA in the SSM SIP Call and be consistent with EPA's SSM policy.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 8: In addition to AQ361, the four rules listed in the table below are associated with LDEQ's response to EPA's SSM SIP Call. In each case, LDEQ has provided its rationale for the proposed amendments, as well as an opportunity for public comment.

Rule	Title	Proposed
AQ360	Repeal of LAC 33:III.1507.A & B	June 20, 2016
AQ362	Repeal of LAC 33:III.2153.B.1.i	April 20, 2016
AQ363	Repeal of LAC 33:III.2307.C	June 20, 2016
AQ364	Work Practice Standards During Start-up and Shutdown	June 20, 2016

* indicates a fast-track regulation

Comment Summary Response & Concise Statement –
Repeal of LAC 33:III.1107.A
LAC 33:III.1105.A and 1107.A
Log Number AQ361

COMMENT #	SUGGESTED BY
1 - 4	Guy Donaldson, Chief, Air Planning Section U.S. Environmental Protection Agency, Region 6
5 - 8	Tokesha M. Collins-Wright, Kean Miller LLP, on behalf of the Louisiana Chemical Association (LCA)

Comments reflected in this document are taken verbatim from the written submittals.

Total Commenters: 2
Total Comments: 8

* indicates a fast-track regulation

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 11. Control of Emission of Organic Compounds

Subchapter M. Limiting Volatile Organic Compound (VOC) Emissions from Industrial Wastewater

§2153. Limiting VOC Emissions from Industrial Wastewater

A. - B. …

1. The wastewater component shall meet the following requirements:

a. - h.iii. …

i. ~~for wastewater tanks that would normally be required to have a control device or recovery device, these devices shall not be required to meet the 90 percent removal efficiency or 50 ppmv concentration during periods of malfunction or maintenance on the devices for periods not to exceed 336 hours per year~~Repealed.

B.2. - I. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:936 (September 1995), amended LR 22:1212 (December 1996), LR 24:26 (January 1998), LR 25:850 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 28:1765 (August 2002), LR 30:747 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2441 (October 2005), LR 33:2087 (October 2007), LR 37:3232 (November 2011), amended by the Office of the Secretary, Legal Division, LR 38:2752 (November 2012), LR 42:**.

Comment Summary Response & Concise Statement –
Repeal of LAC 33:III.2153.B.1.i
LAC 33:III.2153.B.1.i
Log Number AQ362

COMMENT 1: Louisiana's SIP submittal letter should include a statement that Louisiana is requesting the EPA's review/approval of the removal of sections identified above from the Louisiana SIP, as required by the EPA's SSM SIP Call of June 12, 2015 (80 FR 33967).

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 1: Louisiana's State Implementation Plan (SIP) submittal will be worded as suggested by EPA.

COMMENT 2: Due to the fact that Louisiana is proposing to remove certain provisions from the SIP, a demonstration under Clean Air Act Section 110(l) is a necessary component of your SIP submittal to the EPA. See 80 FR 33975, June 12, 2015. If you require assistance with the requirements for an appropriate Section 110(l) demonstration, the EPA Regional staff can provide such assistance.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 2: Louisiana's SIP submittal will contain an analysis demonstrating how the proposed amendments to Chapters 11, 15, 21, 22, and 23 comply with sections 110(l) and 193 of the Act, as applicable. See LDEQ's proposed response to EPA's SSM SIP Call at http://www.deq.louisiana.gov/portal/Default.aspx?tabid=2381.

COMMENT 3: The April 20, 2016 Notice of Intent for AQ361, the fourth paragraph refers to "LAC 33:III.1507.A and B." However, the rule change does not reflect revisions to these sections. Is this a typographical error? Please explain.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 3: The first sentence of the fourth paragraph of the Notice of Intent for AQ361, as published on LDEQ's website, incorrectly identifies the affected regulation as LAC 33:III.1507.A and B. It should read:

* indicates a fast-track regulation

> However, on June 12, 2015, EPA promulgated a rule* finding that several Louisiana air quality regulations, including LAC 33:III.1107.A, are "substantially inadequate to meet [Clean Air Act] requirements" because they provide "impermissible discretionary exemptions" from "otherwise applicable SIP emission limitations."

Note, however, that the Notice of Intent published in the *Louisiana Register* was worded correctly.

COMMENT 4: The SSM SIP Call also identified several other provisions of the Louisiana SIP, LAC 33:III.2201.C.8, LAC 33:III.1507.A.1, LAC 33:III.1507.B.1, LAC 33:III.2307.C.1.a, and LAC 33:III.2307.C.2.a, as substantially inadequate. See 80 FR 33975, June 12, 2015. Please note that these sections will also need to be addressed to comply with the SSM SIP call.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 4: In response to EPA's SSM SIP call, LDEQ also proposed to repeal LAC 33:III.1507.A & B (AQ360) and LAC 33:III.2307.C (AQ363). In addition, LDEQ proposed to repeal the exemption set forth in LAC 33:III.2201.C.8 and amend Chapter 22 to allow the owner/operator of an affected point source to comply either with the emission factors imposed by LAC 33:III.2201.D at all times (including periods of startup and shutdown) or with newly-established work practice standards designed to minimize NO_X emissions during periods of startup and shutdown (AQ364). AQ360, AQ363, and AQ364 were proposed on June 20, 2016; and a public hearing was held on July 27, 2016.

COMMENT 5: LCA notes that EPA SSM policy provides LDEQ with flexibility in revising the Louisiana SIP to address emissions during SSM events – repeal is not the only solution to correct the alleged SIP deficiencies cited in the SSM SIP Call. LCA requests that LDEQ exercise its due diligence in examining the history of the [*sic*] each of the provisions at issue, the continued necessity of such, and whether there is benefit in revising the provisions to include criteria and procedures for the use of enforcement discretion by Department personnel to address emissions during SSM events. LCA requests that the Department employ such as approach, when appropriate, to address emissions during SSM events.

* indicates a fast-track regulation

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 5: LDEQ recognizes that EPA's "SSM SIP Policy as of 2015" (80 FR 33976) describes several approaches that states can use to address excess emissions during start-up and shutdown events.

For example, SIPs may establish alternative emission limitations that apply to affected sources during start-up, shutdown, or other "normal" modes of operation. In fact, EPA's SSM SIP Policy states that SIP emission limitations must be applicable to the source continuously, but

- do not need to be numerical in format;
- do not have to apply the same limitation (e.g., numerical level) at all times; and
- may be composed of a combination of numerical limitations, specific technological control requirements and/or work practice requirements, with each component of the emission limitation applicable during a defined mode of source operation.

SIPs may also include criteria and procedures for the use of enforcement discretion. As part of state programs governing enforcement, states can include regulatory provisions or may adopt policies setting forth criteria for how they plan to exercise their own enforcement authority.

However, affirmative defense provisions are not a viable corrective action. According to EPA, such provisions "by their nature purport to limit or eliminate the authority of federal courts to find liability or to impose remedies through factual considerations that differ from, or are contrary to, the explicit grants of authority in section 113(b) and section 113(e). These provisions are not appropriate under the [Clean Air Act], no matter what type of event they apply to, what criteria they contain or what forms of remedy they purport to limit or eliminate."

See also Response to Comment 7.

COMMENT 6: Although LDEQ has made efforts to determine whether any facility is subject to such exemption, LCA is concerned that there could be existing facilities subject to the exemption that have not been identified.

* indicates a fast-track regulation

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 6: In order to ensure that facilities subject to the control requirements of LAC 33:III.2153 were not inadvertently overlooked, LDEQ generated a list of air permits with Specific Requirements referencing any LAC 33:III.2153 citation. LDEQ reviewed the 23 permits on this list and contacted permittees subject to LAC 33:III.2153.B to reassess the impact of repealing LAC 33:III.2153.B.1.i. In each case, the permittee reported that the repeal of the exemption would not be problematic.

COMMENT 7: [W]ith regard to periods of malfunction, LCA urges LDEQ to develop guidelines for the appropriate use of enforcement discretion with regard to such situations involving the types of wastewater tanks subject to current LAC 33:III.2153.B.1.i.

* * *

With respect to LAC 33:III.2153.B.1.i, LCA supports LDEQ's proposal to repeal the exemption for malfunction event. LCA however, urges adopt [*sic*] criteria and procedures for the use of enforcement discretion by Department personnel to address emissions during malfunction vents, consistent with EPA's SSM policies.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 7: As noted above, SIPs may include criteria and procedures for the use of enforcement discretion. However, EPA cautions that "such provisions cannot bar enforcement by the EPA or by other parties through a citizen suit," as "EPA and citizens, and any federal court in which they seek to pursue an enforcement claim for violation of SIP requirements, must retain the authority to evaluate independently whether a source's violation of an emission limitation warrants enforcement action."

Moreover, EPA advises states not to adopt overly broad enforcement discretion provisions for inclusion in their SIPs. Section 110(a)(2) requires states to have adequate enforcement authority, and "overly broad enforcement discretion provisions would run afoul of this requirement if they have the effect of precluding adequate state authority to enforce SIP requirements."

* indicates a fast-track regulation

In any event, development of policies and/or guidance pertaining to enforcement discretion is under the purview of the Office of Environmental Compliance and is outside the scope of this rulemaking.

COMMENT 8: LCA disagrees that the exemption for periods of maintenance on the wastewater control device should be repealed, although LCA would not object to revising the exemption to limit the exemption to no more than 240 hours per year to be conducted outside of the ozone season. Wastewater tanks can be controlled by routing vents through a closed vent system to a control device. Often, either the closed vent system or the control device or both require shutdown for planned routine maintenance. It is typical to allow a period of up to 240 hours per year for such maintenance on tanks so that the tanks do not have to be emptied and refilled in order to perform such maintenance. Limiting the exemption to planned routine maintenance outside of ozone season would ensure that there is no adverse impact on ozone NAAQS compliance.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 8: Though EPA purports that “maintenance activities are predictable and planned activities during which sources should be expected to comply with applicable emission limitations” (citing 1982 and 1983 “SSM Guidance” at 80 FR 33911), the agency has ostensibly recognized that an exception is appropriate for storage vessels routed through a closed vent system to a control device. See, for example, 40 CFR 63.119(e)(3) of Subpart G (i.e., the HON) and 40 CFR 63.2470(d) and 63.2485(d)(4) of Subpart FFFF (i.e., the MON). Indeed, in promulgating the HON (in 1994), EPA concluded that a “72-hour allowance for routine maintenance is inadequate” and “increasing the time allowance to 240 hours (i.e., 10 days) would be the most reasonable approach to address the need for more time to complete routine maintenance.” Moreover, the MON (promulgated in 2003) allows the owner or operator to petition the permitting authority for an additional 120 hours.

For these reasons, LDEQ believes that the language suggested by the commenter would be an approvable SIP revision, perhaps with an added work practice requirement to maintain the level of material in the storage vessel constant during maintenance of the control or recovery device.

Because LDEQ cannot identify any source that relies on the exemption in question as a means to comply with LAC 33:III.2153 (see Response 6), LDEQ will repeal LAC 33:III.2153.B.1.i at this time. However, LDEQ will consider a future rulemaking to adopt the language recommended by the commenter.

Comment Summary Response & Concise Statement –
Repeal of LAC 33:III.2153.B.1.i
LAC 33:III.2153.B.1.i
Log Number AQ362

COMMENT #	SUGGESTED BY
1 - 4	Guy Donaldson, Chief, Air Planning Section U.S. Environmental Protection Agency, Region 6
5 - 8	Tokesha M. Collins-Wright, Kean Miller LLP, on behalf of the Louisiana Chemical Association (LCA)

Comments reflected in this document are taken verbatim from the written submittals.

Total Commenters: 2
Total Comments: 8

* indicates a fast-track regulation

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 23. Control of Emissions for Specific Industries

Subchapter D. Nitric Acid Industry

§2307. Emission Standards for the Nitric Acid Industry

A. - B. …

C. ~~Exceptions~~Reserved.

~~1. Start-Up Provision~~

~~a. A four-hour start-up exemption from emission regulations may be authorized by the administrative authority for plants not subject to 40 CFR Part 60, Subpart G, as incorporated by reference in LAC 33:III.Chapter 30, which have been shut down. It is recognized that existing nitrogen oxide abatement equipment is effective only at normal operating temperatures. This provision allows the necessary time to bring up a facility from a cold start to near steady state condition. A report, in writing, explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent, and limit the excess emissions, shall be submitted to SPOC within seven calendar days of the occurrence using the procedures provided in LAC 33:I.3925.~~

~~b. This provision is applicable to infrequent start ups only. Before the exemption can be granted the administrative authority must determine the excess emissions were not the result of failure to maintain or repair equipment. In addition, the duration of excess emission must be minimized and no ambient air quality standard may be jeopardized.~~

~~2. On-Line Operating Adjustments~~

~~a. A four-hour exemption from emission regulations may be extended by the administrative authority to plants not subject to 40 CFR Part 60, Subpart G, as incorporated by reference in LAC 33:III.Chapter 30, where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent, and limit the excess emissions, shall be submitted to SPOC within seven calendar days of the occurrence using the procedures provided in LAC 33:I.3925.~~

~~b. This provision is applicable to infrequent on-line adjustments only. Before the exemption can be granted, the administrative authority must determine the excess emissions were not the result of failure to maintain or repair equipment.~~

~~c. In addition, the duration of excess emissions must be minimized and no ambient air quality standard may be jeopardized.~~

D. - H.2. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000), LR 30:1672 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 33:2088 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:**.

Comment Summary Response & Concise Statement –
Repeal of LAC 33:III.2307.C
LAC 33:III.2307.C
Log Number AQ363

COMMENT 1: Louisiana's SIP submittal letter should include a statement that Louisiana is requesting the EPA's review/approval of the removal of the sections identified above from the Louisiana SIP, as required by the EPA's SSM SIP Call of June 12, 2015 (80 FR 33967).

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 1: Louisiana's State Implementation Plan (SIP) submittal will be worded as suggested by EPA.

COMMENT 2: Due to the fact that Louisiana is proposing to remove certain provisions from the Louisiana SIP, a demonstration under Section 110(l) of the federal Clean Air Act (CAA) is a necessary component of Louisiana's SIP submittal to the EPA. (See Enclosure 80 FR 33975, (June 12, 2015).) If you require assistance with the requirements for an appropriate Section 110(l) demonstration, the EPA Regional staff can provide such assistance.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 2: Louisiana's SIP submittal will contain an analysis demonstrating how the proposed amendments to Chapters 11, 15, 21, 22, and 23 comply with sections 110(l) and 193 of the Act, as applicable. See LDEQ's proposed response to EPA's SSM SIP Call at http://www.deq.louisiana.gov/portal/Default.aspx?tabid=2381.

COMMENT 3: We believe all sources should meet SIP emission limits at *all* times, and, we are pleased to see Louisiana is proposing to remove unlawful SSM exemptions in our State SIP, including the repeal of the following exemptions: … LAC 33:III.2307.C (AQ 363) (proposing to remove excess emission exemptions for nitric acid industry).

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 3: LDEQ appreciates the support.

* indicates a fast-track regulation

Comment Summary Response & Concise Statement –
Repeal of LAC 33:III.2307.C
LAC 33:III.2307.C
Log Number AQ363

COMMENT #	SUGGESTED BY
1 - 2	Guy Donaldson, Chief, Air Planning Section U.S. Environmental Protection Agency, Region 6
3	Suzanne Kneale, Officer Concerned Citizens Around Murphy

Comments reflected in this document are taken verbatim from the written submittals.

Total Commenters: 2
Total Comments: 3

* indicates a fast-track regulation

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 22. Control of Emissions of Nitrogen Oxides (NO_X)

§2201. Affected Facilities in the Baton Rouge Nonattainment Area and the Region of Influence

A. - C.7. …

8. ~~any point source during *start-up* and *shutdown* as defined in LAC 33:III.111 or during a malfunction as defined in 40 CFR Section 60.2 (This exemption does not apply to units that are shut down intentionally on a routine basis—more than once per month.)~~Reserved;

C.9. - J.2. …

K. Start-up and Shutdown

1. For affected point sources that are shut down intentionally more than once per month, the owner or operator shall include NO_x emitted during periods of start-up and shutdown for purposes of determining compliance with the emission factors set forth in Subsection D of this Section, or with an alternative plan approved in accordance with Paragraph E.1 or 2 of this Section.

2. For all other affected point sources, the owner or operator shall either comply with Paragraph K.1 of this Section or the work practice standards described in Paragraph K.3 of this Section during periods of start-up and shutdown. If the owner or operator chooses to comply with work practices standards, the emission factors set forth in Subsection D of this Section shall not apply during periods of start-up and shutdown.

3. Work Practice Standards

a. The owner or operator shall operate and maintain each affected point source, including any associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions.

b. Effective November 22, 2016, coal-fired and fuel oil-fired electric power generating system boilers and fuel oil-fired stationary gas turbines shall use natural gas during start-up. Start-up ends when any of the steam from the boiler or steam turbine is used to generate electricity for sale over the grid, or for any other purpose (including on-site use). If another fuel must be used to support the shutdown process, natural gas shall be utilized.

c. Engage control devices such as selective catalytic reduction (SCR) or selective non-catalytic reduction (SNCR) as expeditiously as possible, considering safety and manufacturer recommendations.

d. Minimize the start-up time of stationary internal combustion engines to a period needed for the appropriate and safe loading of the engine, not to exceed 30 minutes.

e. Maintain records of the calendar date, time, and duration of each start-up and shutdown.

f. Maintain records of the type(s) and amount(s) of fuels used during each start-up and shutdown.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:290 (February 2002), repromulgated LR 28:451 (March 2002), amended LR 28:1578 (July 2002), LR 30:748 (April 2004), LR 30:1170 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2441 (October 2005), LR 33:2088 (October 2007), LR 34:71 (January 2008), LR 36:60 (January 2010), amended by the Office of the Secretary, Legal Division, LR 42:**.

Comment Summary Response & Concise Statement –
Work Practice Standards During Start-up and Shutdown
LAC 33:III.2201.C and K
Log Number AQ364

COMMENT 1: Mid-Continent supports the proposed amendments. As several widely used control strategies either do not work and/or would cause damage to the equipment if they operated during start-up and shutdown, an alternative to the normal emissions limits is needed.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 1: The Louisiana Department of Environmental Quality (LDEQ) appreciates the support.

COMMENT 2: Mid-Continent requests that would allow the Department to approve an alternative to those standards listed in Subsection 2201.K. on a case-by-case basis. This approval could be permanent and/or could be a one-time basis based on unique conditions at the facility.

FOR: LAC 33:III.2201 should allow LDEQ to approve alternatives to the prescribed work practice standards on a case-by-case basis.

AGAINST: LDEQ is not opposed to establishing alternative work practice standards if the situation warrants, but such alternatives should be established through the SIP revision process.

RESPONSE 2: Following the outreach conducted during the development of AQ364, LDEQ did not receive any feedback suggesting that compliance with the work practice standards of LAC 33:III.2201.K would be problematic.

However, LDEQ is not necessarily opposed to establishing an alternative work practice standard designed to minimize NO_X emissions during periods of startup and shutdown, provided that the owner or operator of an affected point source demonstrates to the satisfaction of the department that such alternative is warranted based on source-specific considerations.

* indicates a fast-track regulation

Regarding the appropriate approval mechanism, EPA explains that "any revisions to obligations in the SIP," such as alternative work practice standards at issue here, "need to occur through the SIP revision process" (80 FR 33916). EPA elaborates that the:

> SIP needs to reflect the control obligations of sources, and any revision or modification of those obligations should not be occurring through a separate process, such as a permit process, which would not ensure that "alternative" compliance options do not weaken the SIP (80 FR 33915).

See LAC 33:III.2103.G.6 and 7 for examples of source-specific provisions.

COMMENT 3: We believe all sources should meet SIP emission limits at *all* times, and, we are pleased to see Louisiana is proposing to remove unlawful SSM exemptions in our State SIP, including the repeal of the following exemptions: … LAC 33:III.2201.C.8 (AQ 364) (proposing to remove excess emission exemptions for nitrogen oxides in the Baton Rouge nonattainment area).

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 3: LDEQ appreciates the support.

COMMENT 4: [W]e do not think LDEQ has fulfilled its constitutional duty when it comes to "work practice standards" under LAC 33:III.2201.K. Under Louisiana law, LDEQ has a constitutional duty to act as the trustee of the environment. The Louisiana Constitution and Louisiana Supreme Court require LDEQ to mandate environmental protection. To fulfill its' [*sic*] public trustee duty, we believe LDEQ must "make several changes to ensure that those work practice standards conform with the Clean Air Act and EPA's SSM policy."

Because we truly care about the air quality and public health in our community and throughout the State, **Concerned Citizens also agrees with and adopts by reference the specific comments submitted by Sierra Club to LDEQ on the State's proposed "work practice standards" under LAC 33:III.2201.K. We believe LDEQ's proposed "work practice standards" do not meet the "requirements of the Clean Air Act or EPA's final SSM policy, and are not approvable by EPA."** Concerned Citizens respectfully request that LDEQ revise its proposed rule

as outlined in the specific comments submitted by Sierra Club to LDEQ on the State's proposed "work practice standards" under LAC 33:III.2201.K.

We believe our State SIP should limit emissions, that the emission limits should be enforceable, should not have any ambiguity and or enforceability problem, and that all sources should meet SIP emission limits at *all* times. Removing unlawful exemptions will "avoid concerns about conformity with the Clean Air Act, as well as litigation and administrative risks associated with EPA review and approval. Because LDEQ's primary consideration should be protection of public health in strict compliance with the federal Clean Air Act, the agency should simply remove those exemptions without attempting to create impractical and unenforceable work practice standards."

FOR: LDEQ should delete the exemption provided by LAC 33:III.2201.C.8 and require owners and operators of affected point sources to comply with the emission factors set forth in LAC 33:III.2201.D at all times.

AGAINST: LDEQ's proposed work practice standards comport with both the Clean Air Act and EPA's "SSM Policy as of 2015."

RESPONSE 4: See Responses 25 - 38 for LDEQ's responses to Sierra Club's comments.

COMMENT 5: LCA notes that EPA SSM policy provides LDEQ with flexibility in revising the Louisiana SIP to address emissions during SSM events – repeal is not the only solution to correct the alleged SIP deficiencies cited in the SSM SIP Call. LCA requests that LDEQ exercise its due diligence in examining the history of the [*sic*] each of the provisions at issue, the continued necessity of such, and whether there is benefit in revising the provisions to include criteria and procedures for the use of enforcement discretion by LDEQ personnel to address emissions during SSM events. LCA requests that the LDEQ employ such as approach, when appropriate, to address emissions during SSM events. LCA appreciates that LDEQ has provided an option for compliance concerning work practices under this rulemaking, which is fully consistent with the EPA SSM guidance.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 5: LDEQ recognizes that EPA's "SSM SIP Policy as of 2015" (80 FR 33976) describes several approaches that states can use to address excess emissions during startup and shutdown events.

For example, SIPs may establish alternative emission limitations that apply to affected sources during startup, shutdown, or other "normal" modes of operation. In fact, EPA's SSM SIP Policy states that SIP emission limitations must be applicable to the source continuously, but

- do not need to be numerical in format;
- do not have to apply the same limitation (e.g., numerical level) at all times; and
- may be composed of a combination of numerical limitations, specific technological control requirements and/or work practice requirements, with each component of the emission limitation applicable during a defined mode of source operation.

SIPs may also include criteria and procedures for the use of enforcement discretion. As part of state programs governing enforcement, states can include regulatory provisions or may adopt policies setting forth criteria for how they plan to exercise their own enforcement authority.

However, affirmative defense provisions are not a viable corrective action. According to EPA, such provisions "by their nature purport to limit or eliminate the authority of federal courts to find liability or to impose remedies through factual considerations that differ from, or are contrary to, the explicit grants of authority in section 113(b) and section 113(e). These provisions are not appropriate under the [Clean Air Act], no matter what type of event they apply to, what criteria they contain or what forms of remedy they purport to limit or eliminate."

COMMENT 6: LCA objects to the complete repeal of LAC 33:III.22201.C.8. [*sic*], because such provision does not render the SIP substantially inadequate, as discussed above. SS events simply have not impaired the ability of the Baton Rouge Area to achieve attainment with the ozone NAAQS. Moreover, the underlying emissions standards did not include and [*sic*] data or analysis to support that such standards were achievable during SS events. LCA requests that the LDEQ instead amend LAC 33:III.2201.C.8. to read as follows:

C. Exemptions. The following categories of equipment or processes located at an affected facility within the Baton Rouge Nonattainment Area or the Region of Influence are exempted from the provisions of this Chapter:

* * *

8. any point source during start-up and shutdown as defined in LAC 33:III.111 ~~or during a malfunction as defined in 40 CFR Section 60.2~~ (This exemption does not apply to units that are shut down intentionally on a routine basis-more than once per month.). Nothing in this subsection shall prevent the administrative authority from imposing reasonable restrictions in an applicable permit for the maximum hourly emission limits of NOx during start-up or shut-down and/or the duration of startup and shutdown events.

LCA believes that these revisions are fully consistent with EPA's SSM policies.

FOR: LDEQ should retain the exemption provided by LAC 33:III.2201.C.8 because it has not hindered Baton Rouge from complying with the ozone NAAQS and amend Chapter 22 to allow the department to establish short-term limits for NO_X during periods of startup and shutdown and/or limit the duration of startup and shutdown events.

AGAINST: The language suggested by the commenter would not constitute a "continuously applicable SIP emission limitation" and would not be approvable by EPA.

RESPONSE 6: LDEQ agrees that the exemption provided by LAC 33:III.2201.C.8 has in no way hindered Baton Rouge from attaining the 1-hour ozone NAAQS, the 1997 8-hour ozone NAAQS, or the 2008 8-hour ozone NAAQS.

Regarding the language suggested by the commenter, LDEQ currently establishes source-specific short-term limits for NO_X and other pollutants during startup and shutdown events where such emissions exceed those associated with "routine" operations. Annual emissions associated with startup and shutdown events may also be limited in certain circumstances.

* indicates a fast-track regulation

If LDEQ were to retain the exemption provided by LAC 33:III.2201.C.8, there would be no "continuously applicable SIP emission limitation" (i.e., NO_X standards would not apply during periods of startup and shutdown).

According to EPA's "SSM SIP Policy as of 2015":

> By definition, an emission limitation can take various forms or a combination of forms, but in order to be permissible in a SIP it must be applicable to the source continuously, *i.e.,* cannot include periods during which emissions from the source are legally or functionally exempt from regulation (80 FR 33977).

For these reasons, the language suggested by the commenter will not be adopted.

COMMENT 7: In the alternative, and only in the event that LDEQ fails to make the revision suggested above, LCA requests that the LDEQ make the repeal of LAC 33:III.2201.C.8. effective on May 1, 2017 such that the exemption remains in effect until the last day before the next ozone season. Because Section 2201 applies only during ozone season (May 1-September 30), this delayed effective date is still fully consistent with EPA's SIP call, provided LDEQ's rulemaking is complete by November 22, 2016. Such a delay in the effective date is warranted in order to provide affected facilities with sufficient time to evaluate whether they will comply with emission limits or work practice standards during SS events, and if the latter, to develop operating procedures consistent with LAC 33:III.2201.K.

FOR: LAC 33:III.2201 should remain in effect until April 30, 2017 (i.e., the last day before the 2017 ozone season).

AGAINST: Because Chapter 22 applies only during the ozone season, owners or operators of affected point sources will have no new compliance obligations immediately following promulgation of the rule.

RESPONSE 7: Because this rulemaking (AQ364) will be promulgated after September 30, 2016, it is not essential that LAC 33:III.2201.C.8 remain in effect until April 30, 2017 (i.e., the last day before the 2017 ozone season). Per LAC 33:III.2201.A.2, the provisions of Chapter 22 apply only during the ozone season, defined as "the period May 1 to September 30, inclusive." Accordingly, owners or

operators of affected point sources will have no new compliance obligations immediately following promulgation of the rule.

See also Responses 10 and 11.

COMMENT 8: LCA requests that LDEQ either add a subsection to proposed 2201.K. to specify how affected facilities are to make the election of compliance with emission standards or compliance with work practice standards effective. For example, Section 2201.K. could be revised to add the following:

> K.3.g. An affected facility electing to comply with the Work Practice Standards of this Section in lieu of the emission factors set forth in Subsection D of this Section or with an alternative plan approved in accordance with Paragraph E.1. or 2 of this Section shall notify the administrative authority in writing at least seven (7) days prior to exercising such option.

The department agrees with the comment; no arguments are necessary.

RESPONSE 8: LDEQ will add a provision (as LAC 33:III.2201.K.4) requiring the owner or operator to notify the department whether each affected point source will comply with LAC 33:III.2201.K.1 or K.3 during periods of startup and shutdown.

COMMENT 9: LCA requests that the Department issue a Louisiana Register Potpourri notice and guidance concerning that an election to use Work Practice Standards under 2201.K.3. supersedes any reference to compliance with 2201.D and/or 2201.E. contained in a Title V permit, until the first permit revision following adoption of this rule AQ364. LCA believes that this would be the result under General Condition XX of LAC 33:III.537, but requests that LDEQ specifically clarify that is the appropriate interpretation.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 9: LDEQ agrees that any discrepancy between the provisions of Chapter 22 and the wording of Specific Requirements within permits for affected facilities is adequately addressed by Part 70 General Condition W of LAC 33:III.535.A and Louisiana General Condition XX of LAC 33:III.537.A. These general conditions read, in relevant part:

> In the event of a discrepancy between an applicable federal or state regulation and the corresponding permit Specific Requirement, the federal or state regulation shall prevail. If an applicable federal or state regulation is modified during the term of this permit such that it conflicts with the corresponding permit Specific Requirement, the modified regulation shall prevail, and the permittee shall comply with the modified regulation by any compliance dates established in the modified regulation.

In light of the express regulatory language addressing the commenter's concern, LDEQ does not believe that a Potpourri notice or guidance is necessary.

COMMENT 10: LCA also requests that the provisions of LAC 33:III.2201.K. have a future effective date, consistent with the future effective date of the repeal of Section 2201.C.8.

The department agrees with the comment; no arguments are necessary.

RESPONSE 10: LDEQ will amend LAC 33:III.2201.K.2 to specify that the effective date of the work practice standards identified in LAC 33:III.2201.K.3 will be May 1, 2017.

COMMENT 11: LCA urges the Department to change the effective date in this subsection from November 22, 2016 to May 1, 2016. The provisions of Section 2201 are effective only during ozone season. Thus, the requirements for coal-fired and fuel-oil-fired sources subject to this paragraph should not be required until the beginning of the next ozone season following the adoption of a final rule.

The department agrees with the comment; no arguments are necessary.

RESPONSE 11: LDEQ will amend LAC 33:III.2201.K.2 to specify that the effective date of the work practice standards identified in LAC 33:III.2201.K.3 will be May 1, 2017.

COMMENT 12: LCA requests that the duration of startup periods for stationary internal combustion engines be revised from a 30 minute limit to a 1 hour limit. Although 30 minutes is generally sufficient, there can be technology or weather based reasons why a startup may take longer. As noted by LDEQ in its comments to EPA, the existence of a complete SSM exemption to 2201 has not caused any impairment of the ability to meet the 2008 ozone NAAQS. Thus, LDEQ should allow a 60 minute period absent evidence that a 30 minute period is always appropriate. LDEQ has not included any such justification in the administrative record.

FOR: A startup period of 1 hour should be provided for startup of a stationary internal combustion engines (ICE).

AGAINST: The 30-minute period provided for startup of a stationary ICE is both reasonable and achievable.

RESPONSE 12: The requirement to minimize the startup time of stationary ICEs to a period needed for the appropriate and safe loading of the engine, not to exceed 30 minutes, is based on 40 CFR 63.6625(h) of Subpart ZZZZ. While LDEQ recognizes that not all stationary ICEs are subject to 40 CFR 63 Subpart ZZZZ (see, for example, 40 CFR 63.6590(c)), this subpart specifically regulates engines with NO_X control equipment (i.e., non-selective catalytic reduction (NSCR)) and oxidation catalysts, technologies which require a minimum temperature to be achieved before such controls can function properly. Accordingly, LDEQ believes LAC 33:III.2201.K.3.d to be both reasonable and achievable.

COMMENT 13: Each of these subsections requires an affected facility to maintain certain types of records; however, no time limit for such maintenance is stated. LCA requests that LDEQ provide a 5 year time duration for maintaining such records, consistent with the general requirements of the Title V program.

The department agrees with the comment; no arguments are necessary.

RESPONSE 13: LDEQ agrees that the records required by LAC 33:III.2201.K.3.e and f should be maintained for 5 years, as this timeframe is consistent with LAC 33:III.2201.I.3, Part 70 General Condition I of LAC 33:III.535.A, and Louisiana General Condition X of LAC 33:III.537.A. LAC 33:III.2201.K.3 will be amended to establish a records retention schedule.

COMMENT 14: LCA believes that LDEQ should be able to approve case-by-case specific Work Practice Standard plans in lieu of, or as satisfaction of, the requirements in proposed Section 2201.K.3. LCA therefore requests that LDEQ add a provision like the following to subsection K.3.:

> g. An affected facility may submit a written Work Practice Standard plan to the administrative authority to demonstrate that its practices satisfy the requirements of this Subsection 2201.K.3 or to demonstrate that its practices provide equivalent or better minimization of NOx emissions during periods of startup and shutdown in lieu of those set forth in Subsection 2201.K.3. Such plans may be submitted as part of an application for a permitting [*sic*] and will be reviewed as part of the permit decision. If a plan is approved under this subsection, it will be made a part of the applicable permit conditions.

FOR: LAC 33:III.2201.K should allow LDEQ to approve alternatives to the prescribed work practice standards on a case-by-case basis.

AGAINST: LDEQ is not opposed to establishing alternative work practice standards if the situation warrants, but such alternatives should be established through the SIP revision process.

RESPONSE 14: Regarding the establishment of new work practice standards, see Response 2.

An owner or operator of an affected point source may describe in a permit application how source-specific procedures implemented during periods of startup and shutdown satisfy the work practice standards of LAC 33:III.2201.K.3, and Specific Requirements may be incorporated into permits for affected facilities as appropriate. With respect to LAC 33:III.2201.K.3.c, see Response 23.

COMMENT 15: Louisiana's SIP submittal letter should include a statement that Louisiana is requesting the EPA's review/approval of the removal of the sections identified above from the Louisiana SIP, as required by the EPA's SSM SIP Call of June 12, 2015 (80 FR 33967).

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 15: Louisiana's SIP submittal will be worded as suggested by EPA.

COMMENT 16: Due to the fact that Louisiana is proposing to remove certain provisions from the Louisiana SIP, a demonstration under Section 110(l) of the federal Clean Air Act (CAA) is a necessary component of Louisiana's SIP submittal to the EPA. (See Enclosure 80 FR 33975, (June 12, 2015).) If you require assistance with the requirements for an appropriate Section 110(l) demonstration, the EPA Regional staff can provide such assistance.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 16: Louisiana's SIP submittal will demonstrate how the proposed amendments to Chapters 11, 15, 21, 22, and 23 comply with sections 110(l) and 193 of the Act, as applicable.

COMMENT 17: As noted in the EPA's SSM SIP Call, SIP provision may include alternative emission limitations for startup and shutdown as part of a continuously applicable emission limitation when properly developed and otherwise consistent with CAA requirements. In addition, the EPA has noted that it may be appropriate in some cases for an emission limitation to include an approach to control for startup and/or shutdown periods other than a numerically expressed emission limitation. The EPA recommends seven specific criteria as appropriate considerations for developing emission limitations in SIP provisions that apply during startup and shutdown. (See Enclosure and 80 FR 33980, (June 12, 2015).) Louisiana's SIP submittal should include a clear explanation as to how the requirements in proposed rule LAC 33:III.2201.K.3.a-f are consistent with the criteria found at 80 FR 33908, (June 12, 2015), for all affected point sources subject to LAC 33:III.2201.

Enclosure

The EPA recommends the following seven (7) criteria be considered in developing alternative requirements for a source during startup and shutdown events. To be approvable, these alternative requirements should be narrowly tailored and properly bounded.

(1) The revision is limited to specific, narrowly defined source categories using specific control strategies (*e.g.,* cogeneration facilities burning natural gas and using selective catalytic reduction);

(2) Use of the control strategy for this source category is technically infeasible during startup or shutdown periods;

(3) The alternative emission limitation requires that the frequency and duration of operation in startup or shutdown mode are minimized to the greatest extent practicable;

(4) As part of its justification of the SIP revision, the state analyzes the potential worst-case emissions that could occur during startup and shutdown based on the applicable alternative emission limitation;

(5) The alternative emission limitation requires that all possible steps are taken to minimize the impact of emissions during startup and shutdown on ambient air quality;

(6) The alternative emission limitation requires that, at all times, the facility is operated in a manner consistent with good practice for minimizing emissions and the source uses best efforts regarding planning, design, and operating procedures; and

(7) The alternative emission limitation actions during startup and shutdown periods are documented by properly signed, contemporaneous operating logs or other relevant evidence.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 17: Louisiana's SIP submittal will explain how the work practice standards under LAC 33:III.2201.K.3 are consistent with the seven criteria enumerated by EPA at 80 FR 33980.

COMMENT 18: [T]he work practice requirements will need to meet applicable Clean Air Act (CAA) stringency requirements and be legally and practically enforceable. (See Enclosure 80 FR 33910, (June 12, 2015).) As such, Louisiana's SIP submittal should explain how proposed rule LAC 33:III.2201.K meets these requirements during startup and shutdown modes for each category of affected point sources covered by the rule. In this case, the SIP submission should explain how the work practice requirements meet the CAA's RACT requirements.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 18: Louisiana's SIP submittal will explain how the work practice standards under LAC 33:III.2201.K.3 meet applicable stringency requirements (i.e., reasonably available control technology, or RACT).

COMMENT 19: We note that proposed rule LAC 33:III.2201.K.3.b imposes work practice requirements specific to coal-fired and fuel oil-fired electric power generating system boilers and fuel oil-fired stationary gas turbines during periods of startup and shutdown requiring the use of natural gas during these periods. When combined with appropriate monitoring, recordkeeping, and reporting requirements, such requirements likely satisfy CAA requirements. Louisiana's submission should include an explanation of how the seven criteria are met by this work practice for coal-fired and fuel-oil fired EGU's.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 19: See Response 17.

COMMENT 20: [W]e note that affected point sources covered by the proposed rule also include other boilers, process heaters/furnaces, stationary gas turbines, and stationary internal combustion engines which would not be subject to the requirements of proposed rule LAC 33:III.2201.K.3.b. Louisiana's SIP submittal should also include a clear explanation of how the seven criteria and the stringency requirements (e.g., NOx RACT requirements) were considered in developing the work practice requirements for *each* category of affected point sources not subject to proposed rule LAC 33:III.2201.K.3.b (i.e., boilers, process heaters/furnaces, stationary gas turbines, and stationary internal combustion engines). For every category/type of affected point source that could opt to comply during startup and shutdown with the alternative emission limitations (work practice requirements), those requirements need to be included in proposed rule LAC 33:III.2201.K.3.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 20: See Responses 17 and 18. LAC 33:III.2201.K.3 includes potentially applicable work practice standards for each category of point source regulated under Chapter 22, not just those for coal-fired and fuel oil-fired electric power generating system boilers and fuel oil-fired stationary gas turbines.

COMMENT 21: The requirements in proposed rule LAC 33:III.2201.K.3.a and LAC 33:III.2201.K.3.c constitute "general duty" provisions. We support the inclusion of general duty provisions as separate *additional* requirements in SIPs, for example, to ensure that owners and operators act consistent with reasonable standards of care; however, the EPA does not recommend the submittal of general duty-type provisions as alternative emission limitations because such provisions standing alone may not meet the applicable stringency requirements for SIPs (e.g., RACT). In general, the EPA believes that a legally and practically enforceable alternative emission limitation applicable during startup and shutdown should be expressed as a numerical limitation, a specific technological control requirement or a specific work practice. (See 80 FR 33879-80, (June 12, 2015).)

FOR: General duty provisions do not constitute alternative emission limitations.

AGAINST: Inclusion of LAC 33:III.2201.K.3.a is consistent with EPA's "SSM SIP Policy as of 2015"; LAC 33:III.2201.K.3.c is not a general duty provision.

RESPONSE 21: LDEQ recognizes that EPA's "SSM SIP Policy as of 2015" states that general duty provisions such as LAC 33:III.2201.K.3.a are generally "[in]sufficient as an alternative emission limitation for any type of event" (80 FR 33979). However, the agency has also recognized that:

- states are free to include general-duty provisions in their SIPs as separate additional requirements, for example, to ensure that owners and operators act consistent with reasonable standards of care [80 FR 33904]; and

- [t]o the extent that such other general-duty requirement is properly established and legally and practically enforceable, the EPA would agree that it may be an appropriate separate requirement to impose upon sources in addition to the (continuous) emission limitation. The EPA itself imposes separate general duties of this type in appropriate circumstances [80 FR 33890 and 33979].

In fact, EPA recommends that alternative emission limitations require that “all possible steps are taken to minimize the impact of emissions during startup and shutdown on ambient air quality,” and “at all times, the facility is operated in a manner consistent with good practice for minimizing emissions and the source uses best efforts regarding planning, design, and operating procedures” (80 FR 33914 and 33980). These recommendations are directly addressed by LAC 33:III.2201.K.3.a.

LDEQ does not consider LAC 33:III.2201.K.3.c to be a general duty provision. EPA describes “general duty” type requirements as those requiring an owner of operator to minimize emissions at all times, to exercise good engineering judgment at all times, and to not cause a violation of a NAAQS at any time (see 80 FR 33889-90, 33903, 33943, 33975, and 33979). However, LAC 33:III.2201.K.3.c stems from federal provisions that serve to limit emissions of NO_X (and other criteria and hazardous air pollutants) during periods of startup and shutdown, specifically Table 3 of 40 CFR 63 Subpart DDDDD and Table 3 of 40 CFR 63 Subpart UUUUU.

COMMENT 22: The proposed LAC 33:III.2201.K.2 provides for *all other affected sources* (i.e., sources that are *not* shut down intentionally more than once per month) with the option of either complying with LAC 33:III.2201.K.1, or with the work practice standards outlined in LAC 33:III.2201.K.3. The rule should be clear how the LDEQ would be notified in advance which of the two options the source has chosen. Any alternative emission limitation applicable during startup and shutdown must be independently enforceable. Thus, the LDEQ must determine before a startup or shutdown event occurs what emission limitation applies during such times. Otherwise, the limitation may not be practically enforceable. In addition, this situation may create a problem regarding how to account for startup and shutdown events in emissions inventories and SIP planning.

The department agrees with the comment; no arguments are necessary.

RESPONSE 22: LDEQ will add a provision (as LAC 33:III.2201.K.4) requiring the owner or operator to notify the department whether each affected point source will comply with LAC 33:III.2201.K.1 or K.3 during periods of startup and shutdown.

COMMENT 23: The EPA encourages the operation and maintenance of control devices in accordance with safety and manufacturer recommendations, as required by proposed rule LAC 33:III.2201.K.3.c; however, for enforceability purposes, we believe that the rule should make clear that the source's Title V operating permit will include specific conditions that identify/detail when safe operation of control devices (including SCR/SNCR) will begin.

The department agrees with the comment; no arguments are necessary.

RESPONSE 23: LAC 33:III.2201.K.3.c will be amended as follows:

> The department shall incorporate into the applicable permit for each affected facility appropriate requirements describing the source-specific conditions or parameters identifying when operation of the control device shall commence.

COMMENT 24: With respect to proposed rule LAC 33:III.2201.K.3.d, please explain if there is a limit to the number of startups for stationary internal combustion engines (e.g., number of startups per day, per month, or per year) and explain how such limitations are legally and practically enforceable as well as how the seven criteria and stringency requirements … were considered in developing these startup requirements.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 24: The number of startups following the intentional shutdown of an affected stationary ICE is limited to no more than one per month during the ozone season.

According to LAC 33:III.2201.K.1, owners or operators of affected point sources that are shut down internationally more than once per month must include NO_X emitted during periods of startup and shutdown for purposes of determining compliance with the emission factors set forth in LAC 33:III.2201.D or with an alternative plan approved in accordance with LAC 33:III.2201.E. Thus, compliance with LAC 33:III.2201.K.3.d during periods of startup and shutdown is not an option for owners or operators of stationary ICEs that are intentionally shut down more than once per month.

Regarding the "seven criteria and stringency requirements," see Responses 17 and 18.

COMMENT 25: [T]he best approach to the SSM SIP Call is for LDEQ to simply remove the illegal SSM exemption from the Louisiana SIP. Removing these exemptions would mean that the normal SIP limits that are designed to protect air quality and comply with the Act's requirements would apply during all "startup and shutdown and malfunctions." And EPA has made clear that it should be technically feasible for most sources to "meet the same emission limitation" during *both* "steady-state" and startup/shutdown periods. 80 Fed. Reg. 33,840, 33,979 (June 12, 2015). Indeed, in the SSM SIP Call EPA expressed its preference for numeric limitations during SSM operations, and many of the states and territories not included in EPA's SIP Call have regulations that require just that—*i.e.*, that sources meet SIP emission limits at *all* times. Moreover, removal of the exemption would avoid concerns about conformity with the Clean Air Act, as well as litigation and administrative risks associated with EPA review and approval. Because LDEQ's primary consideration should be protection of public health in strict compliance with the federal Clean Air Act, the agency should simply remove those exemptions without attempting to create impractical and unenforceable work practice standards.

FOR: LDEQ should delete the exemption provided by LAC 33:III.2201.C.8 and require owners and operators of affected point sources to comply with the emission factors set forth in LAC 33:III.2201.D at all times.

AGAINST: Repeal of LAC 33:III.2201.C.8 is not the only viable approach to address EPA's SSM SIP Call.

RESPONSE 25: Repeal of LAC 33:III.2201.C.8 is not the only viable approach to address EPA's SSM SIP Call. EPA's "SSM SIP Policy as of 2015" (80 FR 33976) describes several approaches that states can use to address excess emissions during startup and shutdown events.

For example, SIPs may establish alternative emission limitations that apply to affected sources during startup, shutdown, or other "normal" modes of operation. In fact, EPA's SSM SIP Policy states that SIP emission limitations must be applicable to the source continuously, but

- do not need to be numerical in format;
- do not have to apply the same limitation (e.g., numerical level) at all times; and
- may be composed of a combination of numerical limitations, specific technological control requirements and/or work practice requirements, with each component of the emission limitation applicable during a defined mode of source operation.

SIPs may also include criteria and procedures for the use of enforcement discretion. As part of state programs governing enforcement, states can include regulatory provisions or may adopt policies setting forth criteria for how they plan to exercise their own enforcement authority.

In the instant case, LDEQ has determined that the most appropriate way to address EPA's SSM SIP Call is to amend Chapter 22 to allow the owner or operator of an affected point source to comply either with the emission factors imposed by LAC 33:III.2201.D at all times (including periods of startup and shutdown) or with newly-established work practice standards designed to minimize NO_X emissions during periods of startup and shutdown.

COMMENT 26: Louisiana's proposed work practices standards are not "limited to specific, narrowly defined source categories using specific control strategies." *Id.* at 33914. Indeed, the work practice standards apply to virtually every major source of nitrogen oxides in and surrounding the Baton Rouge nonattainment area without consideration of whether sources are technically capable of complying with numeric SIP limits during periods of startup, shutdown, or malfunction. *See* proposed LAC 33:III.2201.K.3.a (applying to all "affected point source[s]" Baton Rouge Nonattainment Area and Region of Influence). In the final SSM SIP call rule, EPA confirmed that startup and shutdown are "part of the normal operation of a source and should be accounted for in the design and operation of the source. It should be possible to determine an appropriate form and degree of emission control during startup and shutdown and to achieve that control on a regular basis." 80 Fed. Reg. at 33979. EPA's final SSM Policy from the SIP call provides that a "state can develop special, alternative emission limitations that apply during startup or shutdown *if the source cannot meet the otherwise applicable emission limitation in the SIP*." *Id.* at 33,980. Thus, work practices or alternative compliance plans (in lieu of having to meet normal SIP limits during startup and shutdown) are *only*

appropriate for those narrowly limited source categories that truly cannot meet numerical limits for particular pollutants during startup and shutdown.

FOR: LDEQ's proposed work practice standards must be limited to specific, narrowly defined source categories using specific control strategies and should only be available to sources that cannot otherwise meet SIP limitations during periods of startup and shutdown.

AGAINST: LDEQ's proposed work practice standards are narrowly tailored as recommended by EPA. Further, alternative emission limitations may take the form of a work practice standard.

RESPONSE 26: As explained in Response 21, LAC 33:III.2201.K.3.a is indeed a broadly-applicable "general duty" provision. However, this provision is specifically intended to address EPA's recommendations at 80 FR 33980 that alternative emission limitations require "all possible steps are taken to minimize the impact of emissions during startup and shutdown on ambient air quality," and "at all times, the facility is operated in a manner consistent with good practice for minimizing emissions and the source uses best efforts regarding planning, design, and operating procedures." For additional discussion on this recommendation with respect to other work practice standards, see Response 27.

As noted by the commenter, EPA's discussion of startup and shutdown at 80 FR 33979 states that "[i]t should be possible to determine an appropriate form and degree of emission control during startup and shutdown and to achieve that control on a regular basis." This excerpt is part of a larger discussion contrasting startup and shutdown events with malfunctions, which EPA characterizes as "unpredictable and variable, making the development of an alternative emission limitation … problematic."

Importantly, the cited passage, repeated in context below, does not restrict the "form and degree of emission control" to numerical limitations.

> Startup and shutdown are part of the normal operation of a source and should be accounted for in the design and operation of the source. It should be possible to determine an appropriate form and degree of emission control during startup and shutdown and to achieve that control on a regular

> basis. Thus, sources should be required to meet defined SIP emission limitations during startup and shutdown. **However, the EPA interprets the CAA to permit SIP emission limitations that include alternative emission limitations specifically applicable during startup and shutdown** (emphasis added).

LAC 33:III.2201.K recognizes that some affected point sources will be able to comply with the emission factors of LAC 33:III.2201.D during periods of startup and shutdown. In fact, LAC 33:III.2201.K.1 *requires* sources that are shut down intentionally more than once per month to meet applicable numerical limitations. LAC 33:III.2201.K.2 also allows owners or operators of other affected point sources that can comply with LAC 33:III.2201.D to do so (and therefore avoid the additional requirements imposed by LAC 33:III.2201.K.3). In this way, only owners or operators of sources that cannot comply with LAC 33:III.2201.D during periods of startup and shutdown would avail themselves to the alternative emission limitations.

Regardless, EPA's "SSM SIP Policy as of 2015" is clear that alternative emission limitations may "take the form of a control measure such as a design, equipment, work practice or operational standard (whether or not numerical)" (80 FR 33976).

Finally, regarding the commenter's assertion that work practices "are *only* appropriate for those … source categories that truly cannot meet numerical limits for particular pollutants during startup and shutdown," see Response 29.

COMMENT 27: Louisiana's proposed work practice standards are not appropriately limited to specific, narrowly defined control strategies or operations. Proposed section 2201.K.3.c indicates that sources must engage "control devices *such as* selective catalytic reduction (SCR) … *as expeditiously as possible*, considering safety and *manufacturer recommendations*." LAC 33.III.2201.K.3.c (emphasis added). As an initial matter, control requirements that apply during startup and shutdown must be clearly stated as components of the emission limitation and must meet the applicable level of control required for the type of SIP provision (*e.g.,* be RACT for sources located in nonattainment areas). A generically applicable requirement to operate control equipment "such as" selective catalytic reduction "as expeditiously as possible" is not a narrowly tailored continuous and enforceable limitation. The same ambiguity and

enforceability problem applies to the provision requiring operation of controls only to the extent the "manufacturer recommendations," which makes these standards difficult or impractical to enforce and may also result in exempt startup and shutdown periods. Indeed, manufacturers typically recommend that control equipment, such as SCR, be operated only at temperatures higher than those typical during startup and shutdown. Exempting sources from operating pollution controls according to manufacturer recommendations conflicts with EPA's mandate that some emission limitation be applicable at all times.

FOR: LDEQ's proposed work practice standards should be limited to specific, narrowly defined control strategies or operations; allowing sources to comply with manufacturer recommendations may effectively provide an exemption from having to utilize pollution controls.

AGAINST: LDEQ's proposed work practice standards are narrowly tailored as recommended by EPA and do not provide an exemption from the requirement to operate NO_X control devices within their design and operational constraints.

RESPONSE 27: EPA recommends that alternative requirements applicable to a source during startup and shutdown be "limited to specific, narrowly defined source categories using specific control strategies (*e.g.,* cogeneration facilities burning natural gas and using selective catalytic reduction)" (80 FR 33980). LAC 33:III.2201.K.3.c applies to narrowly defined source categories – boilers, process heaters/furnaces, gas turbines, and stationary internal combustion engines – using specific control strategies – SCR and SNCR (i.e., systems which require flue gas temperatures to reach a minimum set point before they can be engaged).

The commenter suggests that allowing owners or operators to consider manufacturer recommendations is tantamount to "exempting sources from operating pollution controls." LDEQ disagrees for a number of reasons.

First, the inherent constraints of SCR and SNCR are widely recognized. For example, the report entitled "Developing Alternate SSM Limits and Work Practices – Coal Units" by Dr. Ron Sahu and provided by the commenter acknowledges:

> SCR catalysts, like all catalysts designed to promote specific chemical reactions, might not have sufficient activity at low temperatures. In that sense, we do not dispute the general idea that there may be inherent "minimum operating temperatures" (MOT) associated with SCR catalysts. (Att. A, p. 2)
>
> In order to be effective, SNCR systems reduce NO_X when ammonia is injected at flue gas temperatures between 1600°F and 1800°F, or urea is injected when temperatures are between 1600°F and 2200°F, with 1800°F to 2000°F being the optimal reaction temperature range. (pp. 4-5)

Second, "EPA encourages the operation and maintenance of control devices in accordance with … manufacturer recommendations." See Comment 23.

Third, work practice standards promulgated by EPA for periods of startup and shutdown have explicitly directed owners or operators to comply with manufacturer's recommendations. See, for example, 40 CFR 63.7530(h) and Table 3 to Subpart DDDDD, as promulgated on March 21, 2011 (76 FR 15608). Table 3 reads, in relevant part:

> Minimize the unit's startup and shutdown periods following the manufacturer's recommended procedures. If manufacturer's recommended procedures are not available, you must follow recommended procedures for a unit of similar design for which manufacturer's recommended procedures are available.

Finally, neither the commenter nor the Sahu report proffered by the commenter provides any support that the "as expeditiously as possible, considering safety and manufacturer recommendations" terminology will allow control devices such as SCR or SNCR to be engaged at a point later than technically feasible.

To the contrary, the Sahu report lends credence to the approach put forward by LDEQ because it allows for the establishment of unit-specific minimum operating temperatures. Further, Sahu cites data from *manufacturers* of catalyst and boilers (e.g., Cormetech, Babcock and Wilcox) to support his conclusion that SCR systems can operate at much lower temperatures than commonly ascribed (see Response 33 for further discussion).

In addition, LAC 33:III.905.A, which is SIP-approved, provides that "[w]hen facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Thus, deliberately failing to utilize a control device when it can function as designed is already prohibited by Louisiana air quality regulations and the SIP.

In sum, LDEQ is not persuaded that the reference to "manufacturer recommendations" in LAC 33:III.2201.K.3.c is problematic in any way. Regarding the "continuous" aspect of LAC 33:III.2201.K.3.c, see Response 33. Regarding RACT, see Response 18.

COMMENT 28: If work practices are proper (again, they are not), LDEQ should require pollution controls to be operated at specific time points during startup and shutdown. As an example for power plants, LDEQ can look to the startup and shutdown work practices from the final Mercury and Air Toxics Standards ("MATS") rule (*before* these work practices were changed on reconsideration). There, for startup, EPA required all pollution controls to be operated once plants begin firing their primary fuel (*e.g.*, coal for coal-fired power plants). 77 Fed. Reg. 9304, 9493 (Feb. 16, 2012). Instead of allowing pollution controls to be engaged at some uncertain time that is purportedly "practicable," LDEQ must explicitly require that pollution controls be engaged no later than the end of startup, which is defined as the time when electricity is generated for any purpose. *See* LAC 33:III.2201.K.3.b (as proposed).

FOR: LDEQ should require pollution controls to be engaged no later than the end of startup.

AGAINST: EPA's MATS rule does not require all pollution controls to be operated once plants begin firing their primary fuel. The determination of when control devices must be engaged is often dependent on source-specific conditions and should not be generically prescribed by the work practice standard.

RESPONSE 28: As discussed in Response 23, LAC 33:III.2201.K.3.c will be amended to require LDEQ to "incorporate into the applicable permit for each affected facility appropriate requirements describing the source-specific conditions or parameters identifying when operation of the control device shall commence." Accordingly, owners or operators of affected point sources will not be able to unilaterally decide when and under what conditions to engage their control devices.

LAC 33:III.2201.K.3.c requires control devices such as SCR and SNCR to be engaged "as expeditiously as possible." This terminology is based on Table 3 of 40 CFR 63 Subpart DDDDD ("You must start your … SCR systems as expeditiously as possible.")

Notably, EPA's MATS rule (i.e., 40 CFR 63 Subpart UUUUU) does not require *all* pollution controls to be operated once plants begin firing their primary fuel. To the contrary, Table 3 of Subpart UUUUU states, in relevant part:

> Once you convert to firing coal, residual oil, or solid oil-derived fuel, you must engage all of the applicable control technologies **except** dry scrubber and SCR (emphasis added). You must start your dry scrubber and SCR systems, if present, appropriately to comply with relevant standards applicable during normal operation.

The February 16, 2012, rulemaking specifically referenced by the commenter (77 FR 9304), elaborates on these requirements at 9381.

> The EPA also is requiring sources to vent emissions to the main stack(s) and operate all control devices necessary to meet the normal operating standards under this final rule (with the exception of dry scrubbers and SCRs) when coal, solid oil-derived fuel, or residual oil is fired in the boiler during startup or shutdown. It is the responsibility of the operators of EGUs to start their dry scrubber and SCR systems appropriately to comply with relevant standards applicable during normal operation.

> The EPA carefully considered fuels and potential operational constraints of air pollution control devices (APCDs) when designing its work practices for periods of startup and shutdown.
>
> * * *
>
> The EPA is aware that SCR systems with ammonia injection need to be operated within a prescribed and relatively narrow temperature window to provide NO_X reductions.
>
> * * *
>
> Because these devices have specific temperature requirements for proper operation, the EPA notes in its work practices that it is the responsibility of the operators of EGUs to start their SCR and dry scrubber systems appropriately to comply with relevant standards applicable during normal operation.

COMMENT 29: Consistent with the SIP Call, alternative emissions limits (including work practice standards) should only be available for sources showing that use of controls or meeting numeric limitations are "*technically infeasible"* during that time. 80 Fed. Reg. at 33980 (emphasis added). Such technical infeasibility cannot include sources with outdated or undersized pollution controls that, if properly designed, could operate during startup or shutdown. Many (if not all) of the affected sources in the Baton Rouge nonattainment area can and should be required to meet normal SIP limits during startup and shutdown. Because LDEQ has failed to provide a factual basis for demonstrating that affected sources are *not* capable of meeting their existing emission limitations at all times, the agency has failed to demonstrate that its proposed SSM work practice standards are appropriate under the circumstances. Accordingly, LDEQ's proposed work practice standards must be removed from the proposed SIP.

FOR: LDEQ's proposed work practice standards should only be available to sources where the use of controls or compliance with numerical limitations is not technically feasible.

* indicates a fast-track regulation

AGAINST: Inherent limitations in both control technologies and test methods render work practice standards preferable to numerical limitations during periods of startup and shutdown. Further, the Clean Air Act does not mandate (or imply) that numerical limitations must be imposed at all times, nor does it expressly allow for work practice standards only when controls or compliance with numeric limitations is technically infeasible.

RESPONSE 29: It is widely recognized that there are inherent limitations in both control technologies *and* test methods that render work practice standards preferable to numerical limitations during periods of startup and shutdown. Elsewhere in this Comment Summary Response & Concise Statement, LDEQ has noted where the commenter and EPA have acknowledged the limitations of common NO_X control strategies such as SCR and SNCR (Responses 27, 28, & 33).

However, the need to account for transient conditions during startup and shutdown is not limited to sources equipped with post-combustion control devices. For example, in the case of stationary compression ignition engines, EPA describes how emissions during startup are "significantly different than the emissions during normal operation" due to issues such as "variations in speed and load [and] poor atomization of the fuel injection, which leads to variable engine and engine exhaust temperatures, variable exhaust gas flow rates, and variable diluent pollutant concentration" (75 FR 9665). EPA also notes that:

> EPA test methods (*e.g.,* 40 CFR part 60, appendix A, Methods 2, 3A, 4, and 10) do not respond adequately to the relatively short term and highly variable exhaust gas characteristics occurring during these periods. *Id.*

EPA echoed these statements in recent amendments to 40 CFR 63 Subpart DDDDD, affirming that "emissions testing … is designed for periods of steady state operation" (80 FR 72793).

> [T]est methods are required to be conducted under isokinetic conditions (*i.e.,* steady-state conditions in terms of exhaust gas temperature, moisture, flow rate), which is difficult to achieve during [startup and shutdown] periods where conditions are constantly changing. *Id.*

In addition, EPA affirmed that "monitoring instrumentation such as continuous emissions monitoring systems (CEMS) … are designed for measurements occurring during periods other than during startup or shutdown when emissions flow are stable and consistent" *Id.*

The typically short duration of periods of startup and shutdown is also another consideration. For example, it is not possible to complete three 1-hour runs as required 40 CFR 63 Subpart ZZZZ (at 40 CFR 63.6600, 6601, 6602, and 6603) when startup of a stationary internal combustion engine is limited to no more than 30 minutes (LAC 33:III.2201.K.3.d). The general need for three runs is also a requirement of 40 CFR 60.8(f) and 63.7(e)(3).

Thus, in the absence of a clearly reliable way to establish and verify compliance with numerical limitations during periods of startup and shutdown, it is reasonable to establish alternative emission limitations for such periods in the form of work practice standards.

Finally, as evidenced below, the Clean Air Act does not mandate (or imply) that numerical limitations must be imposed at all times, nor does it expressly allow for work practice standards only when controls or compliance with numeric limitations is technically infeasible.

> The EPA agrees that neither section 110(a)(2)(A) nor section 302(k) inherently requires that SIP emission limitations must be expressed numerically. Furthermore, section 302(k) does not itself require imposition of numerical limitations or foreclose the use of higher numerical levels, specific technological controls or work practices during certain modes of operation.
>
> Although some CAA programs may require or impose a presumption that emission limitations be expressed numerically, the text of section 110(a)(2)(A) and section 302(k) does not expressly state a preference for emission limitations that are in all cases numerical in form. (80 FR 33899)

COMMENT 30: Even for those sources (if any) that truly cannot meet normal limits during startup and shutdown, LDEQ should establish alternative numerical limits instead of work practices. In its SIP Call, EPA also made clear that work practices are only

appropriate for those limited periods of time when "*measurement of emissions during startup and/or shutdown is not reasonably feasible*." *See* 80 Fed. Reg. at 33980 (emphasis added). Where possible, establishing numerical limits in lieu of work practices is required by Clean Air Act § 110(a)(2), which provides that SIPs are to include "*enforceable* emission limitations … as may be necessary or appropriate to meet the applicable requirements" of the Act." 42 U.S.C. 7410(a)(2) (emphasis added). In the SSM SIP call, EPA echoed that numerical limits are preferable to work practices in terms of enforceability. *See* 80 Fed. Reg. at 33974-75 ("There are many sources for which a numerically expressed emission limitation will be the most appropriate and will result in the most legally and practically enforceable SIP requirements"); *id.* at 33979 ("In practice, it may be that numerical emission limitations are the most appropriate from a regulatory perspective (*e.g.,* to be legally and practically enforceable) and thus the emission limitation would need to be established in this form to meet CAA requirements"). At least for power plants, like Big Cajun II near Baton Rouge, it is demonstrably reasonable to measure NOx emissions during startup and shutdown. For decades, under the Clean Air Act Acid Rain Program, power plants like Big Cajun II have continuously monitored sulfur dioxide and nitrogen oxide emissions from the moment combustion begins throughout generation.

FOR: In order to conform to the Clean Air Act and EPA policy, LDEQ should establish numerical limits during periods of startup and shutdown in lieu of work practice standards.

AGAINST: The Clean Air Act and EPA's "SSM Policy as of 2015" clearly substantiate LDEQ's authority to establish work practice standards in lieu of numerical limitations.

RESPONSE 30: The commenter has omitted key passages from the cited text that clearly substantiate LDEQ's authority to establish work practice standards in lieu of numerical limitations.

First, the cited passage at 80 FR 33980, repeated in its entirety below, simply indicates that non-numerical limitations are an option where the measurement of emissions is not feasible. This paragraph does not categorically state that work practices are *only* appropriate for periods when the measurement of emissions is not feasible.

> In cases in which measurement of emissions during startup and/or shutdown is not reasonably feasible, it may be appropriate for an emission limitation to include as a component a control for startup and/or shutdown periods other than a numerically expressed emission limitation.

Second, the assertion that "establishing numerical limits in lieu of work practices is required by Clean Air Act § 110(a)(2)" is patently false. Section 110(a)(2)(A) states that SIPs shall:

> include enforceable emission limitations **and other control measures, means, or techniques** (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter (emphasis added).

In fact, the footnote (n. 402) to the very sentence cited by the commenter (at 33974-75) reads, in relevant part:

> The EPA notes that in the CAA there is a presumption in favor of numerical emission limitations for purposes of section 112 and section 169, **but section 110(a) does not include such an explicit presumption** (emphasis added).

Finally, EPA (at 80 FR 33974-75) does not suggests "numerical limits are preferable to work practices in terms of enforceability." The sentence <u>prior to</u> that cited by the commenter reads:

> Third, the EPA reiterates that SIP emission limitations do not necessarily have to be expressed in terms of a numerical level of emissions.

The sentence <u>after</u> reads:

> However, the EPA recognizes that for some source categories, under some circumstances, it may be appropriate for the SIP emission limitation to include a specific technological control requirement or specific work practice requirement that applies during specified modes of source operation **such as startup and shutdown** (emphasis added).

LAC 33:III.2201.K.3.b requires the coal-fired boilers at the Big Cajun II Power Plant to be started using natural gas, and LAC 33:III.2201.K.3.c requires the SNCR equipment utilized to control NO_X emissions from the boilers to be engaged as expeditiously as possible. It is not clear how establishing a pound per hour or pound per million Btu emission limit would result in further NO_X reductions.

COMMENT 31: Under § 110(l) of the Clean Air Act, EPA cannot approve SIP revisions that would interfere with attainment of the NAAQS or PSD increments: "The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title), or any other applicable requirement of this chapter." 42 U.S.C. § 7410(l). In keeping with this requirement, EPA stated in the SSM SIP call that, "[a]s part of its justification of the SIP revision, the state [should] analyze[] the potential worst-case emissions that could occur during startup and shutdown based on the applicable alternative emission limitation" 80 Fed. Reg. at 33980.

* * *

Here, it does not appear that LDEQ has considered the potential effect of its proposed work practices on these required attainment demonstrations and planning under the Act. Indeed, LDEQ's narrative SIP revision contains a cursory description of the revision with no analysis whatsoever of the impact of uncontrolled nitrogen oxide emissions during startup and shutdown on the Baton Rouge nonattainment area. This is especially troubling given that LDEQ's proposed work practice standards will specifically apply to areas of Louisiana that have the worst air quality in the state—the Baton Rouge nonattainment area for ozone. Given the huge quantities of nitrogen oxide emissions that are possible during startup and shutdown (while NOx controls will not be required to operate), and given that NOx is a precursor pollutant that causes ground-level ozone, LDEQ must evaluate the potential worst-case emissions that could occur during startup/shutdown under the proposed work practice standards. It appears that LDEQ's proposal will do little (if anything) to reduce NOx emissions below the status quo, and could exacerbate Baton Rouge's nonattainment status.

No arguments necessary; comment does not suggest amendment or change.

* indicates a fast-track regulation

RESPONSE 31: As noted by the commenter, EPA recommends that the state analyze "the potential worst-case emissions that could occur during startup and shutdown based on the applicable alternative emission limitation."

With respect to section 110(l) of the Clean Air Act, EPA provides the following "general guidance" for circumstances analogous to the instant case.

> A state elects to revise its SIP provision by replacing an automatic exemption for excess emissions during startup and shutdown events with an appropriate alternative emission limitation (e.g., a different numerical limitation or different other control requirement) that is explicitly applicable during startup and shutdown as a component of the revised emission limitation. Although the EPA must review each SIP revision for compliance with section 110(l) and section 193 on the facts and circumstances of the revision, the Agency believes in general that this type of SIP revision should not entail a complicated analysis to meet these statutory requirements. Presumably, the replacement of an automatic exemption applicable to startup and shutdown with an appropriate alternative emission limitation would not constitute backsliding, would strengthen the SIP and would be consistent with the overarching requirement that the SIP revision be consistent with the requirements of the CAA. (80 FR 33975-6)

Since Chapter 22 was promulgated on February 20, 2002, LAC 33:III.2201.C.8 has exempted "any point source during *start-up* and *shutdown*," provided such source was intentionally shut down no more than once per month.

Therefore, uncontrolled NO_X emissions during periods of startup and shutdown have been reported to LDEQ's Emissions Reporting and Inventory Center (ERIC) and predecessor databases for many years per LAC 33:III.919 (Emissions Inventory). In fact, LAC 33:III.919.F.1.a.ii calls for the amount of emissions specifically associated with startup and shutdown events during the ozone season to be quantified and reported separately from other "categories" of emissions.

Even presuming the newly-established work practice standards have no demonstrable impact on NO_X emissions (an unnecessarily conservative assumption), LDEQ's historical emissions data represents the potential worst-case emissions that could occur during startup and shutdown based on the applicable alternative emission limitation.

Since the compliance date of LAC 33:III.2201 (i.e., May 1, 2005), the 8-hour design value of the Baton Rouge area has declined from 96 parts per billion (ppb) in 2005 to 72 ppb (as of August 31, 2015), a 25% decrease. Accordingly, it is readily apparent that the exemption provided by LAC 33:III.2201.C.8 has in no way hindered Baton Rouge from attaining the 1997 8-hour ozone NAAQS or the 2008 8-hour ozone NAAQS. Thus, the commenter's claim that the proposed work practice standards, which can only serve to reduce NO_X emissions during periods of startup and shutdown, could somehow "exacerbate Baton Rouge's nonattainment status" is completely unfounded.

COMMENT 32: LDEQ's work practices proposal does not require sources to report to LDEQ any information to assure that sources are complying with the requirements of the rule. Because there is no way for LDEQ to know—without requesting documentation from sources—whether sources are complying with the work practice requirements, there is also no way for citizens or EPA to obtain information about whether or not sources are complying with the requirements. Thus, the requirements are not practically enforceable by LDEQ in enforcement suits. Nor are they enforceable by EPA or citizens in federal court. If LDEQ insists on including work practices instead of numerical limits (which we maintain is not consistent with the requirements of the Clean Air Act or the SIP Call rule, and therefore not approvable by EPA or the 11th [*sic*] Circuit), the agency should require the work-practice compliance information from the proposed rule to be reported by sources through, at the least, their quarterly Title V compliance reports.

FOR: LDEQ should require owners or operators to report information pertaining to compliance with the proposed work practice standards quarterly.

AGAINST: Existing regulations require deviations from the proposed work practice standards to be reported; nevertheless, LDEQ will amend Chapter 22 to clarify that such information should be addressed in the report required by LAC 33:III.2201.I.2.

* indicates a fast-track regulation

RESPONSE 32: LDEQ disagrees that there is no way for the department, EPA, or the public to know whether owners or operators are complying with applicable work practice requirements.

For Part 70 sources, deviations from the work practice standards of LAC 33:III.2201.K.3 would have to reported in accordance with Part 70 General Condition R of LAC 33:III.535.A. In addition, reports of "required monitoring, clearly identifying all instances of deviations from permitted monitoring requirements," are required by Part 70 General Condition K of LAC 33:III.535.A. Finally, annual compliance certifications are required by Part 70 General Condition M of LAC 33:III.535.A and LAC 33:III.507.H.5 – "requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or *work practices*" (emphasis added). All such reports are available to the public via LDEQ's Electronic Document Management System (EDMS).

Nevertheless, LDEQ will amend the reporting requirements of LAC 33:III.2201.I.2 to specifically address the work practice standards of LAC 33:III.2201.K.3.

See also Response 22.

COMMENT 33: LDEQ's proposal does not ensure continuous reductions in emissions throughout startup and shutdown, and LDEQ's proposal includes periods during which emissions are functionally exempt from regulation. As an initial matter, the language in the general work practice option only requires the operation of nitrogen oxide control technology as soon as "practicable" and only if consistent with "manufacturer recommendations." As discussed above, this language gives sources broad latitude to choose when to operate those controls, and many NOx control systems are only operated above operating temperatures. For those sources, until the point during startup when their particular pollution controls engage and begin to reduce emissions (or after these controls disengage in shutdown), there is no requirement in Louisiana's proposal to limit emissions during startup or shutdown. For example, coal-fired power plants could claim that manufacturers recommend that their equipment not be operated until close to full load, which could well into startup (sometimes perhaps after 9 or 10 hours of startup, based on our experience with power plants in Texas). During these 9 or 10 hours, there would be no requirement in the Louisiana rules for these plants to limit their emissions.

However, as noted in the attached report, prepared for Sierra Club by Dr. Ranajit (Ron) Sahu, Ph.D, QEP, CEM (Nevada), sources can, in fact, temporarily operate SCR technology below the manufacturer's recommended minimum operating temperature (for up to 12 hours) *without* causing any irreversible adverse impacts to the SCR. *See* Attach. A to Ex. 3 at 10-13. Indeed, many SCR systems are capable of operating at a "range below the temperature at which" the catalyst condenses "while maintaining the required NOx removal efficiency." *Id*. at 11. "Benefits to the utility include higher overall NOx removal, improved flexibility for load cycling and maintenance, and the potential for eliminating the need for an economizer bypass or alternate methods of temperature control for the SCR system in new designs and retrofits." *Id*.

Separately, there are several industry-recognized methods that can be used to maintain boiler/SCR exit gas temperature above the minimum operating temperature for SCR even during low load operations at a unit, including during startup and shutdown. *Id*. § 5.0. In fact, vendors are currently able to optimize SCR systems "to allow for operation of the boiler *down to 25% load* with the SCR in service while maintaining unit efficiency at full load." Id. at 15 (emphasis added). Thus, there are in fact technically feasible methods for operating SCR technology, even during periods of low load operation such as start up. Accordingly, LDEQ must revise its work practice standards to make clear that control devices, such as SCR or SNCR must be engaged *during* startup.

FOR: In order to ensure continuous reductions throughout periods of startup and shutdown, LDEQ's should revise its work practice standards to require control devices such as SCR and SNCR to be engaged during startup.

AGAINST: The determination of when control devices such as SCR and SNCR must be engaged is dependent on source-specific conditions such as flue gas temperature and should not be generically prescribed by the work practice standard. Further, a work practice standard that allows for consideration of manufacturer recommendations does not equate to a SIP limit that is not continuously applicable.

RESPONSE 33: As an initial matter, note that LAC 33:III.2201.K.3.c reads, in relevant part, "as expeditiously as *possible*," not "practicable."

With respect to the commenter's concern that this provision provides an owner or operator with "broad latitude to choose

when to operate … controls," see Responses 23, 27, 28, 34, and 35.

While there may be brief periods of time when certain control devices (such as SCR or SNCR) are not actively engaged, this does not mean that the work practice standards of LAC 33:III.2201.K.3 are not components of a continuously applicable SIP emission limitation.

EPA has previously concluded that the federal provisions upon which LAC 33:III.2201.K.3.c and d are based apply at all times.

LAC 33:III.2201.K.3	Federal Basis
c	Table 3 of Subpart DDDDD; Table 3 of Subpart UUUUU
d	40 CFR 63.6625(h) and Tables 1a, 2a, 2c, & 2d of Subpart ZZZZ

For example, in reference to the aforementioned requirements of 40 CFR 63 Subpart DDDDD, EPA stated:

> Consistent with *Sierra Club* v. *EPA*, EPA has established standards in this final rule that apply at all times. (76 FR 15613, March 21, 2011)

Likewise, the preamble to 40 CFR 63 Subpart UUUUU states that "EPA is required to ensure that section 112 emissions limitations are continuous" (77 FR 9383, February 16, 2012). Finally, the amendments to 40 CFR 63 Subpart ZZZZ promulgated on March 3, 2010, specify that:

> [c]onsistent with the recent Court decision that vacated the exemption in 40 CFR 63.6(f)(1) and (h)(1) for SSM (*Sierra Club* v. *EPA,* 551 F.3d 1019), EPA has established standards in this rule that apply at all times. (75 FR 9665)

Dr. Sahu's report focuses on the minimum operating temperature of SCR catalysts. Sahu explains that such temperature is dependent on a variety of factors, including the formulation of the catalyst, the need to avoid ammonium bisulfate condensation, and ammonia and sulfur trioxide (SO_3) concentrations. Sahu also submits that ammonium bisulfate deposition resulting from short-term operations below the minimum operating temperature is reversible and does not result in catalyst deactivation.

Thus, Sahu argues there is no basis to prescribe a generic minimum operating temperature (such as 620°F) that must be achieved before SCR can be activated or to assume temporary operation below the minimum operating temperature will cause irreversible damage to the SCR system.

In any event, neither the commenter nor the Sahu report proffered by the commenter provides any support that the "as expeditiously as possible, considering safety and manufacturer recommendations" terminology will allow control devices such as SCR or SNCR to be engaged at a point later than technically feasible.

As noted in Response 27, the Sahu report lends credence to the approach put forward by LDEQ because it allows for the establishment of unit-specific minimum operating temperatures. Further, Sahu cites data from *manufacturers* of catalyst and boilers (e.g., Cormetech, Babcock and Wilcox) to support his conclusion that SCR systems can operate at much lower temperatures than commonly ascribed.

For additional discussion of "manufacturer recommendations," including EPA's reliance on "manufacturer's recommended procedures" as work practice standards during periods of startup and shutdown, see Response 27.

COMMENT 34: Another reason that LDEQ's proposal does not achieve continuous reductions (and is not enforceable) is that LDEQ has not defined what it means to "engage" selective catalytic reduction systems and other NOx "control devices" in the general work practice option. *See* LAC 33:III.2201.K.3.c. Control devices, like selective catalytic reduction, have multiple levels of removal efficiency. LDEQ's work practice would allow such control devices to operate at widely varying performance levels, with some units choosing to "engage" the unit but operate at much lower efficiencies than the equipment is capable of achieving. The requirement to simply turn on NOx control equipment—if that is what LDEQ means by "engage"—does nothing to ensure that this equipment is functioning at the levels needed to assure the maximum possible control of NOx emissions. LDEQ must include clear definitions of what it means to engage the various controls listed in the general option. Those definitions should, at the least, require NOx controls to operate at near 100% efficiency at a clearly defined time early in startup.

FOR: LDEQ should define the term “engage” so as not to allow control devices to be operated at widely varying performance levels.

AGAINST: The “engage” terminology proposed by LDEQ parallels federal requirements and does not allow for control devices to be operated at lower efficiencies than they are otherwise capable of achieving.

RESPONSE 34: The “engage” terminology used in LAC 33:III.2201.K.3.c is identical to that utilized by EPA in Table 3 to 40 CFR 63 Subpart DDDDD and in Table 3 of 40 CFR 63 Subpart UUUUU when referring to when an owner or operator must commence use of a control device.

In short, the owner or operator of an affected point source cannot “simply turn on” NO_X control equipment and operate it at a performance level less than it is otherwise capable of achieving under a given operating scenario. As explained in Response 27, LAC 33:III.905.A provides that “[w]hen facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded.”

Further, LAC 33:III.2201.K.3.a requires the “owner or operator to operate and maintain … air pollution control equipment … in a manner consistent with safety and good air pollution control practices for minimizing emissions.”

COMMENT 35: LDEQ’s proposal cannot assure continuous reductions because, as discussed above, the general work practice option essentially leaves it up to sources to choose when to begin to operate their various NOx pollution controls—*i.e.*, as expeditiously as practicable taking into consideration manufacturer recommendations. LDEQ should include a work practice requiring SCR and similar controls to be operated from (at the least) the point that plants begin to fire their primary fuel. Such a work practice for NOx controls is especially important given that NOx is an ozone precursor and Baton Rouge’s nonattainment status for ozone.

FOR: In order to control NO_X emissions, LDEQ should require SCR systems and similar controls to be operated from the point that affected point sources begin to fire their primary fuel.

AGAINST: The determination of when control devices such as SCR must be engaged is dependent on source-specific conditions such as flue gas temperature and should not be generically prescribed by the work practice standard.

RESPONSE 35: The determination of when control devices such as SCR must be engaged is dependent on source-specific conditions such as flue gas temperature and should not be generically prescribed by the work practice standard. However, owners or operators of affected point sources will not be able to unilaterally decide when and under what conditions to operate their control devices. See Response 28.

In addition, it is not appropriate to specify that SCR and similar control devices (e.g., SNCR) be operated from "the point that plants begin to fire their primary fuel." LAC 33:III.2201.K.3.c is intended to address *any* affected point source that employs SCR or SNCR. In many instances, SCR is employed on combustion units that do not have the ability to fire more than one fuel, such as natural gas-fired combined cycle gas turbines.

COMMENT 36: Any alternative limits or work practices must be incorporated through the SIP amendment process, allowing for public notice and comment and EPA approval. For example, in the SSM SIP call, EPA specifically stated that a "SIP needs to reflect the control obligations of sources, and any revision or modification of those obligations should not be occurring through a separate process, such as a permit process, which would not ensure that 'alternative' compliance options do not weaken the SIP." 80 Fed. Reg. at 33915.

LDEQ's proposal for Section 2201.K does not comply with this requirement. Sources can choose between Section D's NOx emission factors, paragraph K.1's alternative plan approved in accordance with Paragraph E.1 or 2, or paragraph K.3's work practices standards. If LDEQ maintains this option (as discussed above, this is not proper), any choice by a particular source to use an alternative plan or the work practices rule should be incorporated into the Louisiana SIP.

Additionally, LDEQ proposes to include the following language in the revised section 2201.K: For affected point sources that are shut down intentionally more than once per month, the owner or operator shall include NOx emitted during periods of start-up and shutdown for purposes of determining compliance with the emission factors set forth in Subsection D of this Section, *or with*

an alternative plan approved in accordance with Paragraph E.1 or 2 of this Section." (emphasis added). This language is impermissibly vague and appears to inappropriately allow for the development of alternative emission limits outside of the SIP approval process. The SIP Call Rule makes it clear that alternative emissions limits must be included in an approved SIP, not merely in permits. 80 Fed. Reg. at 33915. As EPA explains, the "SIP needs to reflect the control obligations of sources, and any revision or modification of those obligations *should not be occurring through a separate process, such as a permit process*, which would not ensure that "alternative" compliance options do not weaken the SIP." 80 Fed. Reg. 33915 (emphasis added). As a result, "any revisions to obligations in the SIP *need to occur through the SIP revision process*…." 80 Fed. Reg. 33916 (emphasis added). Any alternative emissions limits must therefore comply with the SIP process, including providing the requisite notice and comment period, and all other SIP limit change public participation and other process requirements. LDEQ must clarify in its proposed rule that any alternative emission limits will be incorporated into its SIP via normal SIP rule change procedures and provide for public participation.

FOR: LDEQ must require alternative emission limitations established via facility-wide averaging plans and trading plans to be incorporated into the SIP.

AGAINST: Facility-wide averaging plans and trading plans are already SIP-approved, cannot be used to establish unique requirements for periods of startup and shutdown, and do not otherwise allow for the establishment of alternative emission limitations outside the context of a SIP.

RESPONSE 36: LAC 33:III.2201.K.1 references the facility-wide averaging plans and trading plans described in LAC 33:III.2201.E.1 and 2, respectively. These provisions establish an alternative means of compliance with the emission factors of LAC 33:III.2201.D, and have been in place since LAC 33:III.2201 was first promulgated in February 2002.

Notably, LAC 33:III.2201.E.1 and 2 have been reviewed by EPA and approved into the SIP. See EPA Region 6's Air Planning Section's webpage at:

https://yosemite.epa.gov/r6/Sip0304.nsf/home!OpenView&Start=1&Count=300&Collapse=3#3.

The current SIP-approved version of Chapter 22 can be viewed at:

https://yosemite.epa.gov/r6/Sip0304.nsf/dc994a1edbcf32c08625651c00552ed8/6c2161af32b0893886257d9700616697!OpenDocument.

LAC 33:III.2201.E is not the subject of EPA's SSM SIP Call and was not identified in the agency's June 12, 2015, final rule (80 FR 33840) as being deficient in any way.

Regardless, the "control obligations of sources" are not subject to "revision or modification … through a separate process, such as a permit process." To the contrary, such obligations are fixed by the provisions of LAC 33:III.2201 itself. Notably, alternative plans must provide "emission reductions equivalent to or more than that required by the emission factors" in LAC 33:III.2201.D and establish satisfactory means for determining initial and continuous compliance, including appropriate monitoring and recordkeeping requirements.

Finally, owners or operators do not have three compliance alternatives under LAC 33:III.2201.K, as compliance with an alternative plan under LAC 33:III.2201.E is not an option solely for periods of startup and shutdown. Therefore, facility-wide averaging plans and trading plans should not be construed as "alternative emission limitations" as defined in EPA's "SSM SIP Policy of as 2015."

If an owner or operator chooses to comply with LAC 33:III.2201.K.1 and has an approved alternative plan under LAC 33:III.2201.E, the facility-wide averaging plan or trading plan must account for NO_X emissions associated with both "routine" operations and startup and shutdown events.

If an owner or operator chooses to comply with the work practice standards under LAC 33:III.2201.K.3 during periods of startup and shutdown, the emission factors of LAC 33:III.2201.D (and therefore, the alternative plans) would not apply during such periods.

COMMENT 37: Proposed paragraph K.1 is problematic for additional reasons. First, source-specific alternative limits or work practices are generally not proper at all. In the SIP call, EPA specifically stated, "even where a specific type of operation may not during startup and/or shutdown be able to meet an emission limitation

that applies during full operation, the state should be able to develop appropriate limitations that would apply to those types of operations at all similar types of facilities. The EPA believes that there will be limited, if any, cases where it may be necessary to develop source-specific emission requirements for startup and/or shutdown." 80 Fed. Reg. at 33915. Additionally, as quoted language above indicates, awarding sources alternative limits or work practices through permits would not ensure these compliance options do not weaken the SIP. *See* 80 Fed. Reg. at 33915. When a state issues SSM limits through alternative plans that are incorporated into permits, it would make it very difficult to assess the collective impact on the NAAQS or PSD increments of multiple permitted alternative SSM limits.

FOR: Proposed LAC 33:III.2201.K.1 is problematic because it references LAC 33:III.2201.E, which allows for the establishment of source-specific emission limitations through the permit process.

AGAINST: Facility-wide averaging plans and trading plans do not allow for the establishment of alternative emission limitations outside the context of a SIP.

RESPONSE 37: The facility-wide averaging plans and trading plans described in LAC 33:III.2201.E.1 and 2 cannot function to establish "source-specific emission requirements for startup and/or shutdown" or otherwise allow alternative limits or work practices to be "awarded" through permits.

As explained in Response 36, these provisions, which are already SIP-approved, simply establish an alternative means of compliance with the emission factors of LAC 33:III.2201.D and must provide "emission reductions equivalent to or more than that required by [such] factors." Further, an alternative plan is not a compliance option solely for periods of startup and shutdown.

COMMENT 38: Another problem with the option to pursue source-specific alternative plans under Sections E.1 and 2 is that those provisions do not reflect any consideration of the factors EPA has identified as appropriate considerations for developing alternate SSM requirements. These alternative plans, implemented through a permit, also raise the prospect of "director's discretion" problems addressed in EPA's SIP Call notice because it would allow the state to create alternatives to SIP emission limits without complying with the CAA's SIP revision requirements. Among other things, a permit-based approach to establishing an

alternative emission limitation (that does not involve submitting the permit requirement to EPA for inclusion in the SIP) eliminates EPA's role in reviewing and approving emission limitations to ensure that they are "enforceable" as required by CAA section 110(a)(2)(A)—*i.e.*, that they are sufficiently specific regarding the source's obligations and they include adequate monitoring, recordkeeping, and reporting requirements. To avoid these problems, LDEQ should include specific language explaining that source-specific alternative plans are only available as a very last resort upon a sufficient showing that the listed criteria are met, and as discussed above, that such requirements are continuous and enforceable, and subject to the SIP revision process, with the accompanying requirements for public notice and comment.

FOR: LDEQ should amend LAC 33:III.2201.E to require facility-wide averaging plans and trading plans to meet EPA's recommendations for alternative emission limitations and be incorporated into the SIP.

AGAINST: Facility-wide averaging plans and trading plans do not allow for the establishment of alternative emission limitations outside the context of a SIP.

RESPONSE 38: Again, the facility-wide averaging plans and trading plans described in LAC 33:III.2201.E.1 and 2 do not allow LDEQ to "create alternatives to SIP emission limits," but represent an existing, SIP-approved means to comply with the emission factors set forth in LAC 33:III.2201.D.1.

See also Responses 36 and 37.

COMMENT 39: [W]e do not believe that repeal of some of these exemptions is the only option afforded to the agency, that some flexibility may still remain within the EPA SIP policy rather than simply repealing some of the provisions that are in question. We do recognize that a use of work practice standards as an alternative is a good option.

No arguments necessary; comment does not suggest amendment or change.

RESPONSE 39: See Response 5.

* indicates a fast-track regulation

COMMENT 40: [I]t appears that a review of sub-section E shows alternative plans were only referenced in emission factors and not the work practice standards. So were not sure if that was a technical glitch in the reference materials or not. We also have some concern because different units have different times for start-ups and shutdowns. It's not a one-size-fits-all. Some may take up to 18 hours to get to start-up or shutdown. And as pointed out in that guidance which was recently cited they don't all have to have the same numerical limits so we think that some flexibility is needed, especially in the fact that these alternative plans have to be pre-approved prior to use. So there will take some time and place to be able to initiate that and that may require that you get additional time before imposing this requirement.

FOR: The provisions related to work practice standards do not reference the alternative plans provided by LAC 33:III.2201.E.

AGAINST: Because the emission factors of LAC 33:III.2201.D will not apply during periods of startup and shutdown if the owner or operator of an affected point source chooses to comply with the prescribed work practice standards, it is not necessary for the work practice standards to reference the alternative plans.

RESPONSE 40: The facility-wide averaging plans and trading plans described in LAC 33:III.2201.E.1 and 2, respectively, provide alternative means of compliance with the emission factors of LAC 33:III.2201.D. If an owner or operator of an affected point source chooses to comply with the work practice standards under LAC 33:III.2201.K.3 during periods of startup and shutdown, the emission factors of LAC 33:III.2201.D will not apply during such periods. For this reason, it is not necessary for the provisions related to work practice standards to reference the alternative plans under LAC 33:III.2201.E. Approved alternative plans should not have to be reevaluated by LDEQ.

Regarding the request for additional time, see Responses 7, 10, and 11.

Comment Summary Response & Concise Statement –
Work Practice Standards During Start-up and Shutdown
LAC 33:III.2201.C and K
Log Number AQ364

COMMENT #	SUGGESTED BY
1 - 2	Richard T. Metcalf, Director of Environmental Affairs Louisiana Mid-Continent Oil and Gas Association (LMOGA)
3 - 4	Suzanne Kneale, Officer Concerned Citizens Around Murphy
5 - 14	Maureen N. Harbourt, Kean Miller LLP, on behalf of the Louisiana Chemical Association (LCA)
15 - 24	Guy Donaldson, Chief, Air Planning Section U.S. Environmental Protection Agency, Region 6
25 - 38	Joshua Smith, Staff Attorney, Sierra Club, on behalf of Sierra Club, Louisiana Environmental Action Network (LEAN), and Concerned Citizens Around Murphy
39 - 40*	Henry T. Graham, Jr., Vice President of Environmental Affairs and General Counsel Louisiana Chemical Association (LCA)

* Oral comments received at the July 27, 2016, public hearing.

Comments reflected in this document are taken verbatim from the written submittals and public hearing transcript, except that internal citations were omitted.

Total Commenters: 6
Total Comments: 40

* indicates a fast-track regulation

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 22. Control of Emissions of Nitrogen Oxides (NO_X)

§2201. Affected Facilities in the Baton Rouge Nonattainment Area and the Region of Influence

A. - C.7. …

8. ~~any point source during *start-up* and *shutdown* as defined in LAC 33:III.111 or during a malfunction as defined in 40 CFR Section 60.2 (This exemption does not apply to units that are shut down intentionally on a routine basis—more than once per month.)~~Reserved;

C.9. - I.1. …

2. The owner or operator of an affected point source granted an exemption in accordance with any part of Subsection C of this Section or required to demonstrate continuous compliance in accordance with Subsection H of this Section shall submit a written report within 90 days of the end of each ozone season to the administrative authority of any noncompliance ~~of~~with the applicable limitations of Subsection D or E of this Section or with the applicable work practice standards of Paragraph K.3 of this Section. The required information may be included in reports provided to the administrative authority to meet other requirements, so long as the report meets the deadlines and content requirements of this Paragraph. The report shall include the following information:

I.2.a. - J.2. …

K. Start-up and Shutdown

1. For affected point sources that are shut down intentionally more than once per month, the owner or operator shall include NO_x emitted during periods of start-up and shutdown for purposes of determining compliance with the emission factors set forth in Subsection D of this Section, or with an alternative plan approved in accordance with Paragraph E.1 or 2 of this Section.

2. For all other affected point sources, effective May 1, 2017, the owner or operator shall either comply with Paragraph K.1 of this Section or the work practice standards described in Paragraph K.3 of this Section during periods of start-up and shutdown. If the owner or operator chooses to comply with work practices standards, the emission factors set forth in Subsection D of this Section shall not apply during periods of start-up and shutdown.

3. Work Practice Standards

a. The owner or operator shall operate and maintain each affected point source, including any associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions.

b. ~~Effective November 22, 2016, c~~Coal-fired and fuel oil-fired electric power generating system boilers and fuel oil-fired stationary gas turbines shall use natural gas during start-up. Start-up ends when any of the steam from the boiler or steam turbine is used to generate electricity for sale over the grid, or for any other purpose (including on-site use). If another fuel must be used to support the shutdown process, natural gas shall be utilized.

c. Engage control devices such as selective catalytic reduction (SCR) or selective non-catalytic reduction (SNCR) as expeditiously as possible, considering safety and manufacturer recommendations. The department shall incorporate into the applicable permit for each affected facility appropriate requirements describing the source-specific conditions or parameters identifying when operation of the control device shall commence.

d. Minimize the start-up time of stationary internal combustion engines to a period needed for the appropriate and safe loading of the engine, not to exceed 30 minutes.

e. Maintain records of the calendar date, time, and duration of each start-up and shutdown.

f. Maintain records of the type(s) and amount(s) of fuels used during each start-up and shutdown.

g. The records required by Subparagraphs K.3.e and f of this Section shall be kept for a period of at least five years and shall be made available upon request by authorized representatives of the department.

4. On or before May 1, 2017, the owner or operator shall notify the Office of Environmental Services whether each affected point source will comply with Paragraph K.1 or K.3 of this Section during periods of start-up and shutdown.

a. The owner or operator does not have to select the same option for every affected point source.

b. The department shall incorporate into the applicable permit for each affected facility the provisions of Paragraph K.1 and/or K.3 of this Section, as appropriate. The owner or operator may elect to revise the method of compliance with Subsection K of this Section for one or more affected point sources by means of a permit modification.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:290 (February 2002), repromulgated LR 28:451 (March 2002), amended LR 28:1578 (July 2002), LR 30:748 (April 2004), LR 30:1170 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2441 (October 2005), LR 33:2088 (October 2007), LR 34:71 (January 2008), LR 36:60 (January 2010), amended by the Office of the Secretary, Legal Division, LR 42:**.

VIA ELECTRONIC MAIL

July 27, 2016

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CC: Mr. Ron Curry, Administrator Region 6
United States Environmental Protection Agency
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RE: Louisiana Department of Environmental Quality's Proposed State Implementation Plan Amendments in Response to the United States Environmental Protection Agency's Startup, Shutdown, and Malfunction SIP Call, 80 Fed. Reg. 33840.
AQ361, AQ362, AQ360, AQ363, AQ364

Dear Ms. Johnson and Mr. Johnston:

Concerned Citizens Around Murphy [1] ("Concerned Citizens"), an association of residents in St. Bernard Parish, Louisiana, appreciates the opportunity to submit comments to the Louisiana Department of Environmental Quality ("LDEQ") on its proposed State Implementation Plan ("SIP") amendments in response to the United States Environmental Protection Agency's ("EPA") Startup, Shutdown, and Malfunction ("SSM") SIP Call, 80 Fed. Reg. 33840. Concerned Citizens supports LDEQ's efforts to make these SIP changes. It is encouraging to see how quickly our State acted to remove unlawful SSM exemptions. This is a good first step in the right direction.

Neighborhoods around the plants and refineries in St Bernard are over-burdened, under-served communities with intolerable pollution levels that residents are forced to breathe. The two-mile radii around the major sources in St Bernard extend across the Mississippi River into Orleans Parish, and include revitalized neighborhoods, recreational parks, national historical parks, a national cemetery, a global preserve for endangered animals and species survival center, wetlands and sensitive estuaries, various community gardens, numerous schools and daycares, churches and libraries. Demographics in the two-mile radii around these plants range from 60% minority with 26% children in poverty (Orleans) to 6% minority and 34% children in poverty (St Bernard).[2]

St. Bernard Parish is nonattainment for the 2010 one-hour health standard for sulfur dioxide. To achieve attainment, it's going to take a corporate level commitment from each and every surrounding plant on their daily processing and operational integrity that demonstrates a respect for the people who reside on the other side of the fenceline. As in much of Louisiana, poor zoning situations are prevalent and these plants will need to make more investments in pollution controls than plants that are appropriately buffered.

As LDEQ continues its work with EPA on the backlog of State SIP changes, including the 2010 sulfur dioxide standard, we ask LDEQ be mindful of the immediate and significant impact toxic air releases have on Louisiana citizens, especially children.

Whether its VOCs and NOx, or sulfur dioxide, even the smallest of emission reductions help maintain the delicate balance between heavy industry and public health. In the New Orleans Metropolitan Area with the 2015 Ozone standard, we could learn from Baton Rouge's good example. LDEQ's successful collaborative efforts in the Baton Rouge area to protect public health and reduce Ozone levels should become the starting point for the rest of the State; lest we suffer the same Ozone designation. There is no reason not to require vapor recovery nozzles at all gasoline pumps throughout our State or to enhance vehicle inspection programs. Residents can also do their part with carpools, public transportation, or bike or walk whenever possible. But industry needs to do their part as well. Economic development and environmental stewardship are not mutually exclusive goals.

We know first-hand just how badly our health is affected from even a single SSM event; the actual consequences of emissions from a single SSM event can easily exceed annual permitted limits. [3] Each of the three major plants in St Bernard Parish, on several different occasions, caused NAAQS violations at the ambient air monitors during upset, malfunction, and other conditions; this data was included in comments on EPA's Docket ID EPA HQ OAR 2012 0322. [4]

Because a power plant in Orleans Parish along with refineries in other parishes likely contributed to St Bernard Parish's sulfur dioxide nonattainment,[5] we believe the multitude of sources surrounding us should each meet the State SIP emissions limits at *all* times. Our communities' health and well being depends on it. Every excursion from any emission limit significantly affects real Louisiana citizens, and it is avoidable with appropriate investment in control technology. The citizens of Louisiana are certainly deserving of the improvements such investments will bring. As a sportsmen's paradise, Louisiana's forests, natural ecosystems, sensitive estuaries, and fragile wetlands will also be protected.

Concerned Citizens supports LDEQ's proposal to delete the excess opacity exemption (LAC 33:III 1107 - AQ361), and the VOC emission exemption from industrial waste water (LAC 33:III 2153 -AQ362) from our State SIP. As LDEQ revises the State SIP for VOC emissions (AQ362), it should also review what happens after industrial waste water and plant sewerage systems become inundated during rain events, and the refinery stench is strong and permeates the surrounding neighborhoods with its sickening affects. We are assuming all industrial waste water plants and plant sewerage systems are covered and "equipped with either a control device or a vapor recovery system that maintains a minimum control efficiency of 90 percent VOC removal or a VOC concentration of less than or equal to 50 parts per million by volume," no matter what parish they are located in.

One notable improvement in Chalmette, Louisiana for opacity (AQ361) is a recently installed flare gas recovery system. However, in plant reports to LDEQ there are noted bypasses of the FGRS, said to be in accordance with NSPS Ja, authorized bypasses during unit shutdowns.[6] How is the exemption to bypass FGRS during unit shutdown any different from the unlawful SSM exemptions in EPA's SIP Call 80 Fed. Reg. 33840?

Odor complaint reports may include the refinery claims of cluelessness along with a quick reference to problems in the industrial waste water or refinery sewerage system. It may be the amine in the WWTP from a process upset, or the newly refreshed blanket of diesel on the sour water tank (used to help with odors). [6] Given how close we live to industrial water and the flares, it would be reassuring to know that all people are protected from VOC emissions, regardless of what Parish they live in.

Concerned Citizens supports and adopts by reference all the comments submitted by Sierra Club to LDEQ on its proposed SIP changes in response to EPA's SSM SIP Call 80 Fed Reg 33840. We believe all sources should meet SIP emission limits at *all* times, and, we are pleased to see Louisiana is proposing to remove unlawful SSM exemptions in our State SIP, including the repeal of the following exemptions: LAC33 :III 1107 (AQ361) (proposing to delete excess opacity exemption), LAC 33:III.2153 (AQ362) (deleting VOC emission exemption for industrial waste water), LAC 33:III.1507.A and B (AQ 360) (proposing to remove excess emission exemptions for sulfur dioxide); LAC 33:III.2307.C (AQ 363) (proposing to remove excess emission exemptions for nitric acid industry); and LAC 33:III.2201.C.8 (AQ 364) (proposing to remove excess emission exemptions for nitrogen oxides in the Baton Rouge nonattainment area).

However, we do not think LDEQ has fulfilled its constitutional duty when it comes to "work practice standards" under LAC 33:III.2201.K. Under Louisiana law, LDEQ has a constitutional duty to act as the trustee of the environment. The Louisiana Constitution and Louisiana Supreme Court require LDEQ to mandate environmental protection. To fulfill its' public trustee duty, we believe LDEQ must "make several changes to ensure that those work practice standards conform with the Clean Air Act and EPA's SSM policy."

Because we truly care about the air quality and public health in our community and throughout the State, **Concerned Citizens also agrees with and adopts by reference the specific comments submitted by Sierra Club to LDEQ on the State's proposed "work practice standards" under LAC 33:III.2201.K. We believe LDEQ's proposed "work practice standards" do not meet the "requirements of the Clean Air Act or EPA's final SSM policy, and are not approvable by EPA."** Concerned Citizens respectfully request that LDEQ revise its proposed rule as outlined in the specific comments submitted by Sierra Club to LDEQ on the State's proposed "work practice standards" under LAC 33:III.2201.K.

We believe our State SIP should limit emissions, that the emission limits should be enforceable, should not have any ambiguity and or enforceability problem, and that all sources should meet SIP emission limits at *all* times. Removing unlawful exemptions will "avoid concerns about conformity with the Clean Air Act, as well as litigation and administrative risks associated with EPA review and approval. Because LDEQ's primary consideration should be protection of public health in strict compliance with the federal Clean Air Act, the agency should simply remove those exemptions without attempting to create impractical and unenforceable work practice standards."

Respectfully submitted
on behalf of Concerned Citizens Around Murphy

Suzanne Kneale, Officer

[1] Concerned Citizens is a neighborhood organization, whose members are dedicated to the revitalization of St. Bernard Parish, Louisiana, renewal of the environment, and advocacy for all residents. We encourage citizens to actively engage in public participation so that local residents affect the ever-changing decisions that concern their neighborhoods and community. Concerned Citizens' air quality committee formed to address pollution issues through public outreach and education, community meetings, and active involvement in the public participation process.

[2] Louisiana Bucket Brigade statistics of 2-mile radii around major sources in St Bernard
https://drive.google.com/file/d/0B0brISkNUPw2RTZnZG5nQ1plVGs/view?usp=sharing

[3] Concerned Citizens v Murphy Oil Citizens Enforcement Civil Case No V 08-4986
From October 2003 to September 2008, one petroleum refinery in St Bernard Parish emitted more than 800,000 pounds of pollutants in excess of the limits in its Permits. On at least 15 occasions, the same facility emitted more than half of its yearly permitted total for a pollutant in a single permit violation. On more than 120 occasions in that five year timeframe, the same plant emitted pollutants at a rate that exceeded the hourly emission limits set in its Permits, and exceeded its hourly emission limits in its Permits at rates hundreds, thousands, and even millions times greater than the permit limits. In one breach, the same plant discharged volatile organic compounds at a rate 48 million times greater than the hourly limit set in its permit. The plant exceeded annual emission limits set in its Permits and on at least five occasions exceeded its annual emission limits during a single emission event.

[4] Concerned Citizens comments to EPA on Docket ID EPA HQ OAR 2012 0322
https://drive.google.com/file/d/0B0brISkNUPw2T3A4RDl1VkROYUk/view?usp=sharing

[5] EPA's Region 6 comments on LDEQ's State SIP proposal for St Bernard Sulfur Dioxide
https://drive.google.com/file/d/0B0brISkNUPw2aG5RRWUtb1k1aVU/view?usp=sharing

[6] A. LDEQ EDMS document 10241800 dated 4/10/2016 incident 169805 page 4
hard to describe odors – burnt, garbage, sour, SO2 odors – wind direction sse – sinuses affected – eyes watering/scratchy
http://edms.deq.louisiana.gov/app/doc/view.aspx?doc=10241800&ob=yes&child=yes

B. LDEQ EDMS document 10235035 dated 3/18/2016 incident 169434 page 5 strong sulfur odor
http://edms.deq.louisiana.gov/app/doc/view.aspx?doc=10235035&ob=yes&child=yes

and page 3 Catalyst change-outs were underway at the Naphtha Hydrotreater (NHT) and Benzene Reduction (BRU) units. The Flare Gas Recovery unit (FGRU) was partially bypassed to allow a nitrogen purge to flow to the North Flare. Supplemental NSPS J-compliant fuel gas was added to ensure stable combustion at the flare tip.

Several weeks ago, a process upset resulted in a quantity of amine entering the refinery sewer system. The microbes in a WWTP bioreactor can be overstimulated by amine, causing them to consume all available dissolved oxygen.

A second potential source is the sour water tank. Sour water contains several sulfur-compounds with very low odor thresholds. Typically, a blanket of diesel fuel sits on top of this water to prevent odors from escaping to the atmosphere.

C. LDEQ EDMS document 10241792 dated 3/18/2016 obnoxious noise from pressure relief valve
http://edms.deq.louisiana.gov/app/doc/view.aspx?doc=10241792&ob=yes&child=yes

D. LDEQ EDMS document 10183837 dated 3/05/2015incident 169336 page 5
There is a horrible smell coming from the refinery on a continuous basis. The smell is best detected when there is an east wind. … The smell was reported to Valero at a recent citizens Advisory Panel meeting, and of course they had no knowledge of it. The smell can best be described as that of a dead, rotting dog. … The smell is severely annoying and could possibly be dangerous. I request that the odor be traced and identified and immediate measures taken by the refinery to eliminate it. Thank you.
http://edms.deq.louisiana.gov/app/doc/view.aspx?doc=10183837&ob=yes&child=yes

E. LDEQ EDMS document 10241770 dated 2/26/2016 incident 168965 page 2 flaring from middle distillate unit shutdown, FGRU bypass in accordance with NSPS Ja, treated fuel to flare header
http://edms.deq.louisiana.gov/app/doc/view.aspx?doc=10241770&ob=yes&child=yes

F. LDEQ EDMS document 10241768 dated 2/2/42016 incident 169004 leak in fin/fan cooler serving the middle distillate unit - observed 2/24 and secured 2/24 and reported to hotline 2/29 - they knocked down the fumes with fire monitor from the in plant responders
http://edms.deq.louisiana.gov/app/doc/view.aspx?doc=10241768&ob=yes&child=yes

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Deidra Johnson
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Baton Rouge, LA 70821-4302

AUG 0 3 2016

Dear Ms. Johnson:

Thank you for the opportunity to review and comment on the proposed revisions to the Louisiana Administrative Code (LAC) in response to the EPA's Startup, Shutdown, and Malfunction (SSM) State Implementation Plan (SIP) Call. (See Enclosure 80 FR 33840, (June 12, 2015).) The EPA appreciates the LDEQ's efforts to address the SSM SIP Call.

Proposed revisions to sections LAC 33:III.1507.A, LAC 33:III.1507.B, LAC 33:III.2307.C.1.a, and LAC 33:III.2307.C.2.a will repeal and remove exemptions from the existing Louisiana SIP.

Proposed revisions to section LAC 33:III.2201.C.8 will repeal the exemption, and amend Chapter 22 to add new proposed rule LAC 33:III.2201.K to allow the owner/operator of an affected point source to comply either with the applicable emission factors imposed by LAC 33:III.2201.D at all times (including periods of startup and shutdown) or with the newly-established work practice standards designed to minimize emissions during periods of startup and shutdown.

We offer the following comments which should be addressed to provide the necessary record for the proposed revisions:

1. Louisiana's SIP submittal letter should include a statement that Louisiana is requesting the EPA's review/approval of the removal of the sections identified above from the Louisiana SIP, as required by the EPA's SSM SIP Call of June 12, 2015 (80 FR 33967).

2. Due to the fact that Louisiana is proposing to remove certain provisions from the Louisiana SIP, a demonstration under Section 110(l) of the federal Clean Air Act (CAA) is a necessary component of Louisiana's SIP submittal to the EPA. (See Enclosure 80 FR 33975, (June 12, 2015).) If you require assistance with the requirements for an appropriate Section 110(l) demonstration, the EPA Regional staff can provide such assistance.

3. With respect to the replacement of the exemption set forth in LAC 33:III.2201.C.8 with new provisions in proposed rule LAC 33:III.2201.K that would allow the owner/operator of an affected point source to comply with the emission factors imposed by LAC 33:III.2201.D at all times (including periods of startup and shutdown) or with newly-established work practice standards, we offer the following specific comments related to proposed rule LAC 33:III.2201.K:

a. As noted in the EPA's SSM SIP Call, SIP provisions may include alternative emission limitations for startup and shutdown as part of a continuously applicable emission limitation when properly developed and otherwise consistent with CAA requirements. In addition, the EPA has noted that it may be appropriate in some cases for an emission limitation to include an approach to control for startup and/or shutdown periods other than a numerically expressed emission limitation. The EPA recommends seven specific criteria as appropriate considerations for developing emission limitations in SIP provisions that apply during startup and shutdown. (See Enclosure and 80 FR 33980, (June 12, 2015).) Louisiana's SIP submittal should include a clear explanation as to how the requirements in proposed rule LAC 33:III.2201.K.3.a-f are consistent with the criteria found at 80 FR 33980, (June 12, 2015), for all affected point sources subject to LAC 33:III.2201.

b. In addition to Comment 3.a above, the work practice requirements will need to meet applicable Clean Air Act (CAA) stringency requirements and be legally and practically enforceable.(See Enclosure 80 FR 33910, (June 12, 2015).) As such, Louisiana's SIP submittal should explain how proposed rule LAC 33:III.2201.K meets these requirements during startup and shutdown modes for each category of affected point sources covered by the rule. In this case, the SIP submission should explain how the work practice requirements meet the CAA's RACT requirements.

c. We note that proposed rule LAC 33:III.2201.K.3.b imposes work practice requirements specific to coal-fired and fuel oil-fired electric power generating system boilers and fuel oil-fired stationary gas turbines during periods of startup and shutdown requiring the use of natural gas during these time periods. When combined with appropriate monitoring, recordkeeping, and reporting requirements, such requirements likely satisfy CAA requirements. As described in comment 3.a. and 3.b above, Louisiana's submission should include an explanation of how the seven criteria are met by this work practice for coal-fired and fuel oil-fired EGU's.

   Moreover, we note that affected point sources covered by the proposed rule also include other boilers, process heaters/furnaces, stationary gas turbines, and stationary internal combustion engines which would not be subject to the requirements of proposed rule LAC 33:III.2201.K.3.b. Louisiana's SIP submittal should also include a clear explanation of how the seven criteria and the stringency requirements (e.g., NOx RACT requirements) were considered in developing the work practice requirements for *each* category of affected point sources not subject to proposed rule LAC 33:III.2201.K.3.b (i.e., boilers, process heaters/furnaces, stationary gas turbines, and stationary internal combustion engines). For every category/type of affected point source that could opt to comply during startup and shutdown with the alternative emission limitations (work practice requirements), those requirements need to be included in proposed rule LAC 33:III.2201.K.3.

d. The requirements in proposed rule LAC 33:III.2201.K.3.a and LAC 33:III.2201.K.3.c constitute "general duty" provisions. We support the inclusion of general duty provisions as separate *additional* requirements in SIPs, for example, to ensure that owners and operators act consistent with reasonable standards of care; however, the EPA does not recommend the submittal of general duty-type provisions as alternative emission limitations because such provisions standing alone may not meet the applicable stringency requirements for SIPs (e.g., RACT). In general, the EPA believes that a legally and practically enforceable alternative emission limitation applicable during startup and shutdown should be expressed as a numerical limitation, a specific

technological control requirement or a specific work practice. (See 80 FR 33879-80, (June 12, 2015).)

e. The proposed LAC 33:III.2201.K.2 provides for *all other affected sources* (i.e., sources that are *not* shut down intentionally more than once per month) with the option of either complying with LAC 33:III.2201.K.1, or with the work practice standards outlined in LAC 33:III.2201.K.3. The rule should be clear how the LDEQ would be notified in advance which of the two options the source has chosen. Any alternative emission limitation applicable during startup and shutdown must be independently enforceable. Thus, the LDEQ must determine before a startup or shutdown event occurs what emission limitation applies during such times. Otherwise, the limitation may not be practicably enforceable. In addition, this situation may create a problem regarding how to account for startup and shutdown events in emissions inventories and SIP planning.

f. The EPA encourages the operation and maintenance of control devices in accordance with safety and manufacturer recommendations, as required by proposed rule LAC 33:III.2201.K.3.c; however, for enforceability purposes, we believe that the rule should make clear that the source's Title V operating permit will include specific conditions that identify/detail when safe operation of control devices (including SCR/SNCR) will begin.

g. With respect to proposed rule LAC 33:III.2201.K.3.d, please explain if there is a limit to the number of startups for stationary internal combustion engines (e.g., number of startups per day, per month, or per year) and explain how such limitations are legally and practically enforceable as well as how the seven criteria and stringency requirements noted in Comment 3.a and Comment 3.b above were considered in developing these startup requirements.

Should you have any questions regarding this letter, please feel free to contact me at (214) 665-7242, or Alan Shar of my staff at 214-665-6691. If you have legal questions, please contact Richard Bartley at 214-665-7242. Again, I appreciate your efforts to address this important requirement.

Sincerely,

Guy Donaldson
Chief
Air Planning Section

Enclosure

ENCLOSURE

Alternative Emission Limitations Applicable to the Source During Startup and Shutdown from 80 FR 33980 (June 12, 2015)

The EPA recommends the following seven (7) criteria be considered in developing alternative requirements for a source during startup and shutdown events. To be approvable, these alternative requirements should be narrowly tailored and properly bounded.

(1) The revision is limited to specific, narrowly defined source categories using specific control strategies (*e.g.,* cogeneration facilities burning natural gas and using selective catalytic reduction);

(2) Use of the control strategy for this source category is technically infeasible during startup or shutdown periods;

(3) The alternative emission limitation requires that the frequency and duration of operation in startup or shutdown mode are minimized to the greatest extent practicable;

(4) As part of its justification of the SIP revision, the state analyzes the potential worst-case emissions that could occur during startup and shutdown based on the applicable alternative emission limitation;

(5) The alternative emission limitation requires that all possible steps are taken to minimize the impact of emissions during startup and shutdown on ambient air quality;

(6) The alternative emission limitation requires that, at all times, the facility is operated in a manner consistent with good practice for minimizing emissions and the source uses best efforts regarding planning, design, and operating procedures; and

(7) The alternative emission limitation actions during startup and shutdown periods are documented by properly signed, contemporaneous operating logs or other relevant evidence.

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MAY 26 2016

Deidra Johnson
Attorney Supervisor
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Louisiana Department of Environmental Quality
P.O. Box 4302
Baton Rouge, LA 70821-4302

Dear Ms. Johnson:

Thank you for the opportunity to review and comment on the proposed revisions to the Louisiana Administrative Code (LAC) LAC Title 33 Part III Sections 1105.A, LAC 33:III.1107.A (AQ361), and LAC 33:III.2153.B.1.i (AQ362) in response to the EPA's Startup, Shutdown, and Malfunction (SSM) State Implementation Plan (SIP) Call. See 80 FR 33840, June 12, 2015. The EPA appreciates the LDEQ's efforts to address the SSM SIP Call. It is our understanding that Louisiana intends to repeal and remove from the Louisiana SIP the provisions identified above.

Our specific comments are:

1. Louisiana's SIP submittal letter should include a statement that Louisiana is requesting the EPA's review/approval of the removal of sections identified above from the Louisiana SIP, as required by the EPA's SSM SIP Call of June 12, 2015 (80 FR 33967).
2. Due to the fact that Louisiana is proposing to remove certain provisions from the Louisiana SIP, a demonstration under Clean Air Act Section 110(l) is a necessary component of your SIP submittal to the EPA. See 80 FR 33975, June 12, 2015. If you require assistance with the requirements for an appropriate Section 110(l) demonstration, the EPA Regional staff can provide such assistance.
3. The April 20, 2016 Notice of Intent for AQ361, the fourth paragraph refers to "LAC 33:III.1507.A and B." However, the rule change does not reflect revisions to these sections. Is this a typographical error? Please explain.
4. The SSM SIP Call also identified several other provisions of the Louisiana SIP, LAC 33:III.2201.C.8, LAC 33:III.1507.A.1, LAC 33:III.1507.B.1, LAC 33:III.2307.C.1.a, and LAC 33:III.2307.C.2.a, as substantially inadequate. See 80 FR 33975, June 12, 2015. Please note that these sections will also need to be addressed to comply with the SSM SIP call.

Should you have any questions regarding this letter, please feel free to contact me at (214) 665-7242.

Sincerely,

Guy Donaldson
Chief
Air Planning Section

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June 1, 2016

Ms. Deidra Johnson
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P.O. Box 4302
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Via E-mail and U.S. Mail

RE: Comments on Control of Emissions of Smoke (LAC 33:III.1105 and 1107) (AQ361)
Our File No. 3645-357

Dear Ms. Johnson:

The following comments are submitted on behalf of the Louisiana Chemical Association (LCA). LCA is a nonprofit Louisiana corporation composed of 63 member companies with over 100 chemical manufacturing plant sites in Louisiana. LCA appreciates the opportunity to comment on the proposed rule to repeal LAC 33:III.1107.A. LCA requests that the Department include these comments in the administrative record.

On June 12, 2015, EPA issued a final rule, which found that several Louisiana air quality regulations, including LAC 33:III.1107.A, were "substantially inadequate to meet [Clean Air Act (CAA)] requirements" because they provide "impermissible discretionary exemptions" from "otherwise applicable state implementation plan (SIP) emission limitations."[1] Consequently, EPA issued a "SIP call" directing affected states to submit corrective SIP revisions by November 22, 2016.[2] AQ361 is a proposal to repeal one of these alleged impermissible discretionary exemptions, LAC 33:III.1107.A, which provides that LDEQ may exempt excess emissions from smoke from flares during startup or shutdown events.

LCA disagrees that LAC 33:III.1107.A is contrary to the Clean Air Act. Section 1107.A. has long been a part of the Louisiana rules for protection of visibility and for maintenance of the particulate matter (PM) National Ambient Air Quality Standards

[1] 80 Fed. Reg. 33,840, 33,967-968.

[2] *Id.* at 33,840. The issuance of a SIP call requires an affected state to take action to revise its SIP. *Id.* at 33,848.

(NAAQS). It was actually approved by EPA as recently as July 5, 2011, as being part of the Louisiana SIP.[3] Although it was not enacted for purposes of protection of the ozone NAAQS, it is recognized that smoking can be indicative of inefficient combustion of hydrocarbons; thus, indirectly Section 1107.A. may also be viewed as supporting the SIP for ozone NAAQS compliance. As discussed below, all areas of Louisiana are in compliance with the 24 hour and annual PM10 standards and 24 hour PM2.5 standard; thus, Louisiana has a *prima facie* case that its rules for attainment and maintenance of the PM NAAQS are not substantially inadequate. All areas of the state are also currently in compliance with the 2008 ozone NAAQS.[4] The rationale for the exemption for periods of brief smoking from flares during startup and shutdown events is well grounded in precedent, reasonable, targeted to a limited type source, and does not represent an impermissible blanket exemption. This is particularly so when it is recognized that only flares that are not subject to a New Source Performance Standard (NSPS) or National Emission Standard for Hazardous Air Pollutants (NESHAPs) are subject to LAC 33:III.1107.A due to the provisions of LAC 33:III.1107.B.2.

LCA understands from LDEQ's Louisiana Register notice that the changes proposed by the Department in AQ361 are being proposed solely to address the EPA June 2015 SIP Call. LCA does not agree with the EPA SIP Call requirement for elimination of Section 1107.A. for the reasons stated herein. In lieu of use of Section 1107.A, LCA urges LDEQ to develop category specific flare exemptions and/or appropriate guidance for use of enforcement discretion to recognize appropriate startup and shutdown conditions for flares that recognize the need for limited smoking in situations that do not threaten any NAAQS. While proper operation of a steam or air assisted flare can often minimize smoking, such cannot always be completely prevented for all flare types, particularly in existing flares that are not subject to NSPS or NESHAP rules.

I. General Comments Concerning the History of the Rulemaking

On February 22, 2013, EPA proposed to take action on a petition for rulemaking filed by the Sierra Club with EPA on June 30, 2011.[5] The petition included requests concerning the treatment of excess emissions in state rules by sources during periods of startup, shutdown, or malfunction (SSM). In the 2013 rulemaking, EPA proposed to grant in part and to deny in part the request in the petition to rescind its policy interpreting the

[3] 76 Fed. Reg. 38977.

[4] The Baton Rouge Area received its Clean Data Determination with regard to the 2008 ozone NAAQS on May 4, 2016. See 81 Fed. Reg. 26,697.

[5] 78 Fed. Reg. 12,460.

CAA to allow states to have appropriately drawn SIP provisions that provide affirmative defenses to monetary penalties for violations during periods of SSM. EPA also proposed either to grant or to deny the petition with respect to the specific existing SIP provisions related to SSM in each of 39 states identified by the Sierra Club, including Louisiana, as inconsistent with the CAA. Further, for each of those states where the EPA proposed to grant the petition concerning specific provisions, EPA also proposed to find that the existing SIP provision is substantially inadequate to meet CAA requirements and, thus, under CAA authority, proposed a "SIP call."[6]

EPA derives its authority to issue SIP calls under Section 110(k)(5) of the CAA. Section 110(k)(5) provides, in pertinent part:

> (5) Calls for plan revisions
>
> Whenever the Administrator finds that the applicable implementation plan for any area is substantially inadequate to attain or maintain the relevant national ambient air quality standard, to mitigate adequately the interstate pollutant transport described in section [176A] of this title or section [184] of this title, or to otherwise comply with any requirement of this chapter, the Administrator shall require the State to revise the plan as necessary to correct such inadequacies. The Administrator shall notify the State of the inadequacies, and may establish reasonable deadlines (not to exceed 18 months after the date of such notice) for the submission of such plan revisions. ...[7]

Section 110(k)(5) authorizes EPA to issue a "SIP call" whenever it makes a finding that an existing SIP is "substantially inadequate," and, thus, grants EPA the authority to require the affected state to take action to correct the "inadequate" SIP provision.

On May 13, 2013, LCA submitted comments on the proposed 2013 EPA rulemaking.[8] LCA requested that EPA withdraw the proposed rule finding that certain provisions of the Louisiana SIP, including LAC 33:III.1107.A, were "substantially inadequate" to meet CAA requirements. With respect to LAC 33:III.1107.A, LCA argued that the exemption had limited applicability and was not available if any ambient air quality standard is jeopardized.[9] Further, LCA argued that the provision had no impact on Louisiana's maintenance or attainment with the NAAQS, as the stated purpose of

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[6] 78 Fed. Reg. 12,460.

[7] 42 U.S.C. § 7410(k)(5).

[8] *See* Document No. EPA-HQ-OAR-2012-0322-0554.

[9] Document No. EPA-HQ-OAR-2012-0322-0554, p. 22.

Chapter 11 is to control emissions from smoke, and Louisiana has never been in nonattainment with the PM standard. Therefore, LCA asserted that Louisiana had a *prima facie* case that its rules for attainment and maintenance of the SIP are not substantially inadequate.[10]

LDEQ submitted its own comments in opposition to the proposed rule on March 14, 2013.[11] LDEQ argued that EPA must first find that the Louisiana SIP is "substantially inadequate" before initiating a SIP call.[12] LDEQ also argued that EPA's conclusion that emissions standards must require emission reductions all of the time is defective.[13] LDEQ further argued that EPA could not reasonably conclude that the Louisiana SIP is "substantially inadequate."[14] Finally, LDEQ argued that the use of "discretionary exemptions did not require a revision to an existing SIP.[15]

On June 12, 2015, EPA took final action on the Sierra Club's petition.[16] In the preamble to the final rule, EPA stated that it had previously not paid enough attention to SIPs excess emission provisions for SSM events due to being "inundated with proposed SIPs" and not paying enough attention to the "adequacy, enforceability and consistency of these provisions."[17] EPA also stated that it had not, until 2013, initiated a broad effort to require states to remove such provisions from their SIPs and to adopt "other, approvable approaches for addressing excess emissions when appropriate."[18] EPA stated that exemptions for excess emissions during SSM events were "inconsistent" with certain CAA requirements.[19] Specifically with respect to LAC 33:III.1107.A, EPA took issue with the fact that the provision provides "discretionary exemptions from otherwise applicable … visible emission limitations in the Louisiana SIP for excess emissions that occur during certain startup and shutdown events."[20] As such, EPA agreed with the Sierra

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[10] Document No. EPA-HQ-OAR-2012-0322-0554, p. 22.

[11] *See* Document No. EPA-HQ-OAR-2012-0322-0478.

[12] Document No. EPA-HQ-OAR-2012-0322-0478, p. 4.

[13] Document No. EPA-HQ-OAR-2012-0322-0478, pp. 5 – 6.

[14] Document No. EPA-HQ-OAR-2012-0322-0478, pp. 6 – 8.

[15] Document No. EPA-HQ-OAR-2012-0322-0478, pp. 8 – 9.

[16] 80 Fed. Reg. 33,840.

[17] *Id.* at 33,843.

[18] *Id.* at 33,843.

[19] *Id.* at 33,843.

[20] *Id.* at 33,967.

Club that many of the identified SIP provisions were not permissible under the CAA and issued a SIP call for 36 states, including Louisiana.[21]

On April 20, 2016, LDEQ issued a notice of intent, proposing to repeal LAC 33:III.1107.A in its entirety for two reasons.[22] First, LDEQ stated there was incongruity between the provisions of LAC 33:III.1105 and LAC 33:III.1107.A. Section 1105 provides, in pertinent part:

> A. The emission of smoke from a flare or other similar device used for burning in connection with pressure valve releases for control over process upsets shall be controlled so that the shade or appearance of the emission does not exceed 20 percent opacity (LAC 33:III.1503.D.2, Table 4) for a combined total of six hours in any 10 consecutive days. …

Section 1107.A provides, in pertinent part:

> Exemptions from the provisions of LAC 33:III.1105 may be granted by the administrative authority during start-up and shutdown periods if the flaring was not the result of failure to maintain or repair equipment. ... *In addition, the flaring must be minimized and no ambient air quality standard may be jeopardized.*[23]

Section 1105 requires compliance with 20% opacity standard for flares, except for flaring in connection with certain process upsets and such periods cannot exceed more than six hours total in 10 consecutive days. Section 1107.A concerns startup and shutdown periods, but it refers to 1105, which seems to cover only process "upsets". Second, LDEQ indicated that other standards for flares that are commonly applicable, such as the general provision of the New Source Performance Standards, 40 C.F.R. § 63.11(b)(4), requires the control device to "be designed for and operated with no visible emissions, except for periods not to exceed a total of 5 minutes during any 2 consecutive hours."[24]

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[21] *Id.* at 33,844 and 33,968.

[22] LR 42:642.

[23] LAC 33:III.1107.A. as quoted in LR 42:642 (emphasis added)..

[24] LR 42:642. LCA notes that LAC 33:III.1107.B.2 exempts any flare from Ch. 1101 if it is subject to an NSPS or NESHAP rule that is more stringent.

II. Background on EPA's Policy on Excess Emissions During SSM Events

In the preamble to the June 12, 2015, SSM SIP Call and associated memoranda added to the rulemaking docket, EPA provided that, beyond automatic exemptions and state agency's discretion exemptions, there are other approaches that the states could use to address emissions during SSM events.[25] EPA stated:

> ... SIPs may include criteria and procedures for the use of enforcement discretion by air agency personnel. Similarly, SIPs may, rather than exempt emissions during SSM events, include emission limitations that subject those emissions to alternative numerical limitations or other technological control requirements or work practice requirements during startup and shutdown events, so long as those components of the emission limitations meet applicable CAA requirements.[26]

In a memorandum to Docket No. EPA-HQ-OAR-2012-0322,[27] EPA described its current SSM policy and the approaches that states could take to address emissions during SSM events. First, EPA recommends the exercise of enforcement discretion for violations due to excess emissions during SSM events. Under this approach, state and federal regulators exercise their normal discretion to decide whether a given violation should be subject to an enforcement action. Considerations such as the seriousness of the violation and the culpability of the violator can play a role in this exercise of enforcement discretion. Second, EPA also recommends narrowly drawn SIP provisions that include an affirmative defense to monetary penalties in enforcement actions. Third, EPA recommends source category-specific SIP provisions for startup and shutdown events.[28]

Section III.1 of the 1999 SSM Guidance[29] recommended specific criteria that state agencies should consider as including as part of any SIP provision that is intended to apply to sources during startup and shutdown, in lieu of the otherwise applicable

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[25] 80 Fed. Reg. at 33,844.

[26] 80 Fed. Reg. at 33,844.

[27] Memorandum, "Statutory, Regulatory, and Policy Context for this Rulemaking," February 4, 2013, in the rulemaking docket at EPA-HQ-OAR-2012-0322-0029.

[28] EPA-HQ-OAR-2012-0322-0029, pp. 8, 14 – 15 (footnotes omitted).

[29] Memorandum entitled, "State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown," from Steven A. Herman, EPA Assistant Administrator for Enforcement and Compliance Assurance, and Robert Perciasepe, EPA Assistant Administrator for Air and Radiation, to the EPA Regional Administrators, dated Sept. 20, 1999, available at https://www3.epa.gov/ttn/naaqs/aqmguide/collection/t5/excesem2.pdf.

emission limitations.[30] EPA recommended the following criteria as appropriate considerations for SIP provisions that apply to startup and shutdown events:

1. The revision must be limited to specific, narrowly-defined source categories using specific control strategies (e.g., cogeneration facilities burning natural gas and using selective catalytic reduction);

2. Use of the control strategy for this source category must be technically infeasible during startup or shutdown periods;

3. The frequency and duration of operation in startup or shutdown mode must be minimized to the maximum extent practicable;

4. As part of its justification of the SIP revision, the state should analyze the potential worst-case emissions that could occur during startup and shutdown;

5. All possible steps must be taken to minimize the impact of emissions during startup and shutdown on ambient air quality;

6. At all times, the facility must be operated in a manner consistent with good practice for minimizing emissions, and the source must have used best efforts regarding planning, design, and operating procedures to meet the otherwise applicable emission limitation; and

7. The owner or operator's actions during startup and shutdown periods must be documented by properly signed, contemporaneous operating logs, or other relevant evidence.[31]

III. General Comments on LDEQ's Approach to Addressing the SSM SIP Call

LCA notes that EPA SSM policy provides LDEQ with flexibility in revising the Louisiana SIP to address emissions during SSM events – repeal of Section 1107.A is not the only solution to correct the alleged SIP deficiencies cited in the SSM SIP Call. LCA requests that LDEQ exercise its due diligence in examining the history of the each of the provisions at issue, the continued necessity of providing relief for startup and shutdown emissions from flares that are not otherwise subject to NSPS or NESHAP standards, and whether there is benefit to enacting regulatory provisions to include criteria and procedures for the use of enforcement discretion by Department personnel to address emissions during such startup and shutdown events. LCA requests that the Department employ all approaches suggested by the EPA SSM policy, when appropriate, to address emissions during startup and shutdown events.

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[30] 1999 SSM Guidance, at Attachment, pp. 4 – 5.

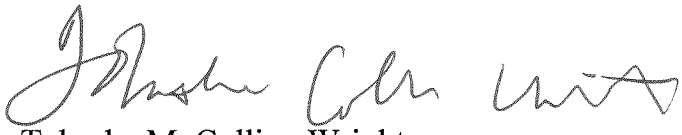
[31] 1999 SSM Guidance, at Attachment, p. 5.

Conclusion:

The Louisiana Chemical Association appreciates the opportunity to comment on this rulemaking. If LDEQ remains intent on eliminating Section 1107.A. due to the SIP Call, LCA urges LDEQ to supplant the rule with appropriate source specific provisions where smokeless operation is not technically feasible during startup and shutdown events. LCA also urges LDEQ to enact appropriate guidance with regard to the use of enforcement discretion in situations involving flare startup and shutdown situations. With respect to future rulemakings to address other SSM SIP provisions, LCA requests that the Department carefully examine each provision to determine whether other actions, short of repeal, would also satisfy the directive set forth by EPA in the SSM SIP Call and be consistent with EPA's SSM policy.

If you have any questions, I can be reached at (225) 382-3426 or tokesha.collins-wright@keanmiller.com.

Very truly yours,



Tokesha M. Collins-Wright

cc: Henry Graham, LCA

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June 1, 2016

Ms. Deidra Johnson
Office of the Secretary, Legal Division
Louisiana Department of Environmental Quality
P.O. Box 4302
Baton Rouge, Louisiana 70821-4302

Via E-mail and U.S. Mail

RE: Comments on VOC Emissions – Industrial Wastewater (LAC 33:III.2153) (AQ362)
Our File No.: 3645-357

Dear Ms. Johnson:

The following comments are submitted on behalf of the Louisiana Chemical Association (LCA). LCA is a nonprofit Louisiana corporation composed of 63 member companies with over 100 chemical manufacturing plant sites in Louisiana. LCA appreciates the opportunity to comment on the proposed rule to repeal LAC 33:III.2153.B.1.i. LCA requests that the Department include these comments in the administrative record.

The Louisiana Department of Environmental Quality (LDEQ) has indicated that it is proposing to repeal LAC 33:III.2153.B.1.i as the result of an EPA notice of deficiency in the Louisiana State Implementation Plan (SIP). On June 12, 2015, EPA made a finding in the Federal Register that several Louisiana air quality regulations, including LAC 33:III.2153.B.1.i, are "substantially inadequate to meet [Clean Air Act (CAA)] requirements" because they provide "impermissible discretionary exemptions" from "otherwise applicable state implementation plan (SIP) emission limitations."[1] Consequently, EPA issued a "SIP call" directing affected states to submit corrective SIP revisions by November 22, 2016.[2] AQ362 is a proposal to repeal LAC 33:III.2153.B.1.i, which allows an exemption from 90% volatile organic compound (VOC) control or 50 parts per million volume (ppmv) VOC (whichever is less stringent) for wastewater tanks for up to 336 hours per year only during maintenance on the control device or

[1] 80 Fed. Reg. 33,840, 33,967-968.

[2] *Id.* at 33,840. The issuance of a SIP call requires an affected state to take action to revise its SIP. *Id.* at 33,848.

malfunction of the control device. LCA supports removal of the exemption for periods of malfunction, but not for periods of maintenance on the control device. Further, with regard to periods of malfunction, LCA urges LDEQ to develop guidelines for the appropriate use of enforcement discretion with regard to such situations involving the types of wastewater tanks subject to current LAC 33:III.2153.B.1.i. Although LDEQ has made efforts to determine whether any facility is subject to such exemption, LCA is concerned that there could be existing facilities subject to the exemption that have not been identified. LCA's reasons supporting these positions are stated below.

I. General Comments Concerning the History of the Rulemaking

On February 22, 2013, EPA proposed to take action on a petition for rulemaking filed by the Sierra Club with EPA on June 30, 2011.[3] The petition included requests concerning the treatment of excess emissions in state rules by sources during periods of startup, shutdown, or malfunction (SSM). In the 2013 rulemaking, EPA proposed to grant in part and to deny in part the request in the petition to rescind its policy interpreting the CAA to allow states to have appropriately drawn SIP provisions that provide affirmative defenses to monetary penalties for violations during periods of SSM. EPA also proposed either to grant or to deny the petition with respect to the specific existing SIP provisions related to SSM in each of 39 states identified by the Sierra Club, including Louisiana, as inconsistent with the CAA. Further, for each of those states where the EPA proposed to grant the petition concerning specific provisions, EPA also proposed to find that the existing SIP provision is substantially inadequate to meet CAA requirements and, thus, under CAA authority, proposed a "SIP call."[4]

EPA derives its authority to issue SIP calls under Section 110(k)(5) of the CAA. Section 110(k)(5) provides, in pertinent part:

> (5) Calls for plan revisions
>
> Whenever the Administrator finds that the applicable implementation plan for any area is substantially inadequate to attain or maintain the relevant national ambient air quality standard, to mitigate adequately the interstate pollutant transport described in section [176A] of this title or section [184] of this title, or to otherwise comply with any requirement of this chapter, the Administrator shall require the State to revise the plan as necessary to correct such inadequacies. The Administrator shall notify the State of the

[3] 78 Fed. Reg. 12,460.

[4] 78 Fed. Reg. 12,460.

> inadequacies, and may establish reasonable deadlines (not to exceed 18 months after the date of such notice) for the submission of such plan revisions. ...[5]

Section 110(k)(5) authorizes EPA to issue a "SIP call" whenever it makes a finding that an existing SIP is "substantially inadequate," and, thus, grants EPA the authority to require the affected state to take action to correct the "inadequate" SIP provision.

On May 13, 2013, LCA submitted comments on the proposed 2013 EPA rulemaking.[6] LCA requested that EPA withdraw the proposed rule finding that certain provisions of the Louisiana SIP, including LAC 33:III.2153.B.1.i, were "substantially inadequate" to meet CAA requirements. With respect to LAC 33:III.2153.B.1.i, LCA argued that the exemption had limited applicability, as the rule is applicable only to facilities with a wastewater loading of VOCs greater than 10 Megagrams per year.[7] Further, the rule does not apply to sources subject to the more stringent federal rules: the Hazardous Organic National Emission Standards for Hazardous Air Pollutants (NESHAP) wastewater provisions or NESHAP Subpart FF (benzene waste operations) or NESHAP Subpart YYY (Synthetic Organic Chemical Manufacturing Industry (SOCMI) wastewater provisions). Any source subject to those more stringent rules is exempt from Section 2153 by virtue of Section 2153.G.6.

LDEQ submitted its own comments in opposition to the proposed rule on March 14, 2013.[8] LDEQ argued that EPA must first find that the Louisiana SIP is "substantially inadequate" before initiating a SIP call.[9] LDEQ also argued that EPA's conclusion that emissions standards must require emission reductions all of the time is defective.[10] LDEQ further argued that EPA could not reasonably conclude that the Louisiana SIP is "substantially inadequate."[11] Finally, LDEQ argued that the use of "discretionary exemptions did not require a revision to an existing SIP.[12]

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[5] 42 U.S.C. § 7410(k)(5).

[6] *See* Document No. EPA-HQ-OAR-2012-0322-0554.

[7] Document No. EPA-HQ-OAR-2012-0322-0554, p. 16.

[8] *See* Document No. EPA-HQ-OAR-2012-0322-0478.

[9] Document No. EPA-HQ-OAR-2012-0322-0478, p. 4.

[10] Document No. EPA-HQ-OAR-2012-0322-0478, pp. 5 – 6.

[11] Document No. EPA-HQ-OAR-2012-0322-0478, pp. 6 – 8.

[12] Document No. EPA-HQ-OAR-2012-0322-0478, pp. 8 – 9.

On June 12, 2015, EPA took final action on the Sierra Club's petition.[13] In the preamble to the final rule, EPA stated that it had previously not paid enough attention to SIPs excess emission provisions for SSM events due to being "inundated with proposed SIPs" and not paying enough attention to the "adequacy, enforceability and consistency of these provisions."[14] EPA also stated that it had not, until 2013, initiated a broad effort to require states to remove such provisions from their SIPs and to adopt "other, approvable approaches for addressing excess emissions when appropriate."[15] EPA stated that exemptions for excess emissions during SSM events were "inconsistent" with certain CAA requirements.[16] [Specifically with respect to LAC 33:III.2153.B.1.i, EPA took issue with the fact that the provision provides "automatic exemptions for excess emissions of VOC from wastewater tanks."[17]] As such, EPA agreed with the Sierra Club that many of the identified SIP provisions were not permissible under the CAA and issued a SIP call for 36 states, including Louisiana.[18]

On April 20, 2016, LDEQ issued a notice of intent, proposing to repeal LAC 33:III.2153.B.1.i. Due to LAC 33:III.2153, the provision governing the limiting of VOC emissions from industrial wastewater, "affected VOC wastewater streams" are required to be controlled. More specifically, LAC 33:III.2153.B.1.d.i requires vents on covers and certain junction box covers to be, "equipped with either a control device or a vapor recovery system that maintains a minimum control efficiency of 90 percent VOC removal or a VOC concentration of less than or equal to 50 parts per million by volume." However, LAC 33:III.2153.B.1.i provides that such control device or recovery device is, "not ... required to meet the 90 percent removal efficiency or 50 ppmv concentration during periods of malfunction or maintenance on the devices for periods not to exceed 336 hours per year."

II. Background on EPA's Policy on Excess Emissions During SSM Events

In the preamble to the June 12, 2015, SSM SIP Call and associated memoranda added to the rulemaking docket, EPA provided that, beyond automatic exemptions and state agency's discretion exemptions, there are other approaches that the states could use to address emissions during SSM events.[19] EPA stated:

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[13] 80 Fed. Reg. 33,840.

[14] *Id.* at 33,843.

[15] *Id.* at 33,843.

[16] *Id.* at 33,843.

[17] *Id.* at 33,967.

[18] *Id.* at 33,844 and 33,968.

[19] 80 Fed. Reg. at 33,844.

> ... SIPs may include criteria and procedures for the use of enforcement discretion by air agency personnel. Similarly, SIPs may, rather than exempt emissions during SSM events, include emission limitations that subject those emissions to alternative numerical limitations or other technological control requirements or work practice requirements during startup and shutdown events, so long as those components of the emission limitations meet applicable CAA requirements.[20]

In a memorandum to Docket No. EPA-HQ-OAR-2012-0322,[21] EPA described its current SSM policy and the approaches that states could take to address emissions during SSM events. First, EPA recommends the exercise of enforcement discretion for violations due to excess emissions during SSM events. Under this approach, state and federal regulators exercise their normal discretion to decide whether a given violation should be subject to an enforcement action. Considerations such as the seriousness of the violation and the culpability of the violator can play a role in this exercise of enforcement discretion. Second, EPA also recommends narrowly drawn SIP provisions that include an affirmative defense to monetary penalties in enforcement actions. Third, EPA recommends source category-specific SIP provisions for startup and shutdown events..[22]

Section III.1 of the 1999 SSM Guidance[23] recommended specific criteria that state agencies should consider as including as part of any SIP provision that is intended to apply to sources during startup and shutdown, in lieu of the otherwise applicable emission limitations.[24] EPA recommended the following criteria as appropriate considerations for SIP provisions that apply to startup and shutdown events:

> 1. The revision must be limited to specific, narrowly-defined source categories using specific control strategies (e.g., cogeneration facilities burning natural gas and using selective catalytic reduction);

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[20] 80 Fed. Reg. at 33,844.

[21] Memorandum, "Statutory, Regulatory, and Policy Context for this Rulemaking," February 4, 2013, in the rulemaking docket at EPA-HQ-OAR-2012-0322-0029.

[22] EPA-HQ-OAR-2012-0322-0029, pp. 8, 14 – 15 (footnotes omitted).

[23] Memorandum entitled, "State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown," from Steven A. Herman, EPA Assistant Administrator for Enforcement and Compliance Assurance, and Robert Perciasepe, EPA Assistant Administrator for Air and Radiation, to the EPA Regional Administrators, dated Sept. 20, 1999, available at https://www3.epa.gov/ttn/naaqs/aqmguide/collection/t5/excesem2.pdf.

[24] 1999 SSM Guidance, at Attachment, pp. 4 – 5.

2. Use of the control strategy for this source category must be technically infeasible during startup or shutdown periods;

3. The frequency and duration of operation in startup or shutdown mode must be minimized to the maximum extent practicable;

4. As part of its justification of the SIP revision, the state should analyze the potential worst-case emissions that could occur during startup and shutdown;

5. All possible steps must be taken to minimize the impact of emissions during startup and shutdown on ambient air quality;

6. At all times, the facility must be operated in a manner consistent with good practice for minimizing emissions, and the source must have used best efforts regarding planning, design, and operating procedures to meet the otherwise applicable emission limitation; and

7. The owner or operator's actions during startup and shutdown periods must be documented by properly signed, contemporaneous operating logs, or other relevant evidence.[25]

III. General Comments on LDEQ's Approach to Addressing the SSM SIP Call

LCA notes that EPA SSM policy provides LDEQ with flexibility in revising the Louisiana SIP to address emissions during SSM events – repeal is not the only solution to correct the alleged SIP deficiencies cited in the SSM SIP Call. LCA requests that LDEQ exercise its due diligence in examining the history of the each of the provisions at issue, the continued necessity of such, and whether there is any benefit in revising the provisions to include criteria and procedures for the use of enforcement discretion by Department personnel to address emissions during SSM events. LCA requests that the Department employ such an approach, when appropriate, to address emissions during SSM events.

IV. Specific Comments on AQ362

With respect to LAC 33:III.2153.B.1.i, LCA supports LDEQ's proposal to repeal the exemption for malfunction events. LCA however, urges adopt criteria and procedures for the use of enforcement discretion by Department personnel to address emissions during malfunction events, consistent with the EPA SSM policies. LCA disagrees that the exemption for periods of maintenance on the wastewater control device should be repealed, although LCA would not object to revising the exemption to limit the

[25] 1999 SSM Guidance, at Attachment, p. 5.

exemption to no more than 240 hours per year to be conducted outside of the ozone season. Wastewater tanks can be controlled by routing vents through a closed vent system to a control device. Often, either the closed vent system or the control device or both require shutdown for planned routine maintenance. It is typical to allow a period of up to 240 hours per year for such maintenance on tanks so that the tanks do not have to be emptied and refilled in order to perform such maintenance. Limiting the exemption to planned routine maintenance outside of ozone season would ensure that there is no adverse impact on ozone NAAQS compliance.

Conclusion:

The Louisiana Chemical Association appreciates the opportunity to comment on this rulemaking and looks forward to working with LDEQ on the final rule.

If you have any questions, I can be reached at (225) 382-3426 or tokesha.collins-wright@keanmiller.com.

Very truly yours,

Tokesha M. Collins-Wright

cc: Henry Graham, LCA

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ATTORNEYS AT LAW

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LEGAL DIVISION

August 3, 2016

Ms. Deidra Johnson, Attorney Supervisor
Office of the Secretary, Legal Division
Louisiana Department of Environmental Quality
P.O. Box 4302
Baton Rouge, Louisiana 70821-4302

Via E-mail and U.S. Mail

RE: Louisiana Chemical Association- Comments on Proposed Rulemaking to Amend LAC 33:III.2201 Concerning Requirements During Startup and Shutdown (AQ364)

Our File No.: 3645-357

Dear Ms. Johnson:

The following comments are submitted on behalf of the Louisiana Chemical Association (LCA). LCA is a nonprofit Louisiana corporation composed of 63 member companies with over 100 chemical manufacturing plant sites in Louisiana. LCA appreciates the opportunity to comment on the proposed rule to amend LAC 33:III.2201. LCA requests that the Department include these comments in the administrative record for this rulemaking.

The Louisiana Department of Environmental Quality (LDEQ) has indicated that it is proposing to amend LAC 33:III.2201 as the result of an EPA notice of deficiency in the Louisiana State Implementation Plan (SIP). On June 12, 2015, EPA made a finding in the Federal Register that several Louisiana air quality regulations, including LAC 33:III.2201.C.8, are "substantially inadequate to meet [Clean Air Act (CAA)] requirements" because they provide "automatic exemptions for excess emissions" from "otherwise applicable state implementation plan (SIP) emission limitations."[1] Affected facilities subject to LAC 33:III.2201 include combustion sources such as boilers, process heaters, furnaces, stationary gas turbines, and stationary internal combustion engines located in nine parishes: Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge and West Feliciana. Such sources are subject to emission limitations for NOx emissions during ozone season (May 1 through September 30). However, LAC 33:III.2201.C.8 provides that such limitations do not apply during periods of startup, shutdown or malfunction ("SSM"), except to sources that intentionally shut down on a routine basis (more than once per month).

[1] 80 Fed. Reg. 33,840, at 33,967-968.

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Although EPA previously approved the inclusion of LAC 33:III.2201 as part of the SIP,[2] EPA now believes that there should not be an automatic exemption for SSM events. Consequently, EPA issued a "SIP call" directing affected states to submit corrective SIP revisions by November 22, 2016.[3] The LDEQ rulemaking in AQ364 is a proposal to repeal LAC 33:III.2201.C.8 and to amend LAC 33:III.2201 to allow the owner/operator of an affected point source to either comply with the emission factors established in 2201.D at all times, including during SSM events or to comply with new section LAC 33:III.2201.K which establishes work practice standards designed to minimize emissions during startup and shutdown.

LCA does not agree with the repeal of LAC 33:III.2201.C.8. in its entirety. LCA believes that instead subsection 2201.C.8. should be amended to delete only the exemption for malfunctions, but not the exemption from the emissions standards during startup and shutdown. However, LCA supports the concept of allowing a facility to comply with work practice standards in lieu of meeting the emissions limits in LAC 33:III.2201.D. during periods of startup and shutdown ("SS"). LCA believes that LDEQ should include a clear transition provision to allow facilities to notify the Department concerning their use of work practices and that such notification should supersede any requirements of an existing Title V permit until the permit can be revised to reflect the option chosen. LCA believes that LDEQ should specify that the repeal of Section 2201.C.8. and the addition of Section 2201.K. should not be effective until April 30, 2017, the last day before the first ozone season following the rule becoming final. This would provide sufficient time for facilities to evaluate whether to elect use of work practice standards in lieu of emission standards and to develop written operating procedures for such SS periods that comply with the final Section 2201.K.3 requirements. LCA suggests language to accomplish these revisions in the comments below. LCA further requests that LDEQ revised proposed subsection 2201.K.3.b. to change the effective date to May 1, 2017 (the first day of the next ozone season). LCA requests that the duration of startup periods for stationary internal combustion engines in proposed Section 2201.K.3.d. be revised from a 30 minute limit to a 1 hour limit. LCA requests that proposed Section 2201.K.3.e. and f. be revised to add a 5 year time limit for the maintenance of such records required by these subsections. LCA also believes that LDEQ should add a new subsection 2201.K.4. that allows a facility to submit a site-specific work practice standard for SS periods for LDEQ approval through a permitting process where the applicant can demonstrate that such site-specific plan provides equivalent or better minimization of SS emissions. A suggested new subsection 2201.K.4. is included in these comments.

I. General Comments Concerning the History of the Rulemaking

On February 22, 2013, EPA proposed to take action on a petition for rulemaking filed by the Sierra Club with EPA on June 30, 2011.[4] The petition included requests concerning the

[2] 76 Fed. Reg. 38977 (July 5, 2011).

[3] *Id.* at 33,840. The issuance of a SIP call requires an affected state to take action to revise its SIP. *Id.* at 33,848.

[4] 78 Fed. Reg. 12,460.

treatment of excess emissions in state rules by sources during periods of startup, shutdown, or malfunction (SSM). In the 2013 rulemaking, EPA proposed to grant in part and to deny in part the request in the petition to rescind its policy interpreting the CAA to allow states to have appropriately drawn SIP provisions that provide affirmative defenses to monetary penalties for violations during periods of SSM. EPA also proposed either to grant or to deny the petition with respect to the specific existing SIP provisions related to SSM in each of 39 states identified by the Sierra Club, including Louisiana, as inconsistent with the CAA. Further, for each of those states where the EPA proposed to grant the petition concerning specific provisions, EPA also proposed to find that the existing SIP provision is substantially inadequate to meet CAA requirements and, thus, under CAA authority, proposed a "SIP call."[5]

EPA derives its authority to issue SIP calls under Section 110(k)(5) of the CAA. Section 110(k)(5) provides, in pertinent part:

> (5) Calls for plan revisions
>
> Whenever the Administrator finds that the applicable implementation plan for any area is substantially inadequate to attain or maintain the relevant national ambient air quality standard, to mitigate adequately the interstate pollutant transport described in section [176A] of this title or section [184] of this title, or to otherwise comply with any requirement of this chapter, the Administrator shall require the State to revise the plan as necessary to correct such inadequacies. The Administrator shall notify the State of the inadequacies, and may establish reasonable deadlines (not to exceed 18 months after the date of such notice) for the submission of such plan revisions. ...[6]

Section 110(k)(5) authorizes EPA to issue a "SIP call" whenever it makes a finding that an existing SIP is "substantially inadequate," and, thus, grants EPA the authority to require the affected state to take action to correct the "inadequate" SIP provision.

On May 13, 2013, LCA submitted comments on the proposed 2013 EPA rulemaking.[7] LCA requested that EPA withdraw the proposed rule finding that certain provisions of the Louisiana SIP, including LAC 33:III.2201.C.8, were "substantially inadequate" to meet CAA requirements. With respect to LAC 33:III.2201.C.8., LCA argued that there was no evidence that this provision renders the SIP substantially inadequate as reflected by the fact that ozone levels have continued to improve after adoption of LAC 33:III.2201.[8] Since the submittal of those

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[5] 78 Fed. Reg. 12,460.

[6] 42 U.S.C. § 7410(k)(5).

[7] *See* Document No. EPA-HQ-OAR-2012-0322-0554.

[8] Document No. EPA-HQ-OAR-2012-0322-0554.

comments, EPA has recognized that the Baton Rouge Area attained the 2008 Ozone NAAQS prior to the July 20, 2015 deadline.[9]

LDEQ submitted its own comments in opposition to the proposed rule on March 14, 2013.[10] LDEQ argued that EPA must first find that the Louisiana SIP is "substantially inadequate" before initiating a SIP call.[11] LDEQ also argued that EPA's conclusion that emissions standards must require emission reductions all of the time is erroneous.[12] Based upon the limited set of sources, the limited duration of SSM events, and substantial progress made in ozone attainment with the existing rule, and the lack of any specific analysis showing that the exemptions complained of by EPA prevent attainment, LDEQ asserted that EPA could not reasonably conclude that the Louisiana SIP is "substantially inadequate."[13] Finally, LDEQ argued that the use of such exemptions as exist in LAC 33:III.2201.C.8. did not require a revision to an existing SIP.[14] LCA fully supports the comments of LDEQ to EPA and agrees that there has been no showing that the SIP provisions concerning LAC 33:III.2201.C.8. render the SIP "substantially inadequate." In fact, as noted above, the Baton Rouge Area has fully attained the 8-hour 2008 Ozone NAAQS while LAC 33:III.2201.C.8. has been fully effective.

On June 12, 2015, EPA took final action on the Sierra Club's petition.[15] In the preamble to the final rule, EPA stated that it had previously not paid enough attention to SIPs excess emission provisions for SSM events due to being "inundated with proposed SIPs" and not paying enough attention to the "adequacy, enforceability and consistency of these provisions."[16] EPA also stated that it had not, until 2013, initiated a broad effort to require states to remove such provisions from their SIPs and to adopt "other, approvable approaches for addressing excess emissions when appropriate."[17] EPA stated that exemptions for excess emissions during SSM events were "inconsistent" with certain CAA requirements.[18] EPA thus issued a SIP call for 36 states, including Louisiana.[19]

On June 20, 2016, LDEQ issued a notice of intent, proposing to repeal LAC 33:III.2201.C.8, but proposing to allow as an alternative to meeting the 2201.D. emission

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[9] 81 Fed. Reg. 26697, at 26709 (May 4, 2016).

[10] *See* Document No. EPA-HQ-OAR-2012-0322-0478.

[11] Document No. EPA-HQ-OAR-2012-0322-0478, p. 4.

[12] Document No. EPA-HQ-OAR-2012-0322-0478, pp. 5 – 6.

[13] Document No. EPA-HQ-OAR-2012-0322-0478, pp. 6 – 8.

[14] Document No. EPA-HQ-OAR-2012-0322-0478, pp. 8 – 9.

[15] 80 Fed. Reg. 33,840.

[16] *Id.* at 33,843.

[17] *Id.* at 33,843.

[18] *Id.* at 33,843.

[19] *Id.* at 33,844 and 33,968.

standards at all times, that a facility could choose to employ certain work practices as set forth in proposed 2201.K.

II. Background on EPA's Policy on Excess Emissions During SSM Events

In the preamble to the June 12, 2015, SSM SIP Call and associated memoranda added to the rulemaking docket, EPA provided that, beyond automatic exemptions and state agency's discretion exemptions, there are other approaches that the states could use to address emissions during SSM events.[20] EPA stated:

> ... SIPs may include criteria and procedures for the use of enforcement discretion by air agency personnel. Similarly, SIPs may, rather than exempt emissions during SSM events, include emission limitations that subject those emissions to alternative numerical limitations or other technological control requirements or work practice requirements during startup and shutdown events, so long as those components of the emission limitations meet applicable CAA requirements.[21]

In a memorandum to Docket No. EPA-HQ-OAR-2012-0322,[22] EPA described its current SSM policy and the approaches that states could take to address emissions during SSM events. First, EPA recommends the exercise of enforcement discretion for violations due to excess emissions during SSM events. Under this approach, state and federal regulators exercise their normal discretion to decide whether a given violation should be subject to an enforcement action. Considerations such as the seriousness of the violation and the culpability of the violator can play a role in this exercise of enforcement discretion. Second, EPA also recommends narrowly drawn SIP provisions that include an affirmative defense to monetary penalties in enforcement actions. Third, EPA recommends source category-specific SIP provisions for startup and shutdown events.[23]

Section III.1 of the 1999 SSM Guidance[24] recommended specific criteria that state agencies should consider as including as part of any SIP provision that is intended to apply to sources during startup and shutdown, in lieu of the otherwise applicable emission limitations.[25]

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[20] 80 Fed. Reg. at 33,844.

[21] 80 Fed. Reg. at 33,844.

[22] Memorandum, "Statutory, Regulatory, and Policy Context for this Rulemaking," February 4, 2013, in the rulemaking docket at EPA-HQ-OAR-2012-0322-0029.

[23] EPA-HQ-OAR-2012-0322-0029, pp. 8, 14 – 15 (footnotes omitted).

[24] Memorandum entitled, "State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown," from Steven A. Herman, EPA Assistant Administrator for Enforcement and Compliance Assurance, and Robert Perciasepe, EPA Assistant Administrator for Air and Radiation, to the EPA Regional Administrators, dated Sept. 20, 1999, available at https://www3.epa.gov/ttn/naaqs/aqmguide/collection/t5/excesem2.pdf.

[25] 1999 SSM Guidance, at Attachment, pp. 4 – 5.

EPA recommended the following criteria as appropriate considerations for SIP provisions that apply to startup and shutdown events:

1. The revision must be limited to specific, narrowly-defined source categories using specific control strategies (e.g., cogeneration facilities burning natural gas and using selective catalytic reduction);

2. Use of the control strategy for this source category must be technically infeasible during startup or shutdown periods;

3. The frequency and duration of operation in startup or shutdown mode must be minimized to the maximum extent practicable;

4. As part of its justification of the SIP revision, the state should analyze the potential worst-case emissions that could occur during startup and shutdown;

5. All possible steps must be taken to minimize the impact of emissions during startup and shutdown on ambient air quality;

6. At all times, the facility must be operated in a manner consistent with good practice for minimizing emissions, and the source must have used best efforts regarding planning, design, and operating procedures to meet the otherwise applicable emission limitation; and

7. The owner or operator's actions during startup and shutdown periods must be documented by properly signed, contemporaneous operating logs, or other relevant evidence.[26]

III. General Comments on LDEQ's Approach to Addressing the SSM SIP Call

LCA notes that EPA SSM policy provides LDEQ with flexibility in revising the Louisiana SIP to address emissions during SSM events – repeal is not the only solution to correct the alleged SIP deficiencies cited in the SSM SIP Call. LCA requests that LDEQ exercise its due diligence in examining the history of the each of the provisions at issue, the continued necessity of such, and whether there is any benefit in revising the provisions to include criteria and procedures for the use of enforcement discretion by LDEQ personnel to address emissions during SSM events. LCA requests that the LDEQ employ such an approach, when appropriate, to address emissions during SSM events. LCA appreciates that LDEQ has provided an option for compliance concerning work practices under this rulemaking, which is fully consistent with the EPA SSM guidance.

[26] 1999 SSM Guidance, at Attachment, p. 5.

IV. Specific Comments on AQ364

A. Repeal of LAC 33:III.2201.C.8

LCA objects to the complete repeal of LAC 33:III.22201.C.8., because such provision does not render the SIP substantially inadequate, as discussed above. SS events simply have not impaired the ability of the Baton Rouge Area to achieve attainment with the ozone NAAQS. Moreover, the underlying emissions standards did not include and data or analysis to support that such standards were achievable during SS events. LCA requests that the LDEQ instead amend LAC 33:III.2201.C.8. to read as follows:

> C. Exemptions. The following categories of equipment or processes located at an affected facility within the Baton Rouge Nonattainment Area or the Region of Influence are exempted from the provisions of this Chapter:
>
> * * *
>
> 8. any point source during start-up and shutdown as defined in LAC 33:III.111 ~~or during a malfunction as defined in 40 CFR Section 60.2~~ (This exemption does not apply to units that are shut down intentionally on a routine basis-more than once per month.). Nothing in this subsection shall prevent the administrative authority from imposing reasonable restrictions in an applicable permit for the maximum hourly emissions limits of NOx during start-up or shut-down and/or the duration of startup or shutdown events.

LCA believes that these revisions are fully consistent with EPA's SSM policies.

In the alternative, and only in the event that LDEQ fails to make the revision suggested above, LCA requests that the LDEQ make the repeal of LAC 33:III.2201.C.8. effective on May 1, 2017 such that the exemption remains in effect until the last day before the next ozone season. Because Section 2201 applies only during ozone season (May 1-September 30), this delayed effective date is still fully consistent with EPA's SIP call, provided LDEQ's rulemaking is complete by November 22, 2016. Such a delay in the effective date is warranted in order to provide affected facilities with sufficient time to evaluate whether they will comply with emission limits or work practice standards during SS events, and if the latter, to develop operating procedures consistent with LAC 33:III.2201.K.

B. Comments on Proposed LAC 33:III.2201.K

1. Implementation

LCA requests that LDEQ either add a subsection to proposed 2201.K. to specify how affected facilities are to make the election of compliance with emissions standards or compliance

with work practice standards effective. For example, Section 2201.K. could be revised to add the following:

> K.3.g. An affected facility electing to comply with the Work Practice Standards of this Section in lieu of the emission factors set forth in Subsection D of this Section or with an alternative plan approved in accordance with Paragraph E.1. or 2 of this Section shall notify the administrative authority in writing at least seven (7) days prior exercising such option.

Further, LCA requests that the Department issue a Louisiana Register Potpourri notice and guidance concerning that an election to use Work Practice Standards under 2201.K.3. supersedes any reference to compliance with 2201.D and/or 2201.E. contained in a Title V permit, until the first permit revision following adoption of this rule AQ364. LCA believes that this would be the result under General Condition XX of LAC 33:III.537,[27] but requests that LDEQ specifically clarify that is the appropriate interpretation.

Finally, LCA also requests that the provisions of LAC 33:III.2201.K. have a future effective date, consistent with the future effective date of the repeal of Section 2201.C.8.

2. Deadline in LAC 33:III.2201.K.3.b

LCA urges the Department to change the effective date in this subsection from November 22, 2016 to May 1, 2017. The provisions of Section 2201 are effective only during ozone season. Thus, the requirements for coal-fired and fuel-oil-fired sources subject to this paragraph should not be required until the beginning of the next ozone season following the adoption of a final rule.

3. Time limit for start-up in LAC 33:III.2201.K.3.d.

LCA requests that the duration of startup periods for stationary internal combustion engines be revised from a 30 minute limit to a 1 hour limit. Although 30 minutes is generally sufficient, there can be technology or weather based reasons why a startup may take longer. As noted by LDEQ in its comments to EPA, the existence of a complete SSM exemption to 2201 has not caused any impairment of the ability to meet the 2008 ozone NAAQS. Thus, LDEQ should allow a 60 minute period absent evidence that a 30 minute period is always appropriate. LDEQ has not included any such justification in the administrative record.

---

[27] LAC 33:III.537, General Condition XX, provides in part:

> ....If an applicable federal or state regulation is modified during the term of this permit such that it conflicts with the corresponding permit Specific Requirement, the modified regulation shall prevail, and the permittee shall compy with the modified regulation by any compliance dates established in the modified regulation.

Each of these subsections requires an affected facility to maintain certain types of records; however, no time limit for such maintenance is stated. LCA requests that LDEQ provide a 5 year time duration for maintaining such records, consistent with the general requirements of the Title V program.

5. Proposed Case-by-Case SS Work Practice Standards

LCA believes that LDEQ should be able to approve case-by-case specific Work Practice Standard plans in lieu of, or as satisfaction of, the requirements in proposed Section 2201.K.3. LCA therefore requests that LDEQ add a provision like the following to subsection K.3.:

> g. An affected facility may submit a written Work Practice Standard plan to the administrative authority to demonstrate that its practices satisfy the requirements of this Subsection 2201.K.3 or to demonstrate that its practices provide equivalent or better minimization of NOx emissions during periods of startup and shutdown in lieu of those set forth in Subsection 2201.K.3. Such plans may be submitted as part of an application for a permitting and will be reviewed as part of the permit decision. If a plan is approved under this subsection, it will be made a part of the applicable permit conditions.

Conclusion:

The Louisiana Chemical Association appreciates the opportunity to comment on this rulemaking and looks forward to working with LDEQ on the final rule. If you have any questions, please contact Henry Graham of LCA at (225) 344-2609 or contact me at (225) 382-3412 or Maureen.Harbourt@KeanMiller.com.

Very truly yours,

Maureen N. Harbourt

MNH/cfw
cc: Henry Graham, LCA

LMOGA
LOUISIANA MID-CONTINENT
OIL AND GAS ASSOCIATION

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July 29, 2016

Ms. Deidra Johnson
Attorney Supervisor
Office of the Secretary - Legal Affairs Division
Louisiana Department of Environmental Quality
P.O. Box 4302
Baton Rouge, LA 70821-4302

RE: Comments of the Louisiana Mid-Continent Oil and Gas Association on the Proposed Chapter 22 Work Practice Standards During Start-up and Shutdown Rule - Log No. AQ364

Dear Ms. Johnson:

The Louisiana Mid-Continent Oil and Gas Association appreciates the opportunity to comment on the Proposed Chapter 22 Work Practice Standards During Start-up and Shutdown Rule (Log No. AQ364) which appeared in the June 20, 2016 Louisiana Register. Mid-Continent is an industry trade association which represents individuals and companies who together produce, transport, refine and market crude oil, natural gas and petroleum products in Louisiana and the Gulf of Mexico. Several Mid-Continent members operate in the Baton Rouge area which is the area primarily affected by the proposed amendments. Additionally, several Mid-Continent members operate in areas which could be declared nonattainment under a possible new ozone ambient air quality standard and would also greatly benefit from the proposed amendments if the Chapter 22 regulations are extended to those geographic areas.

Mid-Continent supports the proposed amendments. As several widely used control strategies either do not work and/or would cause damage to the equipment if they operated during start-up and shutdown, an alternative to the normal emissions limits is needed.

Mid-Continent requests that would allow the Department to approve an alternative to those standards listed in Subsection 2201.K. on a case-by-case basis. This approval could be permanent and/or could be a one-time basis based on unique conditions at the facility.

Once again, Mid-Continent appreciates the opportunity to submit these comments.

Sincerely;

Richard T. Metcalf

Richard T. Metcalf
Director of Environmental Affairs

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EXECUTIVE ORDER JBE 16-08

Flags at Half-Staff to Honor Senator Edgar "Sonny" Mouton

WHEREAS, former Louisiana State Representative and State Senator Edgar "Sonny" Mouton, died on Thursday, March 24, 2016, at the age of 86;

WHEREAS, Edgar "Sonny" Mouton represented Lafayette as a legislator for sixteen years, beginning with his election to the Louisiana House of Representatives in 1964 and subsequent election to the Twenty-Third District for the Senate in 1966, serving as president pro-tem of the Senate from 1976 to 1980;

WHEREAS, Senator Mouton served in multiple leadership roles in the legislature, as Chairman of the Committee on Health, Education, and Welfare; Vice-Chairman of the Senate and Governmental Affairs Committee; member of the Governor's Committee on Reorganization of State government; and as a member of the Joint Legislative Budget Committee;

WHEREAS, Senator Mouton served as a powerful voice supporting French immersion studies, playing an instrumental role in the passage of legislation in 1968 creating CODOFIL, the Council for the Development of French in Louisiana, the aim of which is to preserve the use of the French language in the State of Louisiana;

WHEREAS, within the state legislature, he was known for his commitment to improving infrastructure and working across party lines, and within his community, he was known for his leadership and dedication;

WHEREAS, his civic and public service achievements were recognized at his induction into the "Order of Living Legends" in 2003 and the Louisiana Political Hall of Fame in 2004; and

WHEREAS, Senator Mouton was a truly dedicated public servant and he will be remembered for making Louisiana a better place.

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

SECTION 1: As an expression of respect for Senator Edgar "Sonny" Mouton, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all public buildings and institutions of the State of Louisiana until sunset on Monday, March 28, 2016.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Monday, March 28, 2016, unless amended, modified, terminated, or rescinded prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of March, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1604#024

EXECUTIVE ORDER JBE 16-09

Consistency with Louisiana's Comprehensive Master Coastal Plan to Ensure a Sustainable Integrated Coastal Ecosystem

WHEREAS, Louisiana and its citizens have suffered catastrophic losses and human, economic, and social harm as a result of coastal land and wetlands loss, and the continued threat of further land loss to Louisiana's working coast threatens the viability of residential, agricultural, energy, and industrial development as well as valuable fish and wildlife production in coastal Louisiana;

WHEREAS, Louisiana continues to experience one of the fastest rates of coastal erosion in the world, and parts of our State remain unprotected from or vulnerable to future hurricane and flood event impacts;

WHEREAS, our working coast is a national treasure which provides protection for infrastructure that supplies 90% of the nation's outer continental oil and gas, 20% of the nation's annual waterborne commerce, 26% (by weight) of the continental U.S. commercial fishing lands, and winter habitat for five million migratory waterfowl;

WHEREAS, coastal Louisiana is also a vital regional asset which serves as residence to two million people and as a historical foundation to our unique cultural heritage;

WHEREAS, Louisiana's first coastal master plan, *Integrated Ecosystem Restoration and Hurricane Protection: Louisiana's Comprehensive Master Plan for a Sustainable Coast* ("Coastal Master Plan"), was approved by the Coastal Protection and Restoration Authority ("CPRA") at its April 12, 2007, meeting and unanimously approved by the Louisiana Legislature through Senate Concurrent Resolution No. 11 during the 2007 Regular Session;

WHEREAS, Louisiana's Coastal Protection, Conservation, Restoration, and Management Act, La. R.S. 49:214.1-214.42, requires the CPRA Board to review, revise, and amend the Master Plan at least every five years;

WHEREAS, in accordance with their statutory mandate, the CPRA Board approved the 2012 Coastal Master Plan at its March 21, 2012, meeting, and the revised Coastal Master Plan was unanimously approved by the Louisiana Legislature through Senate Concurrent Resolution No. 46 during the 2012 Regular Session;

WHEREAS, the Coastal Master Plan states a goal of protection, through the use of a combination of restoration, nonstructural, targeted structural measures to provide increased flood protection for all communities, and restoration, through the use of an integrated and synergistic approach to ensure a sustainable and resilient coastal landscape;

WHEREAS, the Coastal Master Plan acknowledges the need for coordination among government agencies, as well as our local and federal partners, in order to ensure consistency with the Plan and to achieve the Plan's missions and objectives;

WHEREAS, billions of dollars have been invested in the Coastal Master Plan and tremendous progress has been made since the 2007 Master Plan, including building or improving approximately 265 miles of levees, constructing 45 miles of barrier islands and berms, and benefitting over 27,000 acres of coastal habitat;

WHEREAS, state agencies must work in a cooperative manner and ensure activities subject to its jurisdictional authority are performed in a manner that expedites and promotes integrated coastal protection projects;

WHEREAS, Louisiana Revised Statute 49:214.3.1 directs the Governor, through his executive assistant for coastal activities, to "coordinate the powers, duties, functions, and responsibilities of any state agency relative to integrated coastal protection";

WHEREAS, Louisiana Revised Statute 49:214.3.1 also authorizes the Governor, through his executive assistant for coastal activities, to "review and modify proposed coastal use permits prior to issuance to the extent that such permits would authorize activities which significantly affect integrated coastal protection projects or which significantly diminish the benefits of projects intended to protect, conserve or enhance coastal areas and to require the issuance of permits for public or private integrated coastal protection projects or plans."

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

SECTION 1: In order to effectively and efficiently pursue the State's integrated coastal protection goals, all state agencies, departments, and offices shall administer their regulatory practices, programs, projects, contracts, grants, and all other functions vested in them in a manner consistent with Coastal Master Plan and public interest to the maximum extent possible.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 4th day of April, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1604#035

EXECUTIVE ORDER JBE 16-10

Governor's Advisory Council on Disability Affairs

WHEREAS, the Governor's Advisory Council on Disability Affairs was originally established by executive order to monitor state compliance with the Americans with Disabilities Act and to advise the Governor on the needs of individuals with disabilities and/or on other relative concerns;

WHEREAS, citizens of the State of Louisiana with disabilities have unique needs including, but not limited to, access to continued education concerning compliance with all disability rights laws;

WHEREAS, the State of Louisiana and its political subdivisions will strive to remove any barriers that may prohibit individuals with disabilities from living a full, integrated and active life, and will provide relative to accomplishing that goal; and

WHEREAS, it is in the best interests of the citizens of the State of Louisiana to continue the centralized and coordinated effort to further opportunities for persons with disabilities to enjoy full and equal access to lives of independence, productivity, and self-determination by serving the Louisiana citizens with disabilities through the continuance of the Governor's Advisory Council on Disability Affairs.

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

SECTION 1: The Governor's Advisory Council on Disability Affairs (hereafter "Council") is reestablished and recreated within the executive department, Office of the Governor, Office of Disability Affairs.

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

A. Advising the Governor, through the Office of Disability Affairs, on issues of concern to the Louisiana citizens with disabilities;

B. Identifying the needs, issues, and solutions relative to persons with disabilities;

C. Assisting the Office of Disability Affairs, when requested, in the resolution of state disabilities issues; and

D. Providing education, communication, and networking services concerning disability issues and needs for all Louisiana citizens.

SECTION 3: On or before January 5, the Council shall submit to the Governor annual reports regarding the issues set forth in Section 2 of this Order.

SECTION 4: The Council shall be composed of a maximum of thirty-one (31) members who, unless otherwise specified, shall be appointed by and serve at the pleasure of the Governor.

1. The secretary of the Louisiana Workforce Commission, or the secretary's designee;

2. The secretary of the Department of Transportation and Development, or the secretary's designee;

3. The secretary of Department of Veterans Affairs, or the secretary's designee;

4. The secretary of Department of Children and Family Services, or the secretary's designee;

5. The assistant secretary of the Office of Aging and Adult Services, or the assistant secretary's designee;

6. The assistant secretary of the Office of Behavioral Health, or the assistant secretary's designee;

7. The assistant secretary of the Office for Citizens with Developmental Disabilities, or the assistant secretary's designee;

8. A representative of the Division of Special Populations in the Department of Education;

9. A representative of ADA Enforcement of the Louisiana Office of State Fire Marshal Public Safety Services;

10. The executive director of the Governor's Office of Elderly Affairs, or the director's designee;

11. The executive director of the Governor's Office of Homeland Security and Emergency Preparedness, or the director's designee;

12. The chair of the Developmental Disabilities Council, or the chair's designee;

13. The chair of the Louisiana Assistive Technology Access Network, or the chair's designee;

14. The chair of the Louisiana Rehabilitation Council, or the chair's designee;

15. The chair of the Statewide Independent Living Council, or the chair's designee;

16. The executive director of the Arc of Louisiana, or the executive director's designee;

17. The executive director of the Advocacy Center, or the executive director's designee;

18. One (1) member of the Louisiana State Senate, designated by the President of the Louisiana Senate;

19. One (1) member of the Louisiana House of Representatives designated by the Speaker of the Louisiana House of Representatives;

20. Twelve (12) at-large members with qualifications deemed appropriate by the Governor, which will include members with disabilities.

SECTION 5: The chair of the Council shall be appointed by the Governor from the membership of the Council. All other officers, if any, shall be elected by and from the membership of the Council.

SECTION 6: The Council shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 7: Council members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Council.

Council members who are an employee or an elected public official of the state of Louisiana or a political subdivision of the state of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

Council members who are also a member of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 8: Support staff, facilities, and resources for the Council shall be provided by the Office of Disability Affairs, Office of the Governor.

SECTION 9: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the Council in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 7th day of April, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1604#046

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Restrictions on Application of Certain Pesticides
(LAC 7:XXIII.1103)

In accordance with the Administrative Procedure Act, R.S. 49:953, and R.S. 3:3202(A), the commissioner of agriculture and forestry is exercising the emergency provisions of the Administrative Procedure Act in implementing the following rules and regulations governing the restrictions of applications of certain pesticides in certain parishes during certain times.

Due to current weather and crop conditions, the time frame for application of these pesticides needs to be extended. Agriculture has been hit by adverse weather conditions for the last four years. Unless conditions change the agriculture community will lose more farmers this year than in the past several years. Currently, the timeframe for requiring waivers for applications of these certain pesticides begins on March 15 annually. The department proposes to extend the application time, without the need for a waiver, through April 1. This extension is in an effort to insure that farm land is economically and properly prepared for crop planting, without which more farmers will not be able to farm.

Therefore, the commissioner of agriculture and forestry has determined that the extension of this timeframe constitutes an imminent peril to the health and safety of the Louisiana agricultural community and the citizens of Louisiana.

This Emergency Rule becomes effective upon signature, March 14, 2016, and will remain in effect until April 1, 2016.

Title 7
AGRICULTURE AND ANIMALS
Part XXIII. Advisory Commission on Pesticides
Chapter 11. Regulations Governing Application of Pesticides
§1103. Restrictions on Application of Certain Pesticides

A. In addition to all other pesticides classified by EPA as restricted use pesticides, the pesticides listed in Subsection B of this Section are classified as restricted use pesticides within the state of Louisiana, except:

1. when formulated in concentration of 2 percent or less; or
2. when formulated with fertilizer for use by homeowners; or
3. when formulated in containers of one quart or less or two pounds dry weight or less.

B. The following pesticides may not be applied by commercial applicators during the times set forth in this Rule in the areas listed in §1103.C, D and E.

Chemical Name	Common Name
1. 4-amino-3, 5,6-trichloro-picolinic acid	Picloram
2. Arsenic trioxide	---
3. 3-chlorophenoxy-alpha-propionamide	3-CPA
4. 4-chlorophenoxy acetic acid	4-CPA
5. 2,4-dichlorophenoxy acetic acid	2,4-D
6. 4-(2,4-dichlorophenoxy) butyric	2,4-DB
7. 2,methoxy-3, 6-dichlorobenzoic acid	Dicamba
8. 2-methyl-4-chlorophenoxyacetic acid	2, 4-MCPA
9. 4-(2 methyl-4-chlorophenoxy) butyric acid	---
10. 2-(2 methyl-4-chlorophenoxy)	2-MCPP
11. Arsenic acid	Arsenic
12. Sodium arsenite	---
13. 2-(2,4,5-trichlorophenoxy) ethyl 2,2 dichloropropionate	---
14. Tris (2,4-dichlorophenoxy ethyl) phosphite	---
15. A mixture of tri-, tetra-, and polychlorobenzoic acid	---

C. The pesticides listed in §1103.B shall not be applied by commercial applicators between April 1 and September 15 in the following parishes or wards:

1. Avoyelles;
2. Bossier;
3. Caddo;
4. Caldwell;
5. Catahoula;
6. Claiborne, Ward 4;
7. Concordia;
8. DeSoto, Ward 7;
9. East Carroll;
10. Evangeline, Wards 1, 3 and 5;
11. Franklin;
12. Grant;
13. Iberville Ward 9;
14. LaSalle;
15. Madison;
16. Morehouse;
17. Natchitoches;
18. Ouachita;
19. Pointe Coupee;
20. Rapides;
21. Red River;
22. Richland;
23. St. Landry;
24. St. Martin, Ward 5;
25. Tensas;
26. Union;
27. West Carroll;
28. West Baton Rouge, Wards 5, 6, and 7;
29. Winn, Ward 7.

D. - O.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:189 (April 1983), amended LR 10:196 (March 1984), LR 11:219 (March 1985), LR 11:942 (October 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental

Sciences, LR 18:953 (September 1992), LR 19:1119 (September 1993), LR 21:668 (July 1995), LR 24:281 (February 1998), LR 24:2076 (November 1998), LR 26:1428 (July 2000), LR 26:1966 (September 2000), LR 27:279 (March 2001), LR 27:1672 (October 2001), LR 33:1855 (September 2007), LR 35:628 (April 2009), LR 36:1980 (September 2010), LR 37:269 (January 2011), LR 37:809 (March 2011), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3478 (December 2011), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 38:1556 (July 2012), LR 42:

Mike Strain, DVM
Commissioner

1604#001

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Boll Weevil Eradication Commission

Maintenance and Inspection Fee
Cotton Producers (LAC 7:XV.Chapter 3)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the enabling authority of R.S. 3:1604.1, R.S. 3:1652, and R.S. 3:1655, notice is hereby given that the Department of Agriculture and Forestry is, by Emergency Rule, amending LAC 7:XV.301, 303, and 321. The amendments to these rules reduce the maintenance inspection fee paid by cotton producers from $6 per acre to $5 per acre.

Current cotton commodity prices are the lowest seen in over 10 years, thus significantly reducing farm income for cotton producers. This Declaration of Emergency is required in order to provide cotton producers in the state of Louisiana some relief in the input costs necessary to produce a cotton crop. This fee reduction must be adopted by Emergency Rule because cotton producers must pay the fee by July 15 of each year and there is not sufficient time to amend the rules via the permanent rulemaking process prior to July 15.

This Rule shall have the force and effect of law on April 20, 2016, and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry, or until permanent rules are promulgated in accordance with law.

Title 7
AGRICULTURE AND ANIMALS
Part XV. Plant Protection and Quarantines
Chapter 3. Boll Weevil

§301. Maintenance Inspection Fee

A. In accordance with R.S. 3:1655(D), the state entomologist is authorized to assess fees to defray the costs of inspections or the issuance of certificates or permits for the shipment of agricultural products, commodities, packaging, or equipment. There is hereby established a fee for the inspection and certification of cotton for the presence of the boll weevil to ensure the marketability of cotton in commerce and maintain Louisiana's boll weevil-free status. The fee shall be $5 per acre for each acre of cotton planted in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 40:1517 (August 2014), amended LR 42:

§303. Definitions Applicable to Boll Weevil

A. The words and terms defined in R.S. 3:1603 are applicable to this Chapter.

B. The following words and terms are defined for the purposes of this Chapter.

* * *

Maintenance Inspection Fee—the fee paid by cotton producers to finance, in whole or in part, a program to inspect cotton for the presence of the boll weevil in the state and to issue certificates or permits in accordance with R.S. 3:1655(D). The charge to the producer is calculated at the rate of $5 per acre for each acre of cotton planted in the state.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 23:195 (February 1997), LR 37:2583 (September 2011), LR 40:1517 (August 2014), LR 42:

§321. Maintenance Inspection Fees, Payment and Penalties

A. The annual maintenance inspection fee on cotton producers in the Louisiana eradication zone shall be $5 per acre for each acre of cotton planted in the state. Each cotton producer shall pay his annual maintenance inspection fee directly to the department no later than July 15 or final certification with the FSA for that growing season, whichever is later. The signed and completed cotton acreage reporting and payment form with FSA Form 578 attached shall be submitted with the annual payment of the maintenance inspection fee.

B. - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1609, 1610, 1612, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997), LR 24:2231 (December 1998), LR 25:829 (May 1999), LR 29:859 (June 2003), LR 30:1142 (June 2004), LR 30:2443 (November 2004), LR 37:2583 (September 2011), LR 40:1519 (August 2014), LR 42:

Mike Strain, DVM
Commissioner

1604#038

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Animal Health and Food Safety

Turtle Eggs and Turtles—International Shipments
(LAC 7:XXI.1909)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority set forth in R.S. 3:2358.2 and 3:2358.10, notice is hereby given that the Department of Agriculture and Forestry is, by Emergency Rule, amending LAC 7:XXI.1909 regarding requirements for international shipments of turtles.

Currently, LAC 7:XXI.1909 requires a health certificate and certified laboratory report accompany all international shipments, irrespective of whether the country of destination requires the same. Louisiana is the only state in the nation with these exit requirements in lieu of following the entry requirements for the country of destination. The current regulation is overly burdensome and adds additional cost to Louisiana turtle farmers attempting to ship their commodities internationally. By amending LAC 7:XXI.1909 to require a health certificate and certified laboratory report when required by the country of destination, instead of for every international shipment, Louisiana turtle farmers will no longer be subject to an unfair trade disadvantage.

This Rule shall have the force and effect of law on the date of signature, April 6, 2016, and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry, or until permanent rules are promulgated in accordance with law.

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Animals and Animal Health
Chapter 19. Turtles
(Formerly Chapter 23)
§1909. Movement of Turtle Eggs and Turtles
(Formerly §2307)

A. - A.6. …

7. Turtles or eggs intended for international commerce shall be conspicuously marked "For Export Only" on the outside of the shipping package. Turtles or eggs intended for international commerce shall be accompanied by a health certificate and/or a certified laboratory report if either is required by the country of destination.

8. - 9. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1569 (August 2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:980 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 42:

Mike Strain, DVM
Commissioner

1604#039

DECLARATION OF EMERGENCY

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs—Definition of Eligible Non-Citizen and Elimination of Awards in the Event of Budget Shortfall (LAC 28:IV.301, 701 and 2107)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the scholarship/grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1.1-3042.8, R.S. 17:5001 et seq., and R.S. 56:797.D(2)].

This rulemaking clarifies the definition of *eligible non-citizen*, clarifies that Performance and Honors Award stipends are paid for each semester for which tuition is paid by TOPS and for which the student remains eligible for the award, and clarifies that awards to students who do not file the FAFSA or renewal FAFSA will be the first eliminated within their ACT cohort and deletes a provision that is only applicable to the 1998-1999 award year.

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

This Declaration of Emergency is effective March 15, 2016, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG16169E)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education
Scholarship and Grant Programs
Chapter 3. Definitions
§301. Definitions

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Eligible Noncitizen—

a. an individual who can provide documentation from the U.S. Citizenship and Immigration Services (USCIS) or its successor that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident, including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the United States must provide documentation from the USCIS to verify permanent residency. For 1997, 1998 and

1999 high school graduates, an eligible noncitizen shall be treated as meeting the citizenship requirements for an award under this Part;

b. beginning with the 2018-2019 academic year (high school) and later, a student who is not a citizen of the United States but who is the child of a non-United States citizen who is either serving in any branch of the United States Armed Forces or has been honorably discharged from any branch of the United States Armed Forces shall be treated as meeting the citizenship requirements for an award under this Part.

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 40:53 (January 2014), LR 40:281 (February 2014), LR 41:649, 658 (April 2015), LR 41:2595 (December 2015), LR 42:

Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§701. General Provision

A. - E.1.b. …

2.a. The TOPS Performance Award provides a $400 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed 8 semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1(H), or LAC 28:IV.503.D, 509.C, or 701.E.2.b. If a student attends an eligible summer session, quarter, term, or equivalent unit and requests that their TOPS award be paid for that session, semester, quarter, term, or equivalent unit, the stipend will also be paid since payment of a TOPS award for a summer session, quarter, term, or equivalent unit will count toward the 8-semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

3.a. The TOPS Honors Award provides an $800 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed 8 semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1(H), or LAC 28:IV.503.D, 509.C or 701.E.3.b. If a student attends an eligible summer session, quarter, term, or equivalent unit and requests that their TOPS award be paid for that session, semester, quarter, term, or equivalent unit, the stipend will also be paid since payment of a TOPS award for a summer session, quarter, term, or equivalent unit will count toward the 8-semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

4.a. Through the 2009-2010 academic year (college), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provided therein, plus any applicable TOPS stipend and a sum of not more than $150 per semester or $300 annually for the actual cost of books and other instructional materials.

b. Beginning with the 2010-2011 academic year (college), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students with the TOPS Opportunity, Performance and Honors Award participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provided therein, plus a sum of $300 per semester or $600 per academic year to be applied toward the cost of books and other instructional materials. In addition, those students with the Performance Award shall receive $400 per semester or $800 per academic year for other educational expenses and those students with the Honors Award shall receive $800 per semester or $1,600 per academic year for other educational expenses. If the student attends an eligible summer session, quarter, term, or equivalent unit and requests that their TOPS award be paid for that session, semester, quarter, term, or equivalent unit in accordance with this Paragraph, the amounts stipulated herein will also be paid since payment of a TOPS award for a summer session, quarter, term, or equivalent unit will count toward the eight-semester limit for TOPS.

E.5. - G.2. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1645-1648 (December 1997), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999), LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26:1995 (September 2000), LR 26:2000 (September 2000), repromulgated LR 27:1848 (November 2001), amended LR 28:447 (March 2002), LR 28:2331 (November 2002), LR 29:880 (June 2003), LR 29:2372 (November 2003), LR 30:1161 (June 2004), LR 31:2213 (September 2005), LR 35:228 (February 2009), LR 36:2854 (December 2010), LR 40:1002 (May 2014), LR 41:663 (April 2015), LR 42:

Chapter 21. Miscellaneous Provisions and Exceptions

§2107. Funds and Funding

A. - B. …

C. Insufficient Funds Appropriated

1. All LASFAC-administered state scholarship and grant program awards are contingent upon the annual appropriation of funds by the Louisiana Legislature.

2. In the event appropriated funds are insufficient to fully reimburse institutions for awards and stipends for all students determined eligible for the TOPS Opportunity, Performance, Honors and TECH Awards for a given academic year, then the number of eligible students shall be reduced in accordance with the following procedures until such funds are sufficient.

a. Applicants will be prioritized according to their ACT score and, within ACT score, by their EFC in ranges of $1,000, from lowest to highest. Beginning with the lowest qualifying ACT score, the students who do not submit financial data on the initial FAFSA or a renewal FAFSA or who do not submit a renewal FAFSA to allow determination of eligibility for federal aid shall be eliminated, then those students with the highest EFC until the funds available are sufficient to award all remaining students or until all students with that ACT score have been eliminated. This process shall be repeated, beginning with the lowest ACT score and progressing to the highest ACT score, until the projected expenditure for awards equals the funds appropriated for that purpose.

b. Awards to students that are eliminated because they did not submit financial data on the initial FAFSA or a renewal FAFSA or who did not submit a renewal FAFSA to allow determination of eligibility for federal aid will not be reinstated until the Legislature appropriates sufficient monies to fund all awards for all students who are eligible to receive an award.

3. From among those students otherwise eligible who are denied an award because of the imposition of the procedures in §2107.C.2, if additional funds subsequently become available for expenditure in the same award year, those students who have the highest ACT scores and the least capacity to pay, as evidenced by their families' lower EFC, shall be the first to be awarded by reversing the procedure described in §2107.C.2.a.

D. Stop Payment of Uncleared Checks. The LASFAC may stop payment on checks which are issued as scholarship or grant awards but not negotiated by September 1 following the close of the academic year for which they were issued.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:1998 (September 2000), repromulgated LR 27:1869 (November 2001), amended LR 28:449 (March 2002), LR 28:777 (April 2002), LR 28:2333 (November 2002), LR 31:40 (January 2005), LR 38:3162 (December 2012), LR 42:

Robyn Rhea Lively
Senior Attorney

1604#003

DECLARATION OF EMERGENCY

Tuition Trust Authority
Office of Student Financial Assistance

START Saving Program (LAC 28:VI.305 and 315)

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

This rulemaking aligns the START Saving Program rules with *Internal Revenue Code* section 529 by providing that an account owner may change his investment option twice during each calendar year, and it adds the applicable interest rates for the 2015 calendar year.

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

This Declaration of Emergency is effective March 15, 2016, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (ST16170ER)

Title 28
EDUCATION
Part VI. Student Financial Assistance—Higher Education Savings

Chapter 3. Education Savings Account

§305. Deposits to Education Savings Accounts

A. - D.4.d. …

e. Beginning the 2015 calendar year and thereafter, the investment option may be changed two times each calendar year.

D.5. - E.4. …

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 35:236 (February 2009), LR 35:1234 (July 2009), LR 36:492 (March 2010), LR 36:2550 (November 2010), LR 42:

§315. Miscellaneous Provisions

A. - B.32. …

33. For the year ending December 31, 2015, the Louisiana Education Tuition and Savings Fund earned an interest rate of 1.67 percent.

34. For the year ending December 31, 2015, the Savings Enhancement Fund earned an interest rate of 1.15 percent.

C. - S.2. …

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1886 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 39:2238 (August 2013), LR 40:1926 (October 2014), LR 41:1487 (August 2015), LR 42:

Public Comments

Interested persons may submit written comments on the proposed changes (ST16170NI) until 4:30 p.m., May 10, 2016, to Sujuan Williams Boutté, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

1604#002

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Tax Commission

Ad Valorem Taxation
(LAC 61:V.101, 303, 304, 703, 907, 1103, 1307, 1503, 2501, 2503, 2713, 2717, 3101 and 3103)

The Louisiana Tax Commission exercised the provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, adopted an Emergency Rule on December 9, 2015, with an effective date of January 1, 2016, that will expire on April 30, 2016. The following Emergency Rule was adopted on April 7, 2016 with an effective date of May 1, 2016.

This Emergency Rule is necessary in order to comply with the commission's decision to update Table 1307.A, Current Cost of Other Pipelines (Onshore). The commission published a Notice of Intent, in the December 20, 2015 edition of the Louisiana Register, to promulgate §1307, Pipelines. The commission received written comments and a request for a hearing to discuss this matter. A meeting was held on January 26, 2016 in which the commission made its decision to update Table 1307.A. It was the intent of the commission to update this table in the original Emergency Rule, however it was omitted in error. A Potpourri Notice was published in the February 20, 2016 edition of the Louisiana Register, reflecting the updates to the table. A meeting was held on March 29, 2016 in which no one was present to further discuss this matter.

Pursuant to the Administrative Procedure Act, this Emergency Rule shall be in effect for a maximum of 120 days or until adoption of the Final Rule or another Emergency Rule, whichever occurs first.

Title 61
REVENUE AND TAXATION
Part V. Ad Valorem Taxation

Chapter 1. Constitutional and Statutory Guides to Property Taxation

§101. Constitutional Principles for Property Taxation

A. - F.3.h. …

G. Special Assessment Level

1. - 1.d. …

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, for the year prior to the application for the special assessment, exceeds $71,491 for tax year 2016 (2017 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. - 9. …

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007), LR 34:673 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:528 (March 2014), LR 41:671 (April 2015), LR 42:

Chapter 3. Real and Personal Property

§303. Real Property

A. - C.1. …

2. The capitalization rate shall be set by the Louisiana Tax Commission in conjunction with its Rulemaking Session.

a. It is recommended that the capitalization rate for affordable rental housing properties categorized as Tier 1 shall be within a range of 5.5 - 6.5 percent, increased by the effective tax rate; for affordable rental housing properties categorized as Tier 2 shall be within a range of 6.5 - 7.5 percent, increased by the effective tax rate; and for affordable rental housing properties categorized as Tier 3 shall be within a range of 7.5 - 8.5 percent, increased by the effective tax rate. The Tiers are as established and defined by the Real Estate Research Corporation for Apartment Investment Properties. These capitalization rates shall remain in effect until modified by the Louisiana Tax Commission in accordance with its rulemaking authority.

D. The Louisiana Tax Commission has ordered all property to be reappraised for the 2016 tax year in all parishes. All property is to be valued as of January 1, 2015.

E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 7:44 (February 1981), amended by the Department of Revenue and Taxation, Tax Commission, LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:611 (June 1991), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 25:312 (February 1999), LR 26:506 (March 2000), LR 29:367 (March 2003), LR 30:487 (March 2004), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), amended by the Division of Administration, Tax Commission, LR 38:799 (March 2012), LR 39:487 (March 2013), LR 42:

§304. Electronic Change Order Specifications, Property Classifications Standards and Electronic Tax Roll Export Specifications

A. Electronic Change Order Specifications

* * *

B. Property Classifications Standards

* * *

C. Electronic Tax Roll Export Specifications

Parish Information (Parish.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

Assessment Information (Assmt.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
tax_year	Numeric	4	Yes	Tax year submitting (ex. 1999, 2000)
* * *	* * *	* * *	* * *	* * *
homestead_exempt	Numeric	1	Yes	0 = None (default), 1 = homestead exemption and 2 = 100% Disabled Vet Homestead
* * *	* * *	* * *	* * *	* * *
taxpayer_addr3	Character	40	No	Tax payer's address line 3.
freeze	Numeric	1	Yes	0 = None (default), 1 = Over 65 Freeze, 2 = Disabled, 3 = Disabled Vet Freeze and 4 = Widow of POW/MIA
usufruct	Character	1	Yes	"N" = No (default) and "Y" = Yes

Assessment Value Information (Avalue.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

Assessment Millage Information (Amillage.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

Millage Group Information (Tgroup.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

Parcel Information (Parcel.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
tax_year	Numeric	4	Yes	Tax year submitting (ex. 1999, 2000)
* * *	* * *	* * *	* * *	* * *
par_address	Character	50	Yes	Parcel address. (911 address)
* * *	* * *	* * *	* * *	* * *

Legal Description Information (Legal.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

Additional Owner Information (Owner.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

Improvement Information (Improve.txt) (Required)				
Field Name	Field Type	Field Length	Required	Comments
* * *	* * *	* * *	* * *	* * *

Place FIPS Information (FIPS.txt)				
Field Name	Field Type	Field Length	Required	Comments
* * *	* * *	* * *	* * *	* * *

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:703 (March 2005), amended LR 32:427 (March 2006), LR 36:765 (April 2010), amended by the Division of Administration, Tax Commission, LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:529 (March 2014), LR 41:672 (April 2015), LR 42:

Chapter 7. Watercraft

§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

Table 703.A Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2015	1.003	1	94	.94
2014	1.012	2	87	.88
2013	1.025	3	80	.82
2012	1.034	4	73	.75
2011	1.063	5	66	.70
2010	1.097	6	58	.64
2009	1.088	7	50	.54
2008	1.120	8	43	.48
2007	1.164	9	36	.42
2006	1.227	10	29	.36
2005	1.284	11	24	.31
2004	1.381	12	22	.30
2003	1.429	13	20	.29

B. Floating Equipment—Barges (Non-Motorized)

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2015	1.003	1	97	.97
2014	1.012	2	93	.94
2013	1.025	3	90	.92
2012	1.034	4	86	.89
2011	1.063	5	82	.87
2010	1.097	6	78	.86
2009	1.088	7	74	.81
2008	1.120	8	70	.78
2007	1.164	9	65	.76
2006	1.227	10	60	.74
2005	1.284	11	55	.71
2004	1.381	12	50	.69
2003	1.429	13	45	.64
2002	1.453	14	40	.58
2001	1.462	15	35	.51
2000	1.474	16	31	.46
1999	1.501	17	27	.41
1998	1.505	18	24	.36

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1997	1.518	19	22	.33
1996	1.543	20	21	.32
1995	1.566	21	20	.31

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:772 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:802 (March 2012), LR 39:490 (March 2013), LR 40:530 (March 2014), LR 41:673 (April 2015), LR 42:

Chapter 9. Oil and Gas Properties

§907. Valuation of Oil, Gas, and Other Wells

A. …

* * *

ii. For wells producing 2 mcf or less of gas per day an additional reduction of 35 percent shall be applied.

* * *

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	$ Oil	$ Gas	$ Oil	$ Gas
0-1,249 ft.	37.53	131.37	5.63	19.71
1,250-2,499 ft.	33.89	96.60	5.08	14.49
2,500-3,749 ft.	26.64	63.97	4.00	9.60
3,750-4,999 ft.	36.84	63.74	5.53	9.56
5,000-7,499 ft.	43.32	62.22	6.50	9.33
7,500-9,999 ft.	94.97	83.87	14.25	12.58
10,000-12,499 ft.	276.94	101.73	41.54	15.26
12,500-14,999 ft.	450.38	153.62	67.56	23.04
15,000-17,499 ft.	576.45	175.17	86.47	26.28
17,500-Deeper ft.	N/A	490.00	N/A	73.50

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Table 907.A.2 Oil, Gas and Associated Wells; Region 2—South Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	$ Oil	$ Gas	$ Oil	$ Gas
0-1,249 ft.	288.60	130.51	43.29	19.58
1,250-2,499 ft.	99.66	216.92	14.95	32.54
2,500-3,749 ft.	97.32	172.95	14.60	25.94
3,750-4,999 ft.	85.78	138.35	12.87	20.75
5,000-7,499 ft.	117.19	157.16	17.58	23.57
7,500-9,999 ft.	159.87	164.54	23.98	24.68
10,000-12,499 ft.	218.00	215.08	32.70	32.26
12,500-14,999 ft.	285.98	278.26	42.90	41.74
15,000-17,499 ft.	463.22	372.55	69.48	55.88
17,500-19,999 ft.	565.59	527.70	84.84	79.16
20,000-Deeper ft.	302.00	792.24	45.30	118.84

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

Table 907.A.3 Oil, Gas and Associated Wells; Region 3—Offshore State Waters*				
Producing Depths	Cost—New By Depth, Per Foot		15% Of Cost—New By Depth, Per Foot	
	$ Oil	$ Gas	$ Oil	$ Gas
0 -1,249 ft.	N/A	N/A	N/A	N/A
1,250 -2,499 ft.	1,446.66	1,057.06	217.00	158.56
2,500 -3,749 ft.	743.89	812.39	111.58	121.86
3,750 -4,999 ft.	1,061.83	744.93	159.27	111.74
5,000 -7,499 ft.	528.41	689.97	79.26	103.50
7,500 -9,999 ft.	669.93	652.91	100.49	97.94
10,000 -12,499 ft.	758.42	661.82	113.76	99.27
12,500 -14,999 ft.	659.61	644.07	98.94	96.61
15,000 -17,499 ft.	454.63	668.29	68.19	100.24
17,500 - 19,999 ft.	226.46	638.90	33.97	95.84
20,000 - Deeper ft.	N/A	1,004.29	N/A	150.64

B. The determination of whether a well is a region 2 or region 3 well is ascertained from its onshore/offshore status as designated on the permit to drill or amended permit to drill form (location of wells section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the permit to drill or amended permit to drill form on file at the Department of Natural Resources.

1. Parishes Considered to be Located in Region I

Table 907.B.1 Parishes Considered to be Located in Region 1			
Bienville	DeSoto	Madison	Tensas
Bossier	East Carroll	Morehouse	Union
Caddo	Franklin	Natchitoches	Webster
Caldwell	Grant	Ouachita	West Carroll
Catahoula	Jackson	Red River	Winn
Claiborne	LaSalle	Richland	
Concordia	Lincoln	Sabine	

NOTE: All wells in parishes not listed above are located in Region 2 or Region 3.

2. Serial Number to Percent Good Conversion Chart

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	20 Year Life Percent Good
2015	248832	Higher	97
2014	247423	248831	93
2013	245849	247422	90
2012	244268	245848	86
2011	242592	244267	82
2010	240636	242591	78
2009	239277	240635	74
2008	236927	239276	70
2007	234780	236926	65
2006	232639	234779	60
2005	230643	232638	55
2004	229010	230642	50
2003	227742	229009	45
2002	226717	227741	40
2001	225352	226716	35
2000	223899	225351	31
1999	222882	223898	27
1998	221596	222881	24
1997	220034	221595	22
1996	218653	220033	21
1995	Lower	218652	20 *
VAR.	900000	Higher	50

*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009), LR 36:773 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1395 (May 2011), LR 38:803 (March 2012), LR 39:490 (March 2013). LR 40:531 (March 2014), LR 41:673 (April 2015), LR 42:

Chapter 11. Drilling Rigs and Related Equipment

§1103. Drilling Rigs and Related Equipment Tables

A. Land Rigs

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	$	$
3,000	625,100	93,800
4,000	707,600	106,100

Table 1103.A Land Rigs		
5,000	883,600	132,500
6,000	1,190,800	178,600
7,000	1,594,800	239,200
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
8,000	2,060,900	309,100
9,000	2,555,000	383,300
10,000	3,045,300	456,800
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
11,000	4,004,400	600,700
12,000	4,466,000	669,900
13,000	4,846,300	726,900
14,000	5,135,800	770,400
15,000	5,335,600	800,300
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
16,000	5,459,100	818,900
17,000	5,533,800	830,100
18,000	5,602,900	840,400
19,000	5,726,600	859,000
20,000	5,983,800	897,600
Depth 21,000 + Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
21,000	6,474,600	971,200
25,000 +	7,320,400	1,098,100

1. - 2. …

B. Jack-Ups

* * *

C. Semisubmersible Rigs

* * *

1. - 3.b.i. …

D. Well Service Rigs Land Only

Table 1103.D Well Service Rigs Land Only				
Class	**Mast**	**Engine**	**Fair Market Value (RCNLD)**	**Assessment**
I	71' X 125M# 71' X 150M# 72' X 125M# 72' X 150M# 75' X 150M#	C-7 50 SERIES 6V71	170,000	25,500
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 200M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	C-11 50 SERIES 8V71	215,000	32,300
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	C-11 50 SERIES 8V92	265,000	39,800

Table 1103.D Well Service Rigs Land Only				
Class	**Mast**	**Engine**	**Fair Market Value (RCNLD)**	**Assessment**
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	C-15 60 SERIES 12V71	305,000	45,800
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	C-15 60 SERIES 12V71 12V92	345,000	51,800
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	C-15 60 SERIES 12V71 (2) 8V92	385,000	57,800
VII	117' X 215M#	C-15 60 SERIES (2) 8V92 (2) 12V71	470,000	70,500

D.1. - E.1. ….

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:683 (April 2008), LR 35:497 (March 2009), LR 36:778 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1399 (May 2011), LR 38:808 (March 2012), LR 39:495 (March 2013), LR 40:536 (March 2014), LR 41:678 (April 2015), LR 42:

Chapter 13. Pipelines

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines (Onshore)

Table 1307.A Current Costs for Other Pipelines (Onshore)		
Diameter (inches)	**Cost per Mile**	**15% of Cost per Mile**
2	$ 178,910	$ 26,840
4	210,660	31,600
6	248,060	37,210
8	292,090	43,810
10	343,940	51,590
12	404,990	60,750
14	476,880	71,530
16	561,530	84,230
18	661,200	99,180

Table 1307.A Current Costs for Other Pipelines (Onshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
20	778,570	116,790
22	916,770	137,520
24	1,079,510	161,930
26	1,271,130	190,670
28	1,496,760	224,510
30	1,762,450	264,370
32	2,075,300	311,300
34	2,443,680	366,550
36	2,877,450	431,620
38	3,388,220	508,230
40	3,989,650	598,450
42	4,697,850	704,680
44	5,531,750	829,760
46	6,513,680	977,050
48	7,669,900	1,150,490

NOTE: Excludes river and canal crossings

B. Current Costs for Other Pipelines (Offshore)

Table 1307.B Current Costs for Other Pipelines (Offshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
2	$ 1,014,580	$ 152,190
4	1,017,520	152,630
6	1,021,320	153,200
8	1,037,910	155,690
10	1,062,240	159,340
12	1,094,340	164,150
14	1,134,190	170,130
16	1,181,800	177,270
18	1,237,170	185,580
20	1,300,300	195,050
22	1,371,180	205,680
24	1,449,820	217,470
26	1,536,220	230,430
28	1,630,370	244,560
30	1,732,280	259,840
32	1,841,950	276,290
34	1,959,380	293,910
36	2,084,560	312,680
38	2,217,500	332,630
40	2,358,200	353,730
42	2,506,650	376,000
44	2,662,860	399,430
46	2,826,830	424,020
48	2,998,560	449,780

C. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006), LR 33:494 (March 2007), LR 34:684 (April 2008), LR 35:499 (March 2009), LR 36:778 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1401 (May 2011), LR 38:809 (March 2012), LR 39:496 (March 2013), LR 40:537 (March 2014), LR 41:680 (April 2015), LR 42:

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft (Including Helicopters)

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (20 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2015	1.003	1	97	.97
2014	1.012	2	93	.94
2013	1.025	3	90	.92
2012	1.034	4	86	.89
2011	1.063	5	82	.87
2010	1.097	6	78	.86
2009	1.088	7	74	.81
2008	1.120	8	70	.78
2007	1.164	9	65	.76
2006	1.227	10	60	.74
2005	1.284	11	55	.71
2004	1.381	12	50	.69
2003	1.429	13	45	.64
2002	1.453	14	40	.58
2001	1.462	15	35	.51
2000	1.474	16	31	.46
1999	1.501	17	27	.41
1998	1.505	18	24	.36
1997	1.518	19	22	.33
1996	1.543	20	21	.32
1995	1.566	21	20	.31

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:495 (March 2007), LR 34:685 (April 2008), LR 35:499 (March 2009), LR 36:779 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1401 (May 2011), LR 38:809 (March 2012), LR 39:497 (March 2013), LR 40:538 (March 2014), LR 41:680 (April 2015), LR 42:

Chapter 25. General Business Assets

§2501. Guidelines for Ascertaining the Fair Market Value of Office Furniture and Equipment, Machinery and Equipment and Other Assets Used in General Business Activity

A. - G.2. …

H. Alternative Procedure 3

1. This procedure should be used only if external (economic) and/or functional obsolescence has affected the fair market value of the business and industrial personal property. External (economic) and/or functional obsolescence are defined in §301 of these rules and regulations. This procedure is to be used for Salt Dome Storage Wells and Caverns permitted as Class II Type 10,

11-L or 11-N. Negative economic obsolescence may occur resulting in a positive adjustment known as munificence.

2. - 5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 31:719 (March 2005), LR 33:495 (March 2007), LR 34:685 (April 2008), LR 35:500 (March 2009), LR 42:

§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

A. - A.1. …

Table 2503.A Business Activity/Type of Equipment	Average Economic Life in Years
Agricultural Machinery and Equipment Feed Mill Equipment (Production Line)	10 20
* * *	* * *
Rock Crushers (See: Construction)	
Salt Dome Storage Wells & Caverns (LDNR Class II Type 10, 11-L or 11-N)	30
Sawmills (See: Lumber)	
* * *	* * *
*If acquisition cost and age of service station equipment are not available, see Chapter 9, Table 907.B-2 for alternative assessment procedure.	

* * *

B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2015 = 100*
2015	1	1593.7	1.003
2014	2	1578.8	1.012
2013	3	1558.7	1.025
2012	4	1545.9	1.034
2011	5	1503.2	1.063
2010	6	1457.4	1.097
2009	7	1468.6	1.088
2008	8	1427.3	1.120
2007	9	1373.3	1.164
2006	10	1302.3	1.227
2005	11	1244.5	1.284
2004	12	1157.3	1.381
2003	13	1118.6	1.429
2002	14	1100.0	1.453
2001	15	1093.4	1.462
2000	16	1084.3	1.474
1999	17	1065.0	1.501
1998	18	1061.8	1.505
1997	19	1052.7	1.518
1996	20	1036.0	1.543
1995	21	1020.4	1.566
1994	22	985.0	1.622
1993	23	958.0	1.668
1992	24	939.8	1.700
1991	25	928.5	1.721
1990	26	910.2	1.756
1989	27	886.5	1.803
1988	28	841.4	1.899

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2015 = 100*
1987	29	806.9	1.981
1986	30	795.4	2.009
1985	31	787.9	2.028

*Reappraisal Date: January 1, 2015 – 1598.1 (Base Year)

C. Percent Good

Table 2503.C Percent Good										
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr	30 Yr
1	.70	.85	.87	.90	.92	.94	.95	.97	.98	.98
2	.49	.69	.73	.79	.84	.87	.90	.93	.95	.97
3	.34	.52	.57	.67	.76	.80	.85	.90	.93	.95
4	.16	.34	.41	.54	.67	.73	.79	.86	.90	.93
5		.23	.30	.43	.58	.66	.73	.82	.87	.91
6		.18	.19	.33	.49	.58	.68	.78	.84	.89
7			.18	.26	.39	.50	.62	.74	.81	.86
8				.22	.30	.43	.55	.70	.78	.84
9				.20	.24	.36	.49	.65	.75	.82
10					.21	.29	.43	.60	.71	.79
11					.20	.24	.37	.55	.68	.76
12						.22	.31	.50	.64	.74
13						.20	.26	.45	.60	.71
14							.23	.40	.56	.68
15							.21	.35	.52	.65
16							.20	.31	.48	.61
17								.27	.44	.58
18								.24	.39	.54
19								.22	.34	.51
20								.21	.30	.47
21								.20	.28	.44
22									.26	.40
23									.24	.37
24									.20	.34
25									.20	.31
26									.20	.28
27										.26
28										.23
29										.21
30										.20
31										.20

D. Composite Multipliers 2016 (2017 Orleans Parish)

Table 2503.D Composite Multipliers 2016 (2017 Orleans Parish)										
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr	30 Yr
1	.70	.85	.87	.90	.92	.94	.95	.97	.98	.98
2	.50	.70	.74	.80	.85	.88	.91	.94	.96	.98
3	.35	.53	.58	.69	.78	.82	.87	.92	.95	.97
4	.17	.35	.42	.56	.69	.75	.82	.89	.93	.96
5		.24	.32	.46	.62	.70	.78	.87	.92	.95
6		.20	.21	.36	.54	.64	.75	.86	.92	.94
7			.20	.28	.42	.54	.67	.81	.88	.94
8				.25	.34	.48	.62	.78	.87	.94
9				.23	.28	.42	.57	.76	.87	.93
10					.26	.36	.53	.74	.87	.92
11					.26	.31	.48	.71	.87	.91
12						.30	.43	.69	.86	.90
13						.29	.37	.64	.86	.90
14							.33	.58	.81	.90
15							.31	.51	.76	.90
16							.29	.46	.71	.90

Table 2503.D Composite Multipliers 2016 (2017 Orleans Parish)										
17								.41	.66	.87
18								.36	.59	.81
19								.33	.52	.77
20								.32	.46	.73
21								.31	.44	.69
22									.42	.65
23									.40	.62
24									.34	.58
25									.34	.53
26									.33	.49
27										.47
28										.44
29										.42
30										.40
31										.39

1. Data sources for tables are:
   a. Cost Index—Marshall and Swift Publication Co.;
   b. Percent Good—Marshall and Swift Publication Co.;
   c. Average Economic Life—various.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:686 (April 2008), LR 35:500 (March 2009), LR 36:780 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1402 (May 2011), LR 38:810 (March 2012), LR 39:497 (March 2013), LR 40:538 (March 2014), LR 41:681 (April 2015), LR 42:

Chapter 27. Guidelines for Application, Classification and Assessment of Land Eligible to be Assessed at Use Value

§2713. Assessment of Timberland

A. - B.4. …

C. Range of Productivity of Timberland. The timberland productivity of each of the four classifications of timberland is hereby established to be as follows:

1. Class 1 = 86.6 cu. ft. of growth/acre/year;
2. Class 2 = 66.8 cu. ft. of growth/acre/year;
3. Class 3 = 39.4 cu. ft. of growth/acre/year;
4. Class 4 = 38.8 cu. ft. of growth/acre/year.

D. Production Costs of Timberland. The average timberland production costs are hereby established to be $10.46/acre/year.

E. Gross Returns of Timberland. The gross value per cubic foot of timber production is hereby established to be $0.58 per cubic foot.

F. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 through R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:248 (April 1987), LR 14:872 (December 1988), LR 17:1213 (December 1991), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 26:511 (March 2000), LR 30:492 (March 2004), amended by the Division of Administration, Tax Commission, LR 38:811 (March 2012), LR 42:

§2717. Tables—Use Value

A. Average Assessed Value per Acre of Agricultural and Horticultural Land, by Class

Table 2717.A Average Assessed Value per Acre of Agricultural and Horticultural Land, by Class		
Class	Assessed Value Per Acre	
	Upper	Lower
Class I	$ 40.01	$ 33.81
Class II	$ 33.57	$ 25.23
Class III	$ 24.75	$ 21.90
Class IV	$ 21.41	$ 14.26

B. Average Assessed Value per Acre of Timberland, by Class

Table 2717.B Average Assessed Value per Acre of Timberland, by Class	
Class	Assessed Value Per Acre
Class 1	$ 39.77
Class 2	$ 28.28
Class 3	$ 12.39
Class 4	$ 7.53

C. Average Assessed Value per Acre of Marsh Land, by Class

* * *

NOTE: Only the parishes listed above should have lands classified as marshland. All other parishes should classify such land as all other acreage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 through R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:248 (April 1987), LR 13:764 (December 1987), LR 14:110 (February 1988), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:491 (March 1998), LR 26:511 (March 2000), LR 30:492 (March 2004), amended by the Division of Administration, Tax Commission, LR 38:811 (March 2012), LR 42:

Chapter 31. Public Exposure of Assessments; Appeals

§3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings

A. - I. …

J. The Board of Review shall provide each appellant taxpayer with a written notice of their particular appeal determination with a copy submitted to the assessor and the Tax Commission on or before the certification of the assessment list to the Tax Commission. The notice of determination shall be sent to the assessor and the taxpayer at the address shown on the appeal form by certified mail.

K. The determination of the Board of Review shall be final unless appealed, in writing, to the Tax Commission within 10 business days after certified mail delivery to the appealing taxpayer or assessor of the Board of Review notice of determination. Either or both parties may appeal the Board of Review determination to the Tax Commission.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1992, R.S. 47:2301 and R.S. 47:2321.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:188 (March 1987), LR 13:764 (December 1987), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 32:435 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 35:501 (March 2009), LR 36:781 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1403 (May 2011), LR 38:811 (March 2012), LR 40:539 (March 2014), LR 41:682 (April 2015), LR 42:

§3103. Appeals to the Louisiana Tax Commission

A. ...

B. An appeal to the Louisiana Tax Commission shall be filed with the commission within 10 business days after the Board of Review's written decision is delivered to the appealing taxpayer or assessor via certified mail. In order to institute a proceeding before the commission, the taxpayer or assessor shall file Form 3103.A and, if applicable, Form 3103.B. The assessor shall confirm, in writing, to the Tax Commission that the Board of Review has issued a written determination to each taxpayer and to the assessor's office in the format required by §3101.J.

C. All filings to the Louisiana Tax Commission shall be filed in proper form, consisting of an original and seven copies on letter size paper, with the Office of the Administrator. All exhibits, where it is helpful, to the consideration of such exhibits, shall be indexed, numbered, color coded, tabbed or otherwise so identified as to provide ready accessibility. All appeals and filings shall be deemed filed when deposited with the United States Postal Service and can be evidenced by proof of mailing by registered or certified mail.

C.1. - T. …

U. The parties to an appeal shall be notified in writing, by certified mail, of the final decision by the commission. The taxpayer or assessor shall have thirty (30) days from receipt of the Order to appeal to a court of competent jurisdiction.

V. - X. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 28:521 (March 2002), LR 31:721 (March 2005), LR 32:436 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 36:782 (April 2010), amended by the Division of Administration, Tax Commission, LR 38:811 (March 2012), LR 41:682 (April 2015), LR 42:

Lawrence E. Chehardy
Chairman

1604#078

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Board of Pharmacy

Accreditation of Pharmacy Technician Training Programs
(LAC 46:LIII.905)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953(B), to amend its rules governing the process of obtaining a pharmacy technician certificate by delaying the implementation of the requirement to complete a nationally-accredited pharmacy technician training program as one of the qualifications to obtain the credential.

Prior to June 2013, the rule required the pharmacy technician candidate to complete a training program that was approved by the board. In response to stakeholder input requesting flexibility in how those programs were to be established, the board permitted programs to be established at individual pharmacies in addition to universities, community and technical colleges, as well as proprietary schools. Over the course of approximately 10 years, the board tracked the state's pass rate on the national certification program and observed a steady decrease. The board determined that workplace training alone was not sufficient and, in June 2013 instituted a change, to begin in January 2016 that would require the training program to be nationally accredited. The three-year delay was intended to increase the number of such nationally accredited programs in the state.

During their meeting in November 2015, the board entertained a request from some chain pharmacies to further delay the implementation of the accreditation requirement until 2020, citing their concerns with some of the accreditation standards. The board took note of the increased number of accredited programs in the state, from one in 2013 to over a dozen in 2015. The board also took note of the continuing decrease in the state pass rate on the national certification examination, with a 45 percent pass rate in 2015. The board also received input the requirement should be transferred from those persons submitting applications for the technician certificate to those persons submitting applications for the technician candidate registration, to eliminate the difficulty for persons who start under the previous rule and attempt to finish under the new rule. The board agreed to a one-year delay in the accreditation requirement, and since there is not sufficient time to promulgate a change in the rule before the current January 1, 2016 implementation date, the board has determined that an Emergency Rule is necessary. During the one-year delay, the board plans to promulgate the additional change to transfer the requirement for completion of an accredited program as a qualification for the pharmacy technician certificate to require enrollment in an accredited program as a

qualification for the pharmacy technician candidate registration.

The board has determined that failure to implement the Emergency Rule will cause interruptions in the licensure process for pharmacy technicians, potentially causing a decrease in the number of pharmacy technicians in the available workforce. The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare. The original Declaration of Emergency was effective November 30, 2015. Although the board is working on the changes, they need more time; therefore, they have directed the re-issuance of the Emergency Rule, effective March 24, 2016. The re-issued Rule shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever shall first occur.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 9. Pharmacy Technicians
§905. Pharmacy Technician Certificate

A. - A.3.a. …

b. For those applicants submitting applications on or after January 1, 2017, the applicant shall demonstrate successful completion of a nationally-accredited and board-approved pharmacy technician training program, as evidenced by a valid and legible copy of the appropriate credential from that program.

A.4. - B.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:2486 (November 2004), effective January 1, 2005, amended LR 38:1235 (May 2012), LR 38:1235 (May 2012), LR 39:1777 (July 2013), LR 42:

Malcolm J. Broussard
Executive Director

1604#019

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Louisiana Low-Income Academic Hospitals
(LAC 50:V.Chapter 31)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.Chapter 31 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated Emergency Rules which amended the provisions governing disproportionate share hospital (DSH) payments to hospitals participating in public-private partnerships in the south and north Louisiana areas (*Louisiana Register*, Volume 39, Numbers 7 and 10). As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the corresponding state plan amendments, the department determined that it was necessary to repeal the provisions of the July 6, 2013 and October 1, 2013 Emergency Rules governing DSH payments to the hospitals participating in the south and north Louisiana area public-private partnerships.

The department promulgated an Emergency Rule which amended the provisions governing DSH payments in order to establish payments to Louisiana low-income academic hospitals (*Louisiana Register,* Volume 40, Number 6). The department subsequently promulgated an Emergency Rule which amended the provisions of the May 24, 2014 Emergency Rule to clarify the provisions governing the payment methodology to Louisiana low-income academic hospitals (*Louisiana Register*, Volume 40, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2014 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective May 17, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing DSH payments to low-income academic hospitals.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 3. Disproportionate Share Hospital Payments
Chapter 31. Louisiana Low-Income Academic Hospitals
§3101. Qualifying Criteria

A. Hospitals Located Outside of the Lake Charles Metropolitan Statistical Area

1. Effective for dates of service on or after May 24, 2014, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located outside of the Lake Charles metropolitan statistical area (MSA);

b. having uninsured patient utilization, as measured by allowable uninsured inpatient and outpatient charges, greater than 20 percent. Qualification shall be based on uninsured utilization data per the prior state fiscal year date of service time period; and

c. maintaining at least 15 unweighted intern and resident full-time equivalent positions, as reported on the Medicare Cost Report Worksheet E-4, line 6.

B. Hospitals Located In the Lake Charles Metropolitan Statistical Area

1. Effective for dates of service on or after May 24, 2014, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located in the Lake Charles MSA;

b. having uninsured patient utilization, as measured by allowable uninsured inpatient and outpatient charges, greater than 10 percent. To determine qualification in state fiscal year 2014, the first six month dates of service time

period (July 1, 2013 through December 31, 2013) shall be used. In subsequent state fiscal years, qualification shall be based on uninsured utilization data per the prior state fiscal year date of service time period; and

c. maintaining at least 20 unweighted intern and resident full-time equivalent positions, as reported on the Medicare Cost Report Worksheet E-4, line 6.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§3103. Payment Methodology

A. Each qualifying hospital shall be paid DSH adjustment payments equal to 100 percent of allowable hospital specific uncompensated care costs subject to the Appropriations Act. DSH payments to qualifying hospitals shall not exceed the disproportionate share limits as defined in section 1923(g)(1) (A) of the Social Security Act for the state fiscal year to which the payment is applicable.

B. Payment Calculation

1. For the initial year's payment calculation, each qualifying hospital shall submit interim actual cost data calculated utilizing Medicaid allowable cost report principles, along with actual Medicaid and uninsured patient charge data. Annual Medicaid costs shortfalls and unreimbursed uninsured patient costs are determined based on review and analysis of these submissions.

2. For subsequent year's payment calculations, the most recent Medicaid filed cost report along with actual Medicaid and uninsured patient charge data annualized from the most recent calendar year completed quarter is utilized to calculate hospital specific uncompensated care costs.

C. The department shall review cost data, charge data, lengths of stay and Medicaid claims data per the Medicaid management and information systems (MMIS) for reasonableness before payments are made.

D. The first payment of each fiscal year will be made by October 15 and will be 80 percent of the annual calculated uncompensated care costs. The remainder of the payment will be made by June 30 of each year.

1. Reconciliation of these payments to actual hospital specific uncompensated care costs will be made when the cost report(s) covering the actual dates of service from the state fiscal year are filed and reviewed.

2. Additional payments or recoupments, as needed, shall be made after the finalization of the Centers for Medicare and Medicaid Services (CMS) mandated DSH audit for the state fiscal year.

E. No payment under this Section is dependent on any agreement or arrangement for providers or related entities to donate money or services to a governmental entity.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1604#066

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Intermediate Care Facilities for Persons with Developmental Disabilities—Licensing Standards
(LAC 48:I.8595 and 8599)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.8595 and §8599 in the Medical Assistance Program as authorized by R.S. 36:254. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing repealed the provisions governing the minimum licensing standards for intermediate care facilities I and II, community homes and group homes, and adopted provisions to incorporate these facilities under a single comprehensive Rule for intermediate care facilities for persons with developmental disabilities (ICFs/DD) (*Louisiana Register*, Volume 38, Number 12).

Act 540 of the 2006 Regular Session of the Louisiana Legislature amended R.S. 29:726(F) to provide for rapid communications in times of disaster or emergencies. In compliance with Act 540, the department now proposes to amend the provisions governing ICFs/DD to require timely filing of electronic reports related to census information and other needed information during declared disasters or emergencies.

This action is being taken to prevent imminent peril to the health, safety or welfare of Louisiana citizens who are residents of ICFs/DD. It is estimated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2015-2016.

Effective April 7, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the licensing standards for intermediate care facilities for persons with developmental disabilities.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 85. Intermediate Care Facilities for Persons with Developmental Disabilities
Subchapter G. Emergency Preparedness
§8595. Emergency Preparedness Plan

A. - B.15.f. ...

C. An ICF/DD shall electronically enter current facility information into the department's ESF-8 portal or into the current DHH Emergency Preparedness webpage or electronic database for reporting.

1. The following information shall be entered or updated before the fifteenth of each month:

a. operational status;

b. census;

c. emergency contact and destination location information; and

d. emergency evacuation transportation needs categorized by the following types:

i. *red*—high risk residents who will need to be transported by advanced life support ambulance due to dependency on mechanical or electrical life sustaining devices or very critical medical condition;

ii. *yellow*—residents who are not dependent on mechanical or electrical life sustaining devices, but cannot be transported using normal means (buses, vans, cars), may need to be transported by an ambulance; however, in the event of inaccessibility of medical transport, buses, vans or cars may be used as a last resort; and

iii. *green*—residents who do not need specialized transportation may be transported by car, van, bus or wheelchair accessible transportation.

2. An ICF/DD shall also enter or update the facility's information upon request, or as described per notification of an emergency declared by the secretary. Emergency events may include, but are not limited to:

a. hurricanes;

b. floods;

c. fires;

d. chemical or biological hazards;

e. power outages;

f. tornados;

g. tropical storms; and

h. severe weather.

3. Effective immediately, upon notification of an emergency declared by the secretary, all ICFs/DD shall file an electronic report with the ESF-8 portal or into the current DHH Emergency Preparedness webpage or electronic database for reporting.

a. The electronic report shall be filed, as prescribed by department, throughout the duration of the emergency declaration.

b. The electronic report shall include, but is not limited to, the following:

i. status of operation;

ii. availability of beds;

iii. generator status;

iv. evacuation status;

v. shelter in place status;

vi. mobility status of clients;

vii. range of ages of clients;

viii. intellectual levels/needs of clients; and

ix. any other client or facility related information that is requested by the department.

NOTE: The electronic report shall not be used to request resources or to report emergency events.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3207 (December 2012), amended LR 42:

§8599. Notification of Evacuation, Relocation, or Temporary Cessation of Operations

A. In the event that an ICF/DD evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state, local or parish OHSEP, the ICF/DD must immediately give notice to the Health Standards Section as well as the Office for Citizens with Developmental Disabilities (OCDD) and OHSEP as directed by filing an electronic report with the ESF-8 portal or into the current DHH Emergency Preparedness webpage or electronic database for reporting:

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3208 (December 2012), amended LR 42:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1604#031

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Managed Care for Physical and Basic Behavioral Health
Non-Emergency Medical Transportation
(LAC 50:I.3103)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:I.3103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing managed care for physical and basic behavioral health in order to reflect the integration of specialized behavioral health services into Bayou Health as a result of the narrowing of the statewide management organization's scope of service administration for certain behavioral health services (*Louisiana Register*, Volume 41, Number 11). The department promulgated an Emergency Rule which amended the provisions governing managed care for physical and basic behavioral health to provide clarification regarding the inclusion of non-emergency medical transportation services

(*Louisiana Register*, Volume 42, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2016 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance program and to promote the health and welfare of Medicaid recipients by ensuring continued access to non-emergency medical transportation services.

Effective May 1, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing managed care for physical and basic behavioral health.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 3. Managed Care for Physical and Basic Behavioral Health
Chapter 31. General Provisions
§3103. Recipient Participation

A. - B. ...

1. Participation in an MCO for the following participants is mandatory for specialized behavioral health and non-emergency medical transportation (NEMT) services (ambulance and non-ambulance) only, and is voluntary for physical health services:

B.1.a. - D. ...

E. Mandatory MCO Populations—Specialized Behavioral Health Services and Non-Emergency Ambulance Services Only

1. The following populations are mandatory enrollees in Bayou Health for specialized behavioral health services and non-emergency ambulance services only:

a. - b. ...

F. Mandatory MCO Populations—Specialized Behavioral Health and NEMT Services (Ambulance and Non-Ambulance) Only

F.1. - I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1573 (June 2011), amended LR 40:310 (February 2014), LR 40:1096 (June 2014), LR 40:2258 (November 2014), LR 41:929 (May 2015), LR 41:2363 (November 2015), LR 42:

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

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1604#067

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Medicaid Eligibility
Federally-Facilitated Marketplace Determinations
(LAC 50:III.505)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.505 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Patient Protection and Affordable Care Act (ACA) of 2010 requires that all applicants for coverage through the federal health insurance marketplace be assessed for eligibility in other government programs, including Medicaid. States are required to select a marketplace model that is state-based, federally-facilitated or working in partnership with the federal marketplace. States with a federally-facilitated marketplace (FFM), like Louisiana, must elect to either have the FFM make assessments of Medicaid eligibility and transfer the account to the state Medicaid agency for a final determination, or delegate the authority to make Medicaid eligibility determinations to the FFM. Initially, Louisiana elected to become a determination state and accepted eligibility determinations made by the FFM.

In August 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing Medicaid eligibility in order to become an assessment state and only accept eligibility assessments from the FFM (*Louisiana Register*, Volume 41, Number 8).

The department has now determined that it is necessary to amend the provisions governing Medicaid eligibility in order to return to a determination state and accept Medicaid eligibility determinations made by the FFM. This action is being taken to avoid federal sanctions or penalties from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) for noncompliance with the federal requirement to provide a quarterly update to the associated federal FFM Data Collection Tool when the state's FFM status has changed. It is anticipated that this Emergency Rule will have no fiscal impact to the Medicaid Program for state fiscal year 2016-2017.

Effective April 20, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid eligibility in order to accept Medicaid determinations made by the federally-facilitated marketplace.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 1. General Administration
Chapter 5. Application Processing
§505. Federally-Facilitated Marketplace Determinations

A. Effective April 20, 2016, Louisiana Medicaid will delegate its Medicaid eligibility determination authority to the federally-facilitated marketplace (FFM) in order to begin accepting eligibility determinations made by the FFM for only those individuals who apply for healthcare coverage through the FFM. This will result in the state becoming a determination state.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1489 (August 2015), amended LR 42:

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

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1604#065

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Medicaid Eligibility
Medically Needy Program
Behavioral Health Services
(LAC 50:III.2313)

The Department of Health and Hospitals, Bureau of Health Services Financing hereby repeals and replaces all of the Rules governing the Medically Needy Program, and adopts LAC 50:III.2313 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule in order to reinstate the Title XIX Medically Needy Program (MNP) and to establish coverage restrictions (*Louisiana Register*, Volume 24, Number 5). All behavioral health services are restricted from coverage under the Medically Needy Program.

In February 2012, the department adopted provisions in the Medicaid Program to restructure the existing behavioral health services delivery system into a comprehensive service delivery model called the Louisiana Behavioral Health Partnership (LBHP). Certain recipients enrolled in the Medically Needy Program, whose Medicaid eligibility is based solely on the provisions of §1915(i) of Title XIX of the Social Security Act, are eligible to only receive behavioral health services. These recipients have difficulties accessing behavioral health services through the LBHP due to the service restrictions currently in place in the Medically Needy Program.

Therefore, the department promulgated an Emergency Rule which revised the provisions governing the Medically Needy Program in order to include behavioral health coverage for MNP recipients that qualify for the program under the provisions of §1915(i) of Title XIX of the Social Security Act. This Emergency Rule also repealed and replaced all of the rules governing the Medically Needy Program in order to repromulgate these provisions in a clear and concise manner for inclusion in the *Louisiana Administrative Code* in a codified format (*Louisiana Register*, Volume 38, Number 12).

The department promulgated an Emergency Rule which amended the provisions governing the Medically Needy Program to further clarify the provisions governing covered services (*Louisiana Register*, Volume 39, Number 4). The department promulgated an Emergency Rule which amended the provisions of the April 20, 2013 Emergency Rule in order to further clarify these provisions (*Louisiana Register*, Volume 40, Number 1). The department subsequently promulgated an Emergency Rule which amended the provisions of the January 20, 2014 Emergency Rule in order to further clarify these provisions (*Louisiana Register*, Volume 41, Number 8). The department promulgated an Emergency Rule to amend the provisions of the August 20, 2015 Emergency Rule in order to further clarify the provisions governing allowable medical expenses for spend-down MNP coverage (*Louisiana Register*, Volume 41, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2015 Emergency Rule.

This action is being taken to promote the health and welfare of MNP recipients who are in need of behavioral health services, and to assure their continued access to these services.

Effective May 19, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Medically Needy Program.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 3. Eligibility Groups and Factors
Chapter 23. Eligibility Groups and Medicaid Programs
§2313. Medically Needy Program

A. The Medically Needy Program (MNP) provides Medicaid coverage when an individual's or family's income and/or resources are sufficient to meet basic needs in a

categorical assistance program, but not sufficient to meet medical needs according to the MNP standards.

1. The income standard used in the MNP is the federal medically needy income eligibility standard (MNIES).

2. Resources are not applicable to modified adjusted gross income (MAGI) related MNP cases.

3. MNP eligibility cannot be considered prior to establishing income ineligibility in a categorically related assistance group.

B. MNP Eligibility Groups

1. Regular Medically Needy

a. Prior to the implementation of the MAGI income standards, parents who met all of the parent and caretaker relative (PCR) group categorical requirements and whose income was at or below the MNIES were eligible to receive regular MNP benefits. With the implementation of the MAGI-based methodology for determining income and household composition and the conversion of net income standards to MAGI equivalent income standards, individuals who would have been eligible for the regular Medically Needy Program are now eligible to receive Medicaid benefits under the parent and caretaker relative eligibility group. Regular medically needy coverage is only applicable to individuals included in the MAGI-related category of assistance.

b. Individuals in the non-MAGI [formerly aged (A-), blind (B-), or disability (D-)] related assistance groups cannot receive Regular MNP.

c. The certification period for Regular MNP cannot exceed six months.

2. Spend-Down Medically Needy

a. Spend-Down MNP is considered after establishing financial ineligibility in categorically related Medicaid programs and excess income remains. Allowable medical bills/expenses incurred by the income unit, including skilled nursing facility coinsurance expenses, are used to reduce (spend-down) the income to the allowable MNP limits.

b. The following individuals may be considered for spend-down MNP:

i. individuals who meet all of the parent and caretaker relative group requirements;

ii. non-institutionalized individuals (non-MAGI related); and

iii. institutionalized individuals or couples (non-MAGI-related) with Medicare co-insurance whose income has been spent down.

c. The certification period for spend-down MNP begins no earlier than the spend-down date and shall not exceed three months.

3. Long Term Care (LTC) Spend-Down MNP

a. Individuals residing in Medicaid LTC facilities, not on Medicare-coinsurance with resources within the limits, but whose income exceeds the special income limits (three times the current federal benefit rate), are eligible for LTC Spend-Down MNP.

4. Louisiana Behavioral Health Partnership (LBHP) 1915(i) MNP

a. The LBHP Medically Needy Program is considered only for the individuals who meet the level of need requirements of §1915 of Title XIX of the Social Security Act, and who have been determined to be ineligible for other full Medicaid programs, including the regular MNP and spend-down MNP.

b. LBHP 1915(i) MNP recipients are only eligible to receive behavioral health services through the LBHP. They do not qualify for other Medicaid covered services.

c. The certification period for LBHP 1915(i) regular MNP recipients cannot exceed six months. For the LBHP 1915(i) spend-down MNP, the certification period begins no earlier than the spend-down date and shall not exceed three months.

C. The following services are covered in the Medically Needy Program for non-1915(i) recipients:

1. inpatient and outpatient hospital services;
2. intermediate care facilities for persons with intellectual disabilities (ICF/ID) services;
3. intermediate care and skilled nursing facility (ICF and SNF) services;
4. physician services, including medical/surgical services by a dentist;
5. nurse midwife services;
6. certified registered nurse anesthetist (CRNA) and anesthesiologist services;
7. laboratory and x-ray services;
8. prescription drugs;
9. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services;
10. rural health clinic services;
11. hemodialysis clinic services;
12. ambulatory surgical center services;
13. prenatal clinic services;
14. federally qualified health center services;
15. family planning services;
16. durable medical equipment;
17. rehabilitation services (physical therapy, occupational therapy, speech therapy);
18. nurse practitioner services;
19. medical transportation services (emergency and non-emergency);
20. home health services for individuals needing skilled nursing services;
21. chiropractic services;
22. optometry services;
23. podiatry services;
24. radiation therapy; and
25. behavioral health services.

D. The following behavioral health services are covered for LBHP 1915(i) MNP recipients:

1. inpatient and outpatient hospital services;
2. emergency medical services;
3. physician/psychiatrist services;
4. treatment by a licensed mental health professional;
5. community psychiatric support and treatment;
6. psychosocial rehabilitation;
7. crisis intervention;
8. case conference [1915(b) services]; and
9. treatment planning [1915(b) services].

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

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

91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1604#068

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Medical Transportation Program
Non-Emergency Medical Transportation
(LAC 50:XXVII.Chapter 5)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals and replaces the provisions of the October 20, 1994 Rule governing non-emergency medical transportation, and amends LAC 50:XXVII.Chapter 5 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing non-emergency medical transportation (NEMT) (*Louisiana Register,* Volume 20, Number 10). The department promulgated an Emergency Rule which repealed the October 20, 1994 Rule in order to revise the provisions governing NEMT services, and to ensure that these provisions are appropriately promulgated in a codified format for inclusion in the *Louisiana Administrative Code*. This Emergency Rule also amended the provisions governing the reimbursement methodology for NEMT services to replace the monthly payment of capitated rates with a monthly per trip payment methodology (*Louisiana Register*, Volume 40, Number 10). The department promulgated an Emergency Rule which amended the October 1, 2014 Emergency Rule in order to further clarify these provisions to bring the language of this Rule into compliance with the approved Medicaid State Plan, and to incorporate provisions governing appeals rights for denials and partial denials of NEMT services (*Louisiana Register*, Volume 41, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2015 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to non-emergency medical transportation services, and to avoid federal sanctions from CMS for noncompliance with federal regulations and the approved Medicaid State Plan.

Effective May 17, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-emergency medical transportation.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXVII. Medical Transportation Program
Chapter 5. Non-Emergency Medical Transportation
Subchapter A. General Provisions

§501. Introduction

A. Non-emergency medical transportation (NEMT) is non-emergency transportation to and from the providers of routine Medicaid covered services for Medicaid recipients. NEMT is intended to provide transportation only after all reasonable means of free transportation have been explored and found to be unavailable.

B. Medicaid covered transportation is available to Medicaid recipients when:

1. the individual is enrolled in either a full-coverage Medicaid benefit program or a limited-coverage Medicaid benefit program that explicitly includes transportation services; and
2. the recipient or their representative has stated that they have no other means of transportation.

C. The requested destination must be to a medical service provider currently enrolled in the Medicaid Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§503. Prior Authorization

A. NEMT services require prior authorization. The department or its designee will authorize transportation after verifying the recipient's Medicaid eligibility and validity of medical appointment(s).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§505. Requirements for Coverage

A. When transportation is not available through family and friends, payment shall be authorized for the least costly means of transportation available. The least costly means of transportation shall be determined by the department and shall be determined according to the following hierarchy:

1. city or parish public transportation;
2. family and friends who meet the state license and insurance requirements and who are willing to:
   a. enroll in the Medicaid Program; and
   b. be paid a published rate for providing non-emergency transportation;
3. intrastate public conveyance (such as bus, train or plane);
4. nonprofit agencies and organizations that provide a transportation service and who are enrolled in the Medicaid Program; and
5. for profit providers enrolled in the Medicaid Program.

B. Recipients shall be allowed a choice of providers when the costs of two or more providers are equal.

C. Recipients are encouraged to utilize medical providers of their choice in the community in which they reside when the recipient is also in need of Medicaid reimbursed transportation services. The fact that the department will still pay for the actual medical service received outside the community in which the recipient resides does not obligate

the department to reimburse for transportation to accommodate such a choice.

D. When the recipient chooses to utilize a medical provider outside of the community due to preference and/or history, payment may be authorized only for the cost of transportation to the nearest available provider.

E. The recipient may be responsible for securing any agreements with family and friends, nonprofit or profit providers to make the longer trip for the payment authorized. If the recipient needs help with making such arrangements, the department will help but the help given will imply no obligation to provide a greater reimbursement.

F. When specialty treatment required by the recipient necessitates travel over extended distances, authorization for payment for intrastate transportation shall be determined according to the following criteria.

1. Intrastate transportation reimbursement shall be authorized when medical services are not available to the recipient in his/her community.

2. Payment shall be authorized when free transportation is not available.

3. The department shall still authorize payment only for the most economical means of transportation. This may be through negotiating payment for transportation with family and or friends or through accessing the public conveyance systems such as bus, train or plane.

4. The determination as to use of public conveyance shall be based on least cost, medical condition of the recipient to be transported, and availability of public conveyance.

G. When it has been verified that public conveyance is unavailable or inappropriate for intrastate transportation the recipient shall solicit transportation from family and friends. The department will authorize payment to assist the family in accessing the needed medical services.

1. Payment will be based on distance to be traveled to the nearest available similar or appropriate medical services, parking and tolls. In determining the amount of payment the cost of the least costly public conveyance shall be used as the base cost to be paid to the family. Payment shall not be available for room and board or meals.

H. When no other means of transportation is available through family and friends or public conveyance, the department will solicit intrastate transportation through a nonprofit provider.

1. The nonprofit provider will be paid a fee based on the current fee schedule.

2. If the nonprofit provider cannot accept the trip then the department will reimburse for-profit providers based on the current fee schedule.

I. The department will not authorize "same day" trips except in the instance of need for immediate medical care due to injury or illness. Same day trips will not be authorized for scheduled appointments for predictable or routine medical care. Recipients will be asked to reschedule the appointment and make the subsequent request for transportation timely.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Subchapter B. Recipient Participation

§521. General Provisions

A. Recipients shall participate in securing transportation at a low cost and shall agree to use public transportation or solicit transportation from family and friends as an alternative to more costly means of transport.

B. When the recipient alleges that public conveyance cannot be used due to medical reasons, then verification shall be provided by giving the department a written statement from a doctor that includes the specific reason(s) that the use of public conveyance is contraindicated by the medical condition of the recipient. In no case can preference of the recipient be the sole determining factor in excluding use of public conveyance.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§523. Recipient Appeals

A. Recipients shall have a right to request a fair hearing for the denial of NEMT services in full or in part. This includes requests for a fair hearing for denial of meals and lodging expenses associated with authorized trips.

B. Recipients shall be provided written notice of the service denial (including denials for meals and/or lodging expenses) and given the opportunity to request a fair hearing to appeal the department's decision.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Subchapter C. Provider Responsibilities

§541. Provider Enrollment

A. All transportation providers must comply with the published rules and regulations governing the Medicaid Transportation Program, all state laws, and the regulations of any other governing state agency or commission or local entity to which they are subject as a condition of enrollment and continued participation in the Medicaid Program.

B. Non-emergency medical transportation profit providers shall have a minimum liability insurance coverage of $100,000 per person and $300,000 per accident or a $300,000 combined service limits policy.

1. The liability policy shall cover any and all:
   a. autos;
   b. hired autos; and
   c. non-owned autos.

2. Premiums shall be prepaid for a period of six months. Proof of prepaid insurance must be a true and correct copy of the policy issued by the home office of the insurance company. Statements from the agent writing the policy will not be acceptable. Proof must include the dates of coverage and a 30-day cancellation notification clause. Proof of renewal must be received by the department no later than 48 hours prior to the end date of coverage. The policy must provide that the 30-day cancellation notification be issued to the Bureau of Health Services Financing.

3. Upon notice of cancellation or expiration of the coverage, the department will immediately cancel the provider agreement for participation. The ending date of participation shall be the ending date of insurance coverage. Retroactive coverage statements will not be accepted. Providers who lose the right to participate due to lack of

prepaid insurance may re-enroll in the transportation program and will be subject to all applicable enrollment procedures, policies, and fees for new providers.

C. As a condition of reimbursement for transporting Medicaid recipients to medical services, family and friends must maintain the state minimum automobile liability insurance coverage, a current state inspection sticker, and a current valid driver's license. No special inspection by the department will be conducted. Proof of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the department is sought. Proof shall be the sworn and notarized statement of the individual enrolling for payment, certifying that all three requirements are met. Family and friends shall be enrolled and shall be allowed to transport up to three specific Medicaid recipients or all members of one Medicaid assistance unit. The recipients to be transported by each such provider will be noted in the computer files of the department. Individuals transporting more than three Medicaid recipients shall be considered profit providers and shall be enrolled as such.

D. As a condition of participation for out-of-state transport, providers of transportation to out-of-state medical services must be in compliance with all applicable federal intrastate commerce laws regarding such transportation, including but not limited to, the $1,000,000 insurance requirement. Proof of compliance with all interstate commerce laws must be submitted when enrollment in the Medicaid Program is sought or prior to providing any out-of-state Medicaid transportation.

E. A provider must agree to cover the entire parish or parishes for which he provides non-emergency medical transportation services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§543. Trip Coordination

A. Dispatch personnel will coordinate to the extent possible, trips for family members so that all recipients in a family are transported as a unit at one time to the same or close proximity providers.

B. Providers must submit a signed affidavit with claims certifying that a true and correct bill is being submitted.

C. If the provider has declined to accept a trip on a particular day the dispatch personnel will not assign additional trips to that provider for that same day.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§545. Provider Suspension and Termination

A. Providers are subject to suspension from the NEMT Program upon department documentation of inappropriate billing practices or other practices that egregiously violate Medicaid Program policy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§547. Audits

A. The department shall conduct regular audits of service authorization, reimbursement, service delivery and documentation in order to ensure compliance with published rules and regulations.

B. Lack of compliance on the part of transportation providers shall be addressed as described in the provider policy manual.

C. Lack of compliance on the part of department contractors shall be met with corrective action as described in contract documents.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Subchapter D. Reimbursement

§565. General Provisions

A. Reimbursement for NEMT services shall be based upon the current fee schedule. An additional per-mile rate may be included when the department determines that a provider requires compensation for travelling far outside of their service areas. This additional payment shall be made when there are no providers in the recipient's service area

B. Reimbursement for NEMT to regular, predictable and continuing medical services, such as hemodialysis, chemotherapy or rehabilitation therapy, as determined by the department, shall be based on a capitated rate paid by individual trip.

C. Reimbursement will not be made for any additional person(s) who must accompany the recipient to the medical provider.

D. An individual provider will be reimbursed for a trip to the nearest facility that will meet the recipient's medical needs. However, the individual provider may transport the recipient to a more distant facility if the individual provider will accept reimbursement from the department to the nearest facility and assumes responsibility for additional expenses incurred.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§573. Non-Emergency, Non-Ambulance Transportation

A. - F.5. ...

G. Effective for dates of service on or after October 1, 2014, the monthly payment of capitated rates shall be replaced with a per trip payment methodology.

1. Payments previously made using the monthly capitated rate shall be made by dividing the monthly rate by the number of authorized trips within a given month. Each trip will then be reimbursed separately.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:462 (March 2007), LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2564 (November 2010), LR 37:3030 (October 2011), amended LR 38:3214 (December 2012), LR 42:

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A

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

Rebekah E. Gee MD, MPH
Secretary

1604#069

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Nursing Facilities
Licensing Standards
(LAC 48:I.9704, 9707, and Chapter 99)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.9704, §9707 and Chapter 99 in the Medical Assistance Program as authorized by R.S. 36:254. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:953(B)(1)et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the licensing standards governing nursing facilities in order to clarify the provisions for Alzheimer's special care disclosure, and to revise the provisions governing approval of plans and physical environment (*Louisiana Register*, Volume 40, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2014 Emergency Rule. This action is being taken to promote the health and well-being of Louisiana residents in nursing facilities.

Effective May 15, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the licensing standards for nursing facilities.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 97. Nursing Facilities
Subchapter A. General Provisions
§9704. Alzheimer's Special Care Disclosure

A. - D.5. ...

E. The provider's Alzheimer's special care disclosure documentation shall contain the following information:

1. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.121-1300.125.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 27:312 (March 2001), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§9707. Approval of Plans

A. Plans and specifications for new construction of, or to, a nursing facility, and for any major alterations or renovations to a nursing facility, shall be submitted for approval to the Department of Public Safety, Office of the State Fire Marshal for review in accordance with R.S. 40:1563(L), R.S. 40:1574 and LAC 55:V.Chapter 3.

1. Plans and specifications for new construction, major alterations, and major renovations shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer where required by the Louisiana architecture and engineering licensing laws of R.S. 37:141 et seq., R.S. 37:681 et seq., and respective implementing regulations.

2. No residential conversions shall be considered for a nursing facility license.

B. The plans and specifications shall comply with all of the following:

1. DHH nursing facility licensing requirements and the Office of Public Health's (OPH) nursing home regulations (see LAC 51:XX); and

2. the Office of the State Fire Marshal's requirements for plan submittals and compliance with all codes required by that office.

2.a. - 3. Repealed.

C. Notice of satisfactory review from the department and the Office of the State Fire Marshal constitutes compliance with this requirement, if construction begins within 180 days of the date of such notice. This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes, or rules of any responsible agency.

C.1. - E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:46 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2630 (September 2011), LR 42:

Chapter 99. Nursing Facilities
Subchapter A. Physical Environment
§9901. General Provisions

A. The nursing facility shall be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public.

B. The nursing facility shall provide a safe, clean, orderly, homelike environment.

C. If the nursing facility determines that a licensing provision of this Subchapter A prohibits the provision of a culture change environment, the nursing facility may submit a written waiver request to the Health Standards Section (HSS) of the Department of Health and Hospitals, asking that the provision be waived and providing an alternative to the licensing provision of this Subchapter. The department shall consider such written waiver request, shall consider the health and safety concerns of such request and the proposed alternative, and shall submit a written response to the nursing facility within 60 days of receipt of such waiver request.

D. Any construction-related waiver or variance request of any provision of the LAC Title 51, *Public Health—Sanitary Code* shall be submitted in writing to the state health officer for his/her consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§9903. Nurse/Care Team Work Areas

A. Each floor and/or household of a nursing facility shall have a nurse/care team work area in locations that are suitable to perform necessary functions. These nurse/care team work areas may be in centralized or decentralized locations, as long as the locations are suitable to perform necessary functions.

1. Each centralized nurse/care team area shall be equipped with working space and accommodations for recording and charting purposes by nursing facility staff with secured storage space for in-house resident records.

a. Exception. Accommodations for recording and charting are not required at the central work area where decentralized work areas are provided.

2. Each decentralized work area, where provided, shall contain working space and accommodations for recording and charting purposes with secured storage space for administrative activities and in-house resident records.

3. The nurse/care team work areas shall be equipped to receive resident calls through a communication system from resident rooms, toileting and bathing facilities.

a. In the case of an existing centralized nurse/care team work area, this communication may be through audible or visible signals and may include wireless systems.

b. In those facilities that have moved to decentralized nurse/care team work areas, the facility may utilize other electronic systems that provide direct communication from the resident to the staff.

B. There shall be a medicine preparation room or area. Such room or area shall contain a work counter, preparation sink, refrigerator, task lighting and lockable storage for controlled drugs.

C. There shall be a clean utility room on each floor designed for proper storage of nursing equipment and supplies. Such room shall contain task lighting and storage for clean and sterile supplies.

D. There shall be a separate soiled utility room designed for proper cleansing, disinfecting and sterilizing of equipment and supplies. At a minimum, it shall contain a clinical sink or equivalent flushing-rim sink with a rinsing hose or bed pan sanitizer, hand washing facilities, soiled linen receptacles and waste receptacle. Each floor of a nursing facility shall have a soiled utility room.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§9905. Resident Rooms

A. ...

B. Each resident's bedroom shall have a floor at or above grade level, shall accommodate a maximum of two residents, and be so situated that passage through another resident's bedroom is unnecessary.

1. Exception. Resident bedrooms in existing nursing facilities shall be permitted to accommodate no more than four residents unless the cost of renovations to the existing nursing facility exceeds the values stipulated by R.S. 40:1574.

C. Private resident bedrooms shall measure at least 121 square feet of bedroom area, exclusive of wardrobes, closet space, vestibules or toilet rooms, and shall have a clear width of not less than 11 feet.

D. Double occupancy resident bedrooms containing two beds shall measure at least 198 square feet of bedroom area, exclusive of wardrobes, closet space, vestibules or toilet rooms, and shall have a clear width of not less than 11 feet.

E. In existing nursing facilities, or portions thereof, where plans were approved by the department and the Office of State Fire Marshal prior to January 20, 1998, there shall be at least three feet between the sides and foot of the bed and any wall, other fixed obstruction, or other bed, unless the furniture arrangement is the resident's preference and does not interfere with service delivery.

F. Each resident's bedroom shall have at least one window to the outside atmosphere with a maximum sill height of 36 inches. Windows with sills less than 30 inches from the floor shall be provided with guard rails.

1. Each resident's bedroom window shall be provided with shades, curtains, drapes, or blinds.

2. Operable windows shall be provided with screens.

G. - H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§9907. Resident Room Furnishings

A. ...

1. a clean supportive frame in good repair;

2. - 5. ...

B. Screens or noncombustible ceiling-suspended privacy curtains which extend around the bed shall be provided for each bed in multi-resident bedrooms to assure resident privacy. Total visual privacy without obstructing the passage of other residents either to the corridor, closet, lavatory, or adjacent toilet room nor fully encapsulating the bedroom window shall be provided.

C. Each resident shall be provided with a call device located within reach of the resident.

D. Each resident shall be provided a bedside table with at least two drawers. As appropriate to resident needs, each resident shall have a comfortable chair with armrests, waste receptacle, and access to mirror unless medically contraindicated.

1. Each resident who has tray service to his/her room shall be provided with an adjustable overbed table positioned so that the resident can eat comfortably.

E. Each resident shall be provided an individual closet that has minimum dimensions of 1 foot 10 inches in depth by 2 feet 6 inches in width. A clothes rod and shelf shall be provided that is either adjustable or installed at heights accessible to the resident. Accommodations shall be made for storage of full-length garments. The shelf may be omitted

if the closet provides at least two drawers. The following exceptions may apply.

1. Individual wardrobe units having nominal dimensions of 1 foot 10 inches in depth by 2 feet 6 inches in width are permitted. A clothes rod and shelf shall be provided that is either adjustable or installed at heights accessible to the resident. Accommodations shall be made for storage of full-length garments. The shelf may be omitted if the unit provides at least two drawers.

2. In existing nursing facilities, or portions thereof, where plans were approved by the department and the state fire marshal prior to January 20, 1998, each resident shall be provided an individual wardrobe or closet that has nominal dimensions of 1 foot 10 inches in depth by 2 feet in width.

F. Each resident shall be provided with a bedside light or over-the-bed light capable of being operated from the bed.

1. Nursing facilities, or portions thereof, where plans were approved by the department and the state fire marshal prior to May 1, 1997 shall be exempt from this provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§9909. Locked Units, Restraints and Seclusion

A. Locked Units

1. Nursing facilities may have specific locked units for housing residents suffering from severe dementia or Alzheimer's disease. The locked units may only house, limit and restrict free access of those residents suffering from severe dementia or Alzheimer's who may be a danger to themselves or others.

2. Nursing facilities providing locked units shall develop admission criteria. There shall be documentation in the resident's record to indicate the unit is the least restrictive environment possible, and placement in the unit is needed to facilitate meeting the resident's needs.

3. Guidelines for admission shall be provided to the resident, his/her family and his/her authorized representative.

4. Locked units are designed and staffed to provide the care and services necessary for the resident's needs to be met.

a. The locked unit shall have designated space for dining and/or group and individual activities that is separate and apart from the resident bedrooms and bathrooms.

b. The dining space shall contain tables for eating within the locked unit.

c. The activities area(s) shall contain seating, and be accessible to the residents within the locked unit.

5. There shall be sufficient staff to respond to emergency situations in the locked unit at all times.

6. The resident on the locked unit has the right to exercise those rights which have not been limited as a result of admission to the unit.

7. Care plans shall address the reasons for the resident being in the unit and how the nursing facility is meeting the resident's needs.

8. All staff designated to provide care and services on locked units shall have training regarding unit policies and procedures, admission and discharge criteria, emergency situations and the special needs of the residents on the unit.

9. Admission to a locked unit shall be in compliance with R.S. 40:1299.53 and 40:2010.8.

B. Restraints. The resident has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms.

C. Seclusion. The resident has the right to be free from verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion.

D. - G. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§9911. Hand-Washing Stations, Toilet Rooms and Bathing Facilities

A. A hand-washing station shall be provided in each resident room.

1. Omission of this station shall be permitted in a single-bed or two-bed room when a hand-washing station is located in an adjoining toilet room that serves that room only.

B. Each resident shall have access to a toilet room without having to enter the corridor area. In nursing facilities built prior to August 26, 1958, each floor occupied by residents shall be provided with a toilet room and hand-washing station.

1. One toilet room shall serve no more than two residents in new construction or no more than two resident rooms in renovation projects. In nursing facilities built prior to August 26, 1958, toilets and hand-washing stations shall each be provided at a rate of 1 per 10 beds or fraction thereof.

2. Toilet rooms shall be easily accessible, conveniently located, well lighted and ventilated to the outside atmosphere. Fixtures shall be of substantial construction, in good repair and of such design to enable satisfactory cleaning.

3. Separate male and female toilet rooms for use by staff and guests shall be provided.

4. Each toilet room shall contain a toilet, hand-washing station and mirror.

5. Doors to single-use resident toilet rooms shall swing out of the room.

6. Doors to single-use resident toilet rooms shall be permitted to utilize privacy locks that include provisions for emergency access.

7. In multi-use toilet rooms provisions shall be made for resident privacy.

C. Each floor occupied by residents shall be provided with a bathing facility equipped with a toilet, hand-washing station, and bathing unit consisting of a bathtub, shower, or whirlpool unit.

Table. Repealed.

1. A minimum of one bathtub, shower, or whirlpool unit shall be provided for every 10 residents, or fraction thereof, not otherwise served by bathing facilities in resident

rooms. In nursing facilities built prior to August 26, 1958, showers or tubs shall each be provided at a rate of 1 per 15 beds or fraction thereof.

2. Bathing facilities shall be easily accessible, conveniently located, well lighted and ventilated to the outside atmosphere. Fixtures shall be of substantial construction, in good repair, and of such design to enable satisfactory cleaning.

3. Tub and shower bottoms shall be of nonslip material. Grab bars shall be provided to prevent falling and to assist in maneuvering in and out of the tub or shower.

4. Separate bathing facilities shall be provided for employees who live on the premises.

5. In multi-use bathing facilities provisions shall be made for resident privacy.

6. Wall switches for controlling lighting, ventilation, heating or any other electrical device shall be so located that they cannot be reached from a bathtub, shower, or whirlpool.

D. - H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§9913. Dining and Resident Activities

A. The nursing facility shall provide one or more areas designated for resident dining and activities.

B. Smoking is not permitted in the dining room and other public areas as specified by R.S. 40:1300.256(B)(11).

C. Dining room(s) or dining area(s) shall be sufficient in space and function to accommodate the needs of the residents without restriction. Dining areas shall be adequately furnished, well lighted, and well ventilated. Dining areas shall be sufficient in space to comfortably accommodate the persons who usually occupy that space, including persons who utilize walkers, wheelchairs and other ambulating aids or devices.

D. There shall be at least one well lighted and ventilated living/community room with sufficient furniture.

E. There shall be sufficient space and equipment to comfortably accommodate the residents who participate in group and individual activities. These areas shall be well lighted and ventilated and be adequately furnished to accommodate all activities.

F. Areas used for corridor traffic or for storage of equipment shall not be considered as areas for dining or activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§9915. Linen and Laundry

A. The nursing facility shall have available, at all times, a quantity of bed and bath linen essential for proper care and comfort of residents.

B. - G. ...

H. Clean linen shall be transported and stored in a manner to prevent its contamination.

I. Nursing facilities providing in-house laundry services shall have a laundry system designed to eliminate crossing of soiled and clean linen.

J. Nursing facilities that provide in house laundry services and/or household washers and dryers shall have policies and procedures to ensure safety standards, infection control standards and manufacturer's guidelines are met.

K. There shall be hand washing facilities available for use in any designated laundry area.

L. Provisions shall be made for laundering personal clothing of residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§9917. Equipment and Supplies

A. The nursing facility shall maintain all essential mechanical, electrical, and resident care equipment in safe operating condition.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§9919. Other Environmental Conditions

A. A hard surfaced off-the-road parking area to provide parking for one car per five licensed beds shall be provided. This is a minimum requirement and may be exceeded by local ordinances. Where this requirement would impose an unreasonable hardship, a written request for a lesser amount may be submitted to the department for waiver consideration.

B. The nursing facility shall make arrangements for an adequate supply of safe potable water even when there is a loss of normal water supply. Service from a public water supply must be used, if available. Private water supplies, if used, shall meet the requirements of the LAC Title 51, *Public Health—Sanitary Code*.

C. An adequate supply of hot water shall be provided which shall be adequate for general cleaning, washing and sanitization of cooking and food service dishes and other utensils and for bathing and laundry use. Hot water supply to the hand washing and bathing faucets in the resident areas shall have automatic control to assure a temperature of not less than 100 degrees Fahrenheit, nor more than 120 degrees Fahrenheit, at the faucet outlet. Supply system design shall comply with the Louisiana state *Plumbing Code* and shall be based on accepted engineering procedures using actual number and types of fixtures to be installed.

D. The nursing facility shall be connected to the public sewerage system, if such a system is available. Where a public sewerage is not available, the sewerage disposal system shall conform to the requirements of the LAC Title 51, *Public Health—Sanitary Code*.

E. The nursing facility shall maintain a comfortable sound level conducive to meeting the need of the residents.

F. All plumbing shall be properly maintained and conform to the requirements of the LAC Title 51, *Public Health—Sanitary Code*.

G. All openings to the outside atmosphere shall be effectively screened. Exterior doors equipped with closers in air conditioned buildings need not have screens.

H. Each room used by residents shall be capable of being heated to a minimum of 71 degrees Fahrenheit in the coldest weather and capable of being cooled to a maximum of 81 degrees Fahrenheit in the warmest weather.

I. Lighting levels in all areas shall be adequate to support task performance by staff personnel and independent functioning of residents. A minimum of 6 feet to 10 feet candelas over the entire stairway, corridors, and resident rooms measured at an elevation of 30 inches above the floor and a minimum of 20 feet to 30 feet candelas over areas used for reading or close work shall be available.

J. Corridors used by residents shall be equipped on each side with firmly secured handrails, affixed to the wall. Handrails shall comply with the requirements of the state adopted accessibility guidelines.

K. There shall be an effective pest control program so that the nursing facility is free of pest and rodent infestation.

L. - R. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1604#070

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Commercial Large Coastal Shark Closure

In accordance with the emergency provisions of R.S. 49:953, the Administrative Procedure Act, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its action at the December 2015 meeting and in its rule LAC 76:VII.357.M.2 which allows the secretary authority to modify seasons to maintain consistency with the adjacent federal waters, and that such closure order shall close the season until the date projected for the re-opening of that fishery in the adjacent federal waters, the secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 11:30 p.m., March 15, 2016, the commercial fishery for large coastal sharks in Louisiana waters, as described in LAC 76:VII.357.B.2, (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark and tiger shark) will close and remain closed until January 1, 2017, at which time the season is scheduled to reopen. This closure will not pertain to persons holding a federal shark research permit issued by NOAA Fisheries Service, when those persons are legally fishing under the regulations promulgated for that permit including that a NMFS-approved observer is aboard the vessel. Nothing herein shall preclude the legal harvest of large coastal sharks by legally licensed recreational fishermen during the open season for recreational harvest. Effective with this closure, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell or attempt to purchase, exchange, barter, trade or sell large coastal sharks, whether taken from within or without Louisiana waters, except for a federal shark research permit holder, when legally operating under that permit. Also effective with the closure, no person shall possess large coastal sharks in excess of a daily bag limit whether taken from within or without Louisiana waters, which may only be in possession during the open recreational season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure, or from federal shark research permit holders, provided that all commercial dealers possessing large coastal sharks taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The secretary has been notified by NOAA Fisheries Service that the harvest of large coastal sharks in the federal waters of the Gulf of Mexico closed at 11:30 p.m. local time on March 12, 2016, and will be closed until January 1, 2017, at which time the season is scheduled to reopen. Establishing this closure is necessary to ensure that compatible regulations are in effect, and to increase effectiveness of enforcement operations.

Charlie Melancon
Secretary

1604#018

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Grassy Lake Wildlife Management Area
Closure—Turkey Hunting

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under authority of R.S. 56:115, the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopt the following Emergency Rule:

Currently, due to high water levels associated with excessive rainfall in North and Central Louisiana, Grassy Lake wildlife management area is inundated with floodwater

and water levels are continuing to rise. This combined with the forecasted river levels will contribute to additional inundation. The WMA is almost completely inundated when the river stages reach 47.55' at the Black River—Acme Gauge, and 41.10' at the Atchafalaya River—Simmesport Gauge. Presently forecasts predict river stage levels of 52.0' at the Black River—Acme Gauge on March 21, 2016 and 36.6' at the Atchafalaya River—Simmesport Gauge on March 21, 2016.

Such inundation constitutes a period of high stress and mortality for turkey. Turkey will be confined to trees with the entire area inundated, making them subject to excessive harvest and harassment during a high stress period. Pursuit and harvest during such an event will adversely impact the resource and sustainability of population levels in subsequent years. Therefore, it is deemed appropriate to close the wildlife management area to turkey hunting to eliminate hunter harvest that would contribute to increased mortality rates from prolonged flooding.

In accordance with the provisions of 56:6.1, use of the Grassy Lake wildlife management area shall be as follows: Closed to all turkey hunting. This Declaration of Emergency shall become effective March 17, 2016, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until rescinded by the secretary.

Charles J. Melancon
Secretary

1604#017

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

North Louisiana Wildlife Management Area Closures

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under authority of R.S. 56:115, the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopt the following Emergency Rule:

Currently, due to high water levels associated with excessive rainfall in North Louisiana, Bayou Pierre, Big Lake, Boeuf, Loggy Bayou, and Russell Sage wildlife management areas are inundated with floodwater and water levels are continuing to rise. These areas are nearly completely inaccessible by vehicle and hazardous conditions exist on the areas due to such water levels. Such conditions constitute a public safety hazard. Additionally, many wildlife species are stressed and displaced by such events, and public access to and use of the areas during this time will adversely impact such. Therefore, until the high water recedes, it is deemed necessary to close these wildlife management areas to all use.

In accordance with the provisions of 56:6.1, public access to and use of the above mentioned wildlife management areas shall be as follows: closed to all use. This Declaration of Emergency shall become effective March 17, 2016, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until rescinded by the secretary.

Charles J. Melancon
Secretary

1604#016

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Public Oyster Seed Reopening

In accordance with the emergency provisions of *Louisiana Revised Statutes* (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on September 3, 2015 which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action to re-open public oyster seed grounds and reservations if sufficient quantities of oysters are available, and to adjust sack limits and sacking-only areas, notice is hereby given that the secretary of Wildlife and Fisheries hereby declares that a portion of the public oyster seed grounds in Mississippi Sound and Lake Borgne shall re-open at one half hour before sunrise on Friday, April 1, 2016 and shall close at one-half hour after sunset on Thursday, April 14, 2016. This re-opening is for the purpose of conducting a permitted transplant, or relay, of live oysters for bedding purposes only from waters within the public oyster seed grounds further described below which are currently classified as "closed" by the Louisiana Department of Health and Hospitals (LDHH). All individuals found harvesting in this area must possess a valid LDHH oyster transplant permit.

The area to be re-opened is further described below within the following coordinates:

1. 30 degrees 04 minutes 33 seconds N latitude
   89 degrees 41 minutes 07 seconds W longitude
2. 30 degrees 06 minutes 14 seconds N latitude
   89 degrees 40 minutes 49 seconds W longitude
3. 30 degrees 06 minutes 28 seconds N latitude
   89 degrees 40 minutes 43 seconds W longitude
4. 30 degrees 08 minutes 14 seconds N latitude
   89 degrees 38 minutes 30 seconds W longitude
5. 30 degrees 08 minutes 32 seconds N latitude
   89 degrees 38 minutes 06 seconds W longitude
6. 30 degrees 08 minutes 55 seconds N latitude
   89 degrees 37 minutes 38 seconds W longitude
7. 30 degrees 09 minutes 21 seconds N latitude
   89 degrees 37 minutes 19 seconds W longitude
8. 30 degrees 10 minutes 40 seconds N latitude
   89 degrees 31 minutes 56 seconds W longitude
9. 30 degrees 10 minutes 06 seconds N latitude
   89 degrees 31 minutes 21 seconds W longitude
10. 30 degrees 09 minutes 39 seconds N latitude
    89 degrees 31 minutes 00 seconds W longitude
11. 30 degrees 09 minutes 33 seconds N latitude
    89 degrees 30 minutes 40 seconds W longitude
12. 30 degrees 09 minutes 40 seconds N latitude
    89 degrees 29 minutes 26 seconds W longitude

13. 30 degrees 09 minutes 46 seconds N latitude
    89 degrees 28 minutes 10 seconds W longitude
14. 30 degrees 09 minutes 46 seconds N latitude
    89 degrees 28 minutes 11 seconds W longitude
15. 30 degrees 10 minutes 18 seconds N latitude
    89 degrees 25 minutes 58 seconds W longitude
16. 30 degrees 10 minutes 37 seconds N latitude
    89 degrees 24 minutes 54 seconds W longitude
17. 30 degrees 09 minutes 30 seconds N latitude
    89 degrees 25 minutes 46 seconds W longitude
18. 30 degrees 08 minutes 36 seconds N latitude
    89 degrees 26 minutes 28 seconds W longitude
19. 30 degrees 07 minutes 50 seconds N latitude
    89 degrees 26 minutes 41 seconds W longitude
20. 30 degrees 07 minutes 31 seconds N latitude
    89 degrees 28 minutes 03 seconds W longitude
21. 30 degrees 07 minutes 08 seconds N latitude
    89 degrees 29 minutes 36 seconds W longitude
22. 30 degrees 06 minutes 47 seconds N latitude
    89 degrees 31 minutes 18 seconds W longitude
23. 30 degrees 06 minutes 20 seconds N latitude
    89 degrees 33 minutes 10 seconds W longitude
24. 30 degrees 05 minutes 53 seconds N latitude
    89 degrees 35 minutes 08 seconds W longitude
25. 30 degrees 05 minutes 27 seconds N latitude
    89 degrees 37 minutes 11 seconds W longitude
26. 30 degrees 05 minutes 00 seconds N latitude
    89 degrees 39 minutes 05 seconds W longitude

The secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to close this area if it is found that excessive amounts of non-living reef material is present in transplant loads.

Notice of any opening, delaying, or closing of a season will be provided by public notice at least 72 hours prior to such action, unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns.

Charles J. Melancon
Secretary

1604#033

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Sister Lake Public Oyster Seed Opening

In accordance with the emergency provisions of *Louisiana Revised Statutes* (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on September 3, 2015 which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action to re-open public oyster seed grounds and reservations if sufficient quantities of oysters are available, and to adjust sack limits and sacking-only areas, notice is hereby given that the secretary of Wildlife and Fisheries hereby declares that a portion of the Sister Lake Public Oyster Seed Reservation shall re-open at one half hour before sunrise on Monday, April 4, 2016 for the purpose of market oyster harvest only and shall close at one-half hour after sunset on Apri1 14, 2016.

The portion of the Sister Lake Public Oyster Seed Reservation to be re-opened shall be the area west of a line of longitude at 90 degrees 55 minutes 25.907 seconds W. The daily and possession sack limit is set at 25, and the following conditions shall also apply.

1. All oysters aboard a vessel harvesting on the Sister Lake Public Oyster Seed Reservation are deemed to have been taken from the Sister Lake Public Oyster Seed Reservation.
2. Prior to leaving the Sister Lake Public Oyster Seed Reservation, all oysters must be sacked, the number of sacks harvested shall be recorded in a log book, and each sack shall be properly tagged.
3. All vessels located in the Sister Lake Public Oyster Seed Reservation during those times between one-half hour after sunset and one-half hour before sunrise shall have all oyster dredges unshackled.

Notice of any opening, delaying, or closing of a season will be provided by public notice at least 72 hours prior to such action, unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns.

Charles J. Melancon
Secretary

1604#032

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Wildlife Management Area Reopening

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under authority of R.S. 56:115, the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopt the following emergency rule:

Currently, due to recent high water levels associated with excessive rainfall in North Louisiana, Bayou Pierre and Loggy Bayou Wildlife Management Areas (WMAs) are closed to all activities. Water has now receded on these areas, staff have inspected the WMAs' roads and deemed the WMAs suitable and safe for public access. Therefore, it is deemed appropriate to reopen these areas to all activities.

In accordance with the provisions of R.S. 56:6.1, public access to and use of the above mentioned Wildlife Management Areas shall be as follows: Open to all activities. This Declaration of Emergency shall become effective April 8, 2016.

Charles J. Melancon
Secretary

1604#062

Rules

RULE

Department of Agriculture and Forestry
Office of Forestry

Logos for State Products (LAC 7:V.2901-2913)

Editor's Note: The following Rule is being repromulgated to correct a codification error. The original Rule can be viewed in the March 20, 2016 edition of the *Louisiana Register* on pages 393-394.

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through authority granted in R.S. 3:4271, the Department of Agriculture and Forestry ("department"), has adopted LAC 7:V.2901-2913 in order to create standards for use of a department-adopted logo for certain products.

Title 7
AGRICULTURE AND ANIMALS
Part V. Advertising, Marketing and Processing
Chapter 29. Logos for State Products

§2901. Purpose; Definitions

A. This Chapter is adopted pursuant to R.S. 3:4271 and shall govern eligibility and rules to participate in the department's logo program.

B. For purposes of this Chapter, the following terms shall have the meaning hereafter ascribed to them, unless the context clearly indicates otherwise.

Commissioner—the commissioner of the Louisiana Department of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

License—written authorization from the Louisiana Department of Agriculture and Forestry for the non-exclusive use of the logo.

Licensee—applicant who applied to the department for a license to use the logo(s) and whose application was approved.

Logo—the logos adopted by the department pursuant to R.S. 3:4271 to promote products made, grown, manufactured, processed, produced or substantially transformed in the state of Louisiana. The logos include certified Louisiana, certified Louisiana Cajun, certified Louisiana Creole, and certified Louisiana farm to table restaurant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016), repromulgated LR 42:540 (April 2016).

§2903. Eligibility

A. The department shall have sole discretion to determine whether a product, restaurant or agritourism activity is eligible to be labeled with one of the certified logos. To be eligible, a company must possess and be in compliance with all other state and federal permits, licenses and laws.

B. In order for a product to be eligible for inclusion in the logo program, it must be made, grown, manufactured, processed, produced or substantially transformed in the state of Louisiana.

C. In order for a product to be eligible to use the certified Louisiana Creole logo, at least 50 percent of the product must be made, grown, produced, manufactured, processed or packed in Louisiana and the owner shall be of Creole decent and/or product(s) being of Creole heritage.

D. In order for a product to be eligible to use the certified Louisiana Cajun logo, at least 50 percent of the product must be made, grown, produced, manufactured, processed or packed in Louisiana and the owner shall be of Cajun decent and/or product(s) being of Cajun heritage.

E. In order for a restaurant to be eligible to use the certified farm to table logo, a majority of the restaurant's raw and value added products shall produced and sourced as locally as possible, within Louisiana and or less than 200 miles from its origin, which means going directly from the farm to the table.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016), repromulgated LR 42:540 (April 2016).

§2905. Application Process and Product Verification

A. Applications for use of the logos shall be made in writing on a form prescribed by the department. All applications must be signed and notarized. Applications which are not signed and notarized will be returned to the applicant.

B. Each application shall be accompanied by a non-refundable $25 application fee. Applications which do not include the application fee will be returned to the applicant.

C. Applicant's proposed use of the logo shall be included in the application and is subject to review and acceptance by the department.

D. Within 30 days of receipt of the application by department, the department shall make a determination of whether such registration permission is granted or denied and shall notify the applicant of same in writing or by electronic mail. A site visit may be required to help determine the eligibility of the registrant to participate in the program. Applicants agree to allow a representative from the department to visit the production and/or processing facilities to verify compliance with guidelines established by the department.

E. Upon approval of the application, a registration fee of $30 per logo shall be paid to the department. Upon receipt of the registration payment, the department shall provide the registrant a certificate of registration, which will expire on December 31 unless timely renewed, and a digital jpeg and/or eps copies of the logo(s) suitable for reproduction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016), repromulgated LR 42:540 (April 2016).

§2907. Denial of Registration

A. Applications for use of the logo(s) may be denied if:

1. The product or activity falls outside of the definition as prescribed by law.

2. The product is of a quality markedly inferior to that representative of similar products produced in Louisiana;

3. The applicant has misused the logo(s) prior to the date of application; or the applicant has used the logo(s) without permission of the department;

4. The applicant's use of the logos would, in the department's opinion, either:

a. Impair or frustrate the department's efforts to expand or encourage development of the markets for Louisiana agricultural and other products; or

b. Fail to enhance the integrity and image of the program, as determined by the department; or

c. it has been determined not to be in accordance with department policy.

B. Any applicant whose request to use the logo(s) is denied may protest the department's decision by filing a notice of protest with the department within 15 days of receipt by the applicant of notice of denial. A notice of protest which has been timely filed shall be administered as a contested case as provided for the Administrative Procedure Act. If notice of protest has not been filed with the department within 15 days of receipt by the applicant of notice of denial, such denial shall become final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016), repromulgated LR 42:541 (April 2016).

§2909. Renewal of Registration

A. All licenses expire December 31 of each year. Licensee's right to use logo(s) will cease at 12:01 a.m. on January 1 unless an application for renewal has been timely submitted to and approved by department.

B. Applications for renewal of registration shall be made in writing on a form prescribed by the department. The fee for renewal of registration is $30.

C. Applicant's application for renewal of registration and $30 renewal fee must be received on or before the close of business on December 31. Upon receipt of the renewal application and annual fee, the department will send an approved registrant a certificate of registration.

D. Failure to remit the annual registration fee by December 31 shall result in the registrant being designated as inactive. Failure to timely remit the renewal application and renewal fee within by January 10 shall result in the expiration of the registration and the licensee will be treated as a new applicant and must follow the procedure set forth in rule 105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:394 (March 2016), repromulgated LR 42:541 (April 2016).

§2911. Use of Logo

A. No person shall, in commerce, advertise, sell, offer or expose for sale, distribute, package or in any other manner identify any services or goods with the logo affixed to such service or good, unless the logo use has been previously approved by the department.

B. Any permission granted by the department to licensee for use of the logo shall be nonexclusive and nontransferable to another person or another product. The logo may only be used on the product(s) set forth in the application and listed on the registration certificate.

C. Licensee's authorization to use the logo(s) shall not be construed to grant or assign any right, title or interest in or to the logo(s) or the goodwill attached thereto.

D. Licensee shall not alter the appearance of the logo(s) in any manner. Licensee may use the logo in any color he desires, but logo wording may not be altered.

E. Other than the authorized use of the logo(s), no licensee shall use any statement of affiliation or endorsement by the state of Louisiana or the department in the selling, advertising, marketing, packaging, or other commercial handling of products and services, or restaurants.

F. The following shall constitute misuse of the logo:

1. using the logo(s) on any product for which use has not been granted by the department;

2. using the logo(s) on a product that is not in compliance with state or federal law;

3. using the logo(s) in a manner that is disparaging to the department;

4. using the logo(s) in violation of any rule promulgated by the department;

5. using the logo(s) without a valid registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:394 (March 2016), repromulgated LR 42:541 (April 2016).

§2913. Enforcement

A. In the event that the department determines that a licensee has misused the logo(s), the department shall conduct an adjudicatory hearing in accordance with the Administrative Procedure Act in order to determine whether to suspend or revoke the licensee's permission to use the logo(s).

B. All hearings conducted pursuant to this section shall be heard by a three person hearing panel appointed by the commissioner. The commissioner may appoint a hearing officer to conduct the hearing.

C. At the conclusion of the administrative hearing, the hearing panel may recommend that the licensee's permission to use the logo(s) be suspended or revoked. The hearing panel's recommendation shall be submitted to the commissioner for his determination.

D. The department may pursue other civil or injunctive remedies against any person or company misusing the logo. All proceedings shall be brought in the 19th Judicial District in East Baton Rouge Parish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:394 (March 2016), repromulgated LR 42:541 (April 2016).

Mike Strain, DVM
Commissioner

1604#037

RULE

Department of Children and Family Services
Division of Programs
Licensing Section

Child Day Care Centers (LAC 67:III.Chapter 73)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) has repealed the *Louisiana Administrative Code*, Title 67, Part III, Subpart 21, Chapter 73, Sections 7301-7399.

The Rule repeals the child day care regulations under the Department of Children and Family Services due to the transfer of authority to the Louisiana Department of Education.

Pursuant to R.S. 17:407.32, the authority to license child care centers transferred from the Department of Children and Family Services to the Department of Education, effective October 1, 2014. Additionally, pursuant to R.S. 17:407.38, until such time as rules were promulgated by the Board of Elementary and Secondary Education to implement type I, type II, and type III child day care center licenses, child care centers were to continue to follow the rules promulgated by DCFS for the licensure of class A and class B child care centers. The Board of Elementary and Secondary Education promulgated such rules effective July 1, 2015; therefore the rules previously referenced in Sections 7301-7399 are hereby repealed.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 21. Child Care Licensing
Chapter 73. Day Care Centers
Subchapter A. Licensing Class "A" Regulations for Child Care Centers

§7301. Purpose

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1107 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2755 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:542 (April 2016).

§7302. Authority

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1107 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2755 (December 2007), amended LR 36:332 (February 2010), LR 36:847 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:811 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:66 (January 2013), LR 40:243 (February 2014), effective March 1, 2014, LR 40:1674 (September 2014), repealed LR 42:542 (April 2016).

§7303. Procedures

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1108 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2756 (December 2007), amended LR 36:333 (February 2010), LR 36:832 (April 2010), repromulgated LR 36:1272 (June 2010), amended LR 36:1279 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section and Economic Stability and Self-Sufficiency Section, LR 36:2521 (November 2010), repromulgated 37:513 (February 2011), amended by the Department of Children and Family Services, Division of Programs, LR 37:812 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:247 (February 2014), effective March 1, 2014, repealed LR 42:542 (April 2016).

§7304. Definitions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1111 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2758 (December 2007), amended LR 36:848 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:470 (March 2013), LR 40:249 (February 2014), effective March 1, 2014, repealed LR 42:542 (April 2016).

§7305. General Requirements

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1112 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2759 (December 2007), amended LR 36:333 (February 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:812 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:249 (February 2014), effective March 1, 2014, repealed LR 42:542 (April 2016).

§7306. Policies and Procedures Related to Children

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December

1998), LR 29:1112 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2760 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:542 (April 2016).

§7307. Children's Records

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1113 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2761 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:543 (April 2016).

§7308. Retention of Records

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1113 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2761 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:543 (April 2016).

§7309. Required Staff

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1113 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2761 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:543 (April 2016).

§7310. Director Qualifications

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1114 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2762 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:543 (April 2016).

§7311. Personnel Records

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1114 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2762 (December 2007), amended by the Department of Children and Family Services, Division of Programs, LR 37:813 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:250 (February 2014), effective March 1, 2014, repealed LR 42:543 (April 2016).

§7312. Staff Development and Training

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1114 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2763 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:981 (April 2012), repealed LR 42:543 (April 2016).

§7313. Water Activities

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1115 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2763 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:543 (April 2016).

§7315. Required Child/Staff Ratios

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1116 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2764 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:252 (February 2014), effective March 1, 2014, LR 42:543 (April 2016).

§7317. Supervision

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1116 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2764 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:252 (February 2014), effective March 1, 2014, LR 40:1674 (September 2014), repealed LR 42:543 (April 2016).

§7319. Food Service and Nutrition

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1116 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2764 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:544 (April 2016).

§7321. Health Service to the Child

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1117 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2765 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:544 (April 2016).

§7323. Physical Environment

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1118 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2766 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:544 (April 2016).

§7325. Furnishings and Equipment

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1118 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2766 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:470 (March 2013), repealed LR 42:544 (April 2016).

§7327. Safety Requirements

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1119 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2767 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:981 (April 2012), repealed LR 42:544 (April 2016).

§7328. Emergency Preparedness and Evacuation Planning

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:981 (April 2012), repealed LR 42:544 (April 2016).

§7329. Non-Vehicular Excursions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1119 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2767 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:544 (April 2016).

§7331. General Transportation (Contract, Center-Provided, Parent-Provided)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1119 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2767 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1207 (May 2012), LR 40:253 (February 2014), effective March 1, 2014, repealed LR 42:544 (April 2016).

§7333. Field Trips (Contract, Center-Provided, Parent Provided)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1120 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2768 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:253 (February 2014), effective March 1, 2014, repealed LR 42:544 (April 2016).

§7335. Daily Transportation (Contract or Center-Provided)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1120 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2768 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:253 (February 2014), effective March 1, 2014, repealed LR 42:544 (April 2016).

§7337. Contract Requirements

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1120 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2769 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:545 (April 2016).

§7339. Care for Children during Nighttime Hours

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1121 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2769 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:545 (April 2016).

§7350. Disclosure of Information as Specified under R.S. 46:1426

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1426

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 25:1130 (December 1999), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2769 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:545 (April 2016).

Subchapter B. Licensing Class "B" Regulations for Child Care Centers

§7355. Authority

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1635 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended LR 36:333 (February 2010), LR 36:849 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:66 (January 2013), LR 40:254 (February 2014), effective March 1, 2014, LR 40:1674 (September 2014), repealed LR 42:545 (April 2016).

§7357. Definitions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended LR 36:334 (February 2010), LR 36:850 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:814 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:471 (March 2013), LR 40:257 (February 2014), effective March 1, 2014, repealed LR 42:545 (April 2016).

§7359. Procedures

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2771 (December 2007), amended LR 36:335 (February 2010), LR 36:833 (April 2010), repromulgated LR 36:1273 (June 2010), amended LR 36:1279 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section and Economic Stability and Self-Sufficiency Section, LR 36:2521 (November 2010), repromulgated LR 37:513 (February 2011), amended by the Department of Children and Family Services, Division of Programs, LR 37:814 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:258 (February 2014), effective March 1, 2014, repealed LR 42:545 (April 2016).

§7361. General Requirements

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1638 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2773 (December 2007), amended LR 36:335 (February 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:814 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:259 (February 2014), effective March 1, 2014, repealed LR 42:545 (April 2016).

§7363. Transportation

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 26:1638 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2773 (December 2007), amended by the Department of Children and Family Services, Division of

Programs, Licensing Section, LR 38:1207 (May 2012), LR 40:260 (February 2014), effective March 1, 2014, repealed LR 42:545 (April 2016).

§7365. Center Staff

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1639 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2774 (December 2007), amended by the Department of Children and Family Services, Division of Programs, LR 37:815 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:982 (April 2012), LR 40:260 (February 2014), effective March 1, 2014, repealed LR 42:546 (April 2016).

§7367. Childrens' Records

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1640 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2775 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:546 (April 2016).

§7369. Personnel

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:2010 (September 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2775 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:546 (April 2016).

§7371. Required Child/Staff Ratios

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1641 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2775 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:263 (February 2014), effective March 1, 2014, repealed LR 42:546 (April 2016).

§7372. Supervision

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1430 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:263 (February 2014), effective March 1, 2014, amended LR 40:1674 (September 2014), repealed LR 42:546 (April 2016).

§7373. Physical Plant and Equipment

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1641 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2776 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:982 (April 2012), amended LR 39:471 (March 2013), repealed LR 42:546 (April 2016).

§7375. Admission of Children

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1642 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2776 (December 2007), repealed LR 42:546 (April 2016).

§7377. Care of Children

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1642 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2777 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:546 (April 2016).

§7378. Emergency Preparedness and Evacuation Planning

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:983 (April 2012), repealed LR 42:546 (April 2016).

§7379. Care for Children during Nighttime Hours

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1643 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2778 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:546 (April 2016).

§7381. Discipline

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by

the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1644 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2778 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:546 (April 2016).

§7383. Abuse and Neglect

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1644 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2778 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:547 (April 2016).

Subchapter C. Licensing Class "A" Regulations for Day Care Centers Caring for Sick Children

§7387. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1130 (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2779 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:547 (April 2016).

§7388. Standards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1130 (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2779 (December 2007), amended LR 35:962 (May 2009), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:547 (April 2016).

§7389. Personnel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1131 (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2779 (December 2007), amended LR 35:962 (May 2009), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:547 (April 2016).

§7390. Training

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1131 (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2780 (December 2007), amended LR 35:962 (May 2009), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:547 (April 2016).

§7391. Staffing

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1131 (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2780 (December 2007), amended LR 35:962 (May 2009), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:547 (April 2016).

§7392. Plant Equipment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1132 (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2780 (December 2007), amended LR 35:962 (May 2009), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:547 (April 2016).

§7393. Admission Policies and Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1132 (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2781 (December 2007), amended LR 35:963 (May 2009), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:547 (April 2016).

§7394. Physical Assessment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1133 (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2781 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:547 (April 2016).

§7395. Care of Children

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1133 (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2782 (December 2007), amended LR 35:963 (May 2009), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:547 (April 2016).

§7396. Infectious/Medical Waste Disposal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:1134 (October 1994), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2783 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:547 (April 2016).

§7399. Appendix A: Child and Adult Care Food Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 35:963 (May 2009), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 42:548 (April 2016).

Marketa Garner Walters
Secretary

1604#034

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System
(LAC 28:LXXXIII.405, 409, 705, 707, and 1107)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System*: §405, Calculating a K-8 Assessment Index; §409, Calculating a 9-12 Assessment Index; §705, AMO; §707, Safe Harbor; and §1107, Unknown School and District Performance Due to Nonparticipation in State Assessments (2014-2015 Only). The policy revisions ensure that combination schools earn the same rewards as traditional high schools for students participating in high school exams while still in middle school; award points for student performance on ACT and WorkKeys, whichever is higher, within the ACT index of high school performance scores; ensures a steady formula while a statewide social studies field test is conducted for grades 3 through 8; and address participation concerns for grades 3 through 8 English language arts and mathematics exams for spring 2015 testing.

Title 28
EDUCATION
Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System
Chapter 4. Assessment and Dropout/Credit Accumulation Index Calculations

§405. Calculating a K-8 Assessment Index

A. - E. …

F. When middle schools students participate only in an EOC exam and not also the grade-level assessment in a given subject, EOC test results shall be used in the middle school's assessment index (100 for "good" and 150 for "excellent") and will be weighted by content as noted in the table above. Middle schools will also earn incentive points for all EOC scores of "good" or "excellent" earned during the same year in which the test was administered.

1. Incentive points will be awarded as follows:
   a. excellent = 50;
   b. good = 25.

G. The policy, as outlined in Subsection F of this Section, shall also apply to combination schools. The EOC score will be used in middle school results for the year in which the EOC is taken, incentive points may be awarded, and the score will be banked for use in the high school score once the student arrives in 9th grade, as outlined in §409.A.3.

H. In the 2015-2016 school year, the social studies test will be administered as a field test only. When calculating the K-8 assessment index for the 2015-2016 school year, either the 2013-2014 or 2014-2015 social studies assessment index, whichever yields the higher school performance score, shall be used as the social studies component of the overall assessment index.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 36:1989 (September 2010), LR 38:3106 (December 2012), LR 41:2579 (December 2015), LR 42:548 (April 2016).

§409. Calculating a 9-12 Assessment Index

A. - A.4. …

B.1. The ACT composite score will be used in the calculation of the ACT assessment index as described in the chart below. To the extent practicable, a student's highest earned score for any ACT administration shall be used in the calculation.

ACT Composite	Index Pts
0-17	0
18	100
19	102.8
20	105.6
21	108.4
22	111.2
23	114
24	116.8
25	119.6
26	122.4
27	125.2
28	128
29	130.8
30	133.6
31	136.4
32	139.2
33	142
34	144.8
35	147.6
36	150.4

2.a. Starting in the 2015-16 school year, student performance on the WorkKeys shall be included within the ACT index, where a student takes both assessments and earns a greater number of index points for WorkKeys than for ACT.

b. The concordance table below shall be used to award points beginning in the 2015-16 school performance score results and shall be reevaluated annually for continued alignment with ACT performance.

WorkKeys Level	Index Points
Platinum	136.4
Gold	116.8
Silver	100

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 33:252 (February 2007), LR 36:1989 (September 2010), LR 37:2118 (July 2011), repromulgated LR 37:2382 (August 2011), amended LR 37:3200 (November 2011), LR 38:1212 (May 2012), LR 38:2357 (September 2012), LR 38:3106 (December 2012), LR 39:305 (February 2013), LR 39:1421 (June 2013), LR 40:1314 (July 2014), LR 41:2579 (December 2015), LR 42:548 (April 2016).

Chapter 7. Subgroup Component

§705. Annual Measurable Objective

A. The annual measurable objective (AMO) is the percent of students required to reach the proficient level in a given year on the standards-based assessments. Beginning in 2015, English language arts and mathematics test results from grades 3-8 LEAP, *i*LEAP, high school EOC algebra I and English II, and LAA 1 will be used to calculate the percent proficient for the subgroup component (for schools and districts).

1. At the middle school level, if a student takes algebra 1, then the algebra 1 score shall be used for AMO calculations.

2. At the high school level, if the algebra I score was used at the middle school level, the geometry score shall be used for AMO calculations.

B. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 33:253 (February 2007), LR 38:2357 (September 2012), LR 40:2508 (December 2014), LR 42:549 (April 2016).

§707. Safe Harbor

A. - D. …

E. English language arts and mathematics test results from grades 3-8, EOC, and LAA 1 will be used to calculate the reduction of non-proficient students in safe harbor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 32:1025 (June 2006), LR 33:253 (February 2007), LR 33:2594 (December 2007), LR 38:1213 (May 2012), LR 38:2357 (September 2012), LR 38:3110 (December 2012), LR 40:2508 (December 2014), LR 42:549 (April 2016).

Chapter 11. School Performance Categories

§1107. Unknown School and District Performance Due to Nonparticipation in State Assessments (2014-2015 Only)

A. For the 2014-2015 school year only, if the number of nonparticipants (see §4101.B of this bulletin) in grades 3 to 8 English language arts and mathematics is greater than 10 percent of all testers for that school, then the LDE shall carry forward the 2013-2014 school performance score and letter grade of said school as the 2014-2015 annual school performance score and letter grade, and shall clearly note the use of the 2013-2014 result, due to nonparticipation, on the annual public report card.

1. If a school meets the criteria outlined in Subsection A of this Section but did not have a letter grade or SPS from the year prior, then a letter grade of "U" (unknown) shall be awarded for the 2014-2015 school year.

B. For the 2014-2015 school year only, if the number of nonparticipants (see §4101.B of this bulletin) in grades 3 to 8 English language arts and mathematics is less than or equal to 10 percent of all testers for that school, then the LDE shall include in the calculation of the school or district performance score results from the 2013-2014 Louisiana state assessments in English language arts or mathematics for such students, where available. Where no such 2013-2014 English language arts and/or mathematics results are available for nonparticipants, nonparticipation shall be addressed by using the average assessment index points earned for the specific school, grade level and subject. For students with partial scores in 2014-2015, the LDE shall use the higher of the student's two results, 2013-2014 or 2014-2015; if students with partial scores do not have a score from 2013-2014, then the LDE shall use either the 2014-2015 partial score or the average 2014-2015 assessment index points earned for the specific school, grade level and subject, whichever is higher.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:549 (April 2016).

Shan N. Davis
Executive Director

1604#011

RULE

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
(LAC 28:CXXXIX.2301, 2713, and 2801)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 126—Charter Schools*: §2301, State Funding; §2713, At-Risk Students; and §2801, Transportation Requirements. The revisions are required by Act 421 of the 2015 Regular Legislative Session. These revisions also incorporate language newly amended by Act 467 of the 2015 Regular Legislative Session to weight Minimum Foundation Program (MFP) funding for charter schools.

Title 28
EDUCATION
Part CXXXIX. Bulletin 126—Charter Schools

Chapter 23. Charter School Funding

§2301. State Funding

A. Unless otherwise provided by law, the per pupil amount provided to a type 1, 1B, 2, 3, 3B, or 4 charter school shall be computed at least annually and shall be equal to the per pupil amount provided through the Minimum Foundation Program formula, determined by the allocation weights in the formula based upon student characteristics or needs, received by the school district in which the student resides, as determined by the weighted differentiated funding formula based upon individual student characteristics or needs that is provided through the Minimum Foundation Program, except as provided in Subsection E of this Section.

1. The state-funded per pupil allocation shall be based upon the weighted student membership count received by the district pursuant to the most recent legislatively approved Minimum Foundation Program formula, and include all levels and allocation weights based upon student characteristics or needs as provided in the formula except any supplementary allocations for specific purposes. Supplementary allocations for specific purposes shall be provided to charter schools based solely on the funds generated by the charter school within each specific allocation.

B. …

C. For the purposes of funding, each type 1, type 3, and type 4 charter school shall be considered an approved public school of the local school board entering into the charter agreement.

D. - G.2. …

3. Local charter authorizers shall also submit the reports required in this Subsection to the LDE according to the timelines provided for in this Subsection.

4. The LDE may withhold and retain from state funds otherwise allocated to a local public school system through the Minimum Foundation Program an amount equal to 1 quarter of 1 percent of the fee amount charged to a type 3B charter school for administrative costs incurred by the LDE for providing financial oversight and monitoring of a type 3B charter school acting as its own LEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3995, and R.S. 17:3981.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1371 (July 2008), amended LR 37:874 (March 2011), LR 39:3250 (December 2013), LR 40:1324 (July 2014), LR 42:549 (April 2016).

Chapter 27. Charter School Recruitment and Enrollment

§2713. At-Risk Students

A. Charter schools shall maintain required student enrollment percentages as provided in this Section, based on the demographic information collected in the February 1 pupil membership count for students who were enrolled at the school the previous October 1 according to the October 1 pupil membership count.

B. The following definitions shall apply in this Section.

Students from Local Public School Districts—public school students who reside within the geographic boundaries of the local city or parish school board's district where a particular charter school is located.

Students with Exceptionalities—students identified as having one or more exceptionalities, as defined in R.S. 17:1942, not including gifted and talented.

C. Unless otherwise explicitly stated in the charter school's contract, or otherwise provided by charter law, each type 1B or type 2 charter school created as the result of a conversion, type 3 charter school, and type 4 charter school shall maintain the following student enrollment percentages:

1. the charter school's percentage of free- or reduced-price lunch eligible students shall be greater than or equal to the percentage of free- or reduced-price lunch eligible students enrolled at the school in the school year prior to the establishment of the charter school; and

2. the charter school's percentage of students with exceptionalities shall be greater than or equal to the percentage of students with exceptionalities enrolled at the school in the school year prior to the establishment of the charter school.

D. Except as otherwise provided by charter law, each type 1, type 1B, or type 2 charter school created as a new school shall maintain the following student enrollment percentages:

1. the charter school's percentage of free- or reduced-price lunch eligible students shall be greater than or equal to 85 percent of the percentage of free- or reduced-price lunch eligible students from local public school districts. The remaining number of students enrolled in the charter school which would be required to have the same percentage of free- or reduced-price lunch eligible students from local public school districts shall be comprised of students who are otherwise at-risk as defined in §103 of this bulletin; and

2. the charter school's percentage of students with exceptionalities shall be greater than or equal to 85 percent of the percentage of students with exceptionalities from the local public school districts. The remaining number of students enrolled in the charter school which would be required to have the same percentage of students with exceptionalities from the local public school districts shall be comprised of students who are otherwise at-risk as defined in §103 of this bulletin.

E. For the purpose of Subsection D of this Section, the LDE shall determine the percentages of free or reduced-price lunch eligible students and students with exceptionalities from local public school districts as follows.

1. For charter schools in operation prior to July 1, 2016, the student enrollment percentages shall be based on the February 1, 2015 pupil membership count and shall remain fixed until the charter school's contract is renewed, unless otherwise provided for in existing charter contracts.

2. For charter schools beginning an initial or renewal charter contract term on or after July 1, 2016, the student enrollment percentages shall be based on the pupil membership counts from the school year immediately preceding the beginning of the charter contract term and shall remain fixed during the charter contract term, unless the charter contract specifies that the percentages shall be required to reflect the current year's percentages.

F. The LDE shall perform all calculations necessary to implement this Section.

G. Annually, the LDE shall make a report to BESE on the student enrollment percentages detailed in this Section for all public schools and local education agencies.

H. Each charter authorizer shall hold its authorized charter schools accountable for meeting the required student enrollment percentages in this Section in accordance with state law by taking the following actions for each charter school that fails to meet required enrollment percentages:

1. conducting an inquiry to determine all actions taken by the charter school to attempt to meet the requirements and the reasons for such failure; and

2. providing a written notice to the charter school that provides specific annual enrollment percentage targets the

charter school must meet to demonstrate progress toward meeting the required enrollment percentages, and details how the charter authorizer will hold the charter school accountable, including any potential consequences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) R.S. 17:3973, R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008), amended LR 37:875 (March 2011), LR 40:1325 (July 2014), LR 42:550 (April 2016).

Chapter 28. Transportation

§2801. Transportation Requirements

A. - D. …

E. No later than the beginning of the 2016-2017 school year, each type 5 charter school located in Orleans Parish shall provide free transportation services for all students enrolled in the charter school who reside within Orleans Parish and more than 1 mile from the charter school's location, which shall include, at a minimum:

1. whatever transportation is necessary to implement any individualized education plan (IEP) for a child with an identified exceptionality, without regard to how far the child resides from the charter school;

2. free transportation by a vehicle approved for student transportation in accordance with BESE *Bulletin 119—Louisiana School Transportation Specifications and Procedures*, for students enrolled in grade 6 or below who reside more than 1 mile from the charter school; and

3. free transportation, free public transportation payments and/or reimbursements for all other students not included in Paragraphs 1 and 2 of this Subsection who reside more than 1 mile from the school.

F. Each charter school operator shall adopt policies and procedures or shall make provision in its bus transportation service agreement to do all of the following:

1. prohibit a bus driver from loading or unloading students at school while the bus is in a traffic lane of any type of street as defined in R.S. 32:1 and require that students be loaded or unloaded on a shoulder, in a school parking lot, or at other appropriate off-road location at the school as determined by the school governing authority. The requirements of this Paragraph shall not apply if the shoulder of a municipal road is the only available alternative and the municipality has not made the shoulder available by designating that area for loading and unloading students during designated school zone hours;

2. prohibit a bus driver from loading or unloading students at or near their homes while the bus is in a traffic lane of any type of street as defined in R.S. 32:1 and require that students be loaded or unloaded on a shoulder unless the governing authority determines that loading or unloading on a shoulder is less safe for the student. However, if there is no shoulder or if the shoulder is determined to be less safe, a bus driver may load and unload a student while the bus is in a lane of traffic but only if the bus is in the lane farthest to the right side of the road so that there is not a lane of traffic between the bus and the right-side curb or other edge of the road;

3. prohibit a bus driver from loading or unloading a student in a location on a divided highway such that a student, in order to walk between the bus and his home or school, would be required to cross a roadway of the highway on which traffic is not controlled by the visual signals on the school bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:158, R.S. 17:3981, and 17:3996(B)(37).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:1266 (July 2015), amended LR 42:551 (April 2016).

Shan N. Davis
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1604#012

RULE

Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District
(LAC 28:CXLV.505, 1103, and 1105)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 129—The Recovery School District*: §505, Return of Schools to Local School Board; §1103, Annual Budget; and §1105, Budget Planning, Preparation, and Schedules. Previous policy detailed a process for the Recovery School District (RSD) to return an RSD charter school to the former local school board when the charter school has earned a school performance score of 54.0 or above for two consecutive school years. The revisions to this Section simplify the process of returning schools to the RSD by clarifying terms and existing processes, deleting unnecessary language, and aligning the policy with yearly accountability timelines for letter grade release and charter renewals. Additional revisions ensure that the policy aligns to the appropriate BESE meetings and budgetary timelines each year.

Title 28
EDUCATION

Part CXLV. Bulletin 129—The Recovery School District

Chapter 5. Failed Schools

§505. Return of Schools to Local School Board

A. Schools transferred to the jurisdiction of RSD shall remain with the RSD for a period of not less than five years.

1. A school that has been under the jurisdiction of the RSD for a minimum of five years as either a direct-run RSD school or a type 5 charter school may be returned to the jurisdiction of its former local school board based upon the RSD's report and recommendation to BESE. The RSD's report shall include the following:

a. the status of the school, the nature of its faculty and administration, the demographics and size of the student body, its organizational and management structure, whether student academic performance has improved, the amount of any improvement, an explanation of why student academic performance has or has not improved, and to what extent performance targets were achieved;

b. the RSD report shall also include a recommendation as to whether the school should:

i. remain within the RSD in the same operational status;

ii. remain within the RSD in a new operational status;

iii. close, with the reasons why it should close; or

iv. return to the jurisdiction of its former local school board, with proposed stipulations and conditions for the return.

B. Eligible Type 5 Charter Schools

1. An eligible type 5 charter school board may elect to transfer from the RSD and return to the jurisdiction of its former local school board as a type 3b charter school. If the charter school board chooses not to transfer to its former local school board, it will automatically remain within the RSD for an additional school year. The charter school board shall have the opportunity to choose to return to its former local school board every year the charter school continues to meet eligibility criteria, in accordance with the procedures outlined below.

2. A non-failing charter school is eligible for transfer from the jurisdiction of the recovery school district provided it meets all of the following.

a. The charter school will have been under the jurisdiction of the recovery school district for a minimum of five year. A charter school shall be considered to have been under the jurisdiction of the RSD for five years when five complete school years have passed since the approval of the transfer to the RSD by BESE under R.S. 17:10.5 or 17:10.7, regardless of changing operators or site codes for the charter school since that time. The decision to transfer will be considered at the earliest during the charter school's fifth year under the jurisdiction of the RSD, with the proposed transfer occurring at the conclusion of that same school year.

b. The charter school has earned for the past two consecutive years a school performance score (SPS) of 54.0 or above. If the academically unacceptable school (AUS) bar is raised above 50.0, then the charter school must have earned for the past two consecutive years a school performance score that is at least 4.0 points above the AUS bar as established by BESE pursuant to the statewide school and district accountability system. Should the charter school change operators, an SPS of 54.0 or above under the final year of the former operator and an SPS of 54.0 or above under the new operator the next consecutive year shall still meet this requirement.

i. In order to be eligible to choose to transfer from the jurisdiction of the RSD, charter schools comprised entirely of grades below ninth grade shall have two consecutive school performance scores of 54.0 or above based on test data from students actually attending that charter school, rather than test data from a paired school. For charter schools comprised entirely of grades above eighth grade, both consecutive school performance scores of 54.0 or above shall include ACT data for students actually attending the charter school, and at least one of the school performance scores shall include graduation index and graduation rate data for students actually attending the charter school.

c. In order for a charter school in the final year of its current charter contract term to be eligible to choose to transfer from the jurisdiction of the RSD, the charter school must be renewed for the upcoming school year by BESE pursuant to the charter renewal process in Bulletin 126. The charter school board may still take official board action to seek to return to the local school board prior to being renewed by BESE, but final eligibility to return shall be contingent upon BESE approving a renewal for the charter school.

d. The charter school board elects to seek transfer from the RSD and has notified BESE in writing, no later than the deadline set by the RSD each year preceding the effective date of the proposed transfer.

e. The charter school board shall take official board action based on a vote of its membership, at a charter school board meeting in accordance with its by-laws and state open meetings law to provide BESE with written notification of desire to transfer the charter school from the jurisdiction of the RSD to the jurisdiction of its former local school board as a type 3B charter school. Such notice shall state whether the charter school desires to remain an independent local education agency (LEA) or have the former local school board serve as the charter school's LEA.

3. The transfer of a type 5 charter school from the RSD shall become effective on July 1 of the year following BESE's approval of such transfer.

4. Upon receiving notice from an eligible type 5 charter school board of its desire to seek to transfer the charter school to its former local school board by a deadline set each year by the RSD, BESE shall consider the transfer request for approval. BESE may require additional transfer conditions to be completed by the charter school prior to approval of the transfer at a later BESE meeting preceding the proposed transfer.

5. BESE shall only approve a charter school board request to transfer to the charter school to the jurisdiction to the local school board if the following requirements are met:

a. the local school board provides BESE with written notice, in accordance with the deadlines established by the RSD, that official board action has been taken to accept jurisdiction of the charter school as a type 3B charter school, pending approval of the transfer by BESE; and

b. the charter school board submits a copy of the type 3B charter contract signed by the local school board and the charter operator to BESE prior to approval of the transfer. In order for BESE to grant approval of the transfer, new charter contract, to be effective on the date of transfer (July 1), and any subsequent renewal charter contracts must:

i. be consistent with all state and federal laws governing charter school authorization;

ii. contain academic performance standards for the initial and first renewal term lengths that are equal to or greater than type 5 charter school performance standards as enumerated in BESE Bulletin 126, §519;

iii. comply with any transfer conditions previously specified by BESE;

iv. permit the charter school to remain in its facility or designate an alternative facility for use by the charter school;

v. prohibit the charter school from establishing admissions requirements; and

vi. require any charter school that participated as a type 5 charter school in unified processes common to other public schools located in the same parish or school district boundaries that are critical to providing equity and access to

students and families to continue to participate in such processes. At a minimum, the contract shall require the charter school to:

(a). continue to participate in any unified enrollment system and expulsion process established by the RSD for the parish or region where the charter school is located. The charter school shall follow all policies and procedures applicable to type 5 charter schools participating in the enrollment system and expulsion process; and

(b). continue to provide transportation services for students who reside more than one mile from the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), R.S. 17:10.5(C), and R.S. 17:10.7(C).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:878 (March 2011), amended LR 38:354 (February 2012), LR 38:1396 (June 2012), LR 39:82 (January 2013), LR 39:1022 (April 2013), LR 39:3255 (December 2013), LR 42:551 (April 2016).

Chapter 11. Fiscal Management

§1103. Annual Budget

A. …

B. The RSD's budget must be approved by BESE. The RSD shall present a proposed operational budget to BESE for review in June and for approval in August of each year. The RSD direct-operated and charter-operated schools shall budget on a fiscal year basis, July 1 through June 30.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), and R.S. 17:1990(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:310 (January 2011), amended LR 42:553 (April 2016).

§1105. Budget Planning, Preparation, and Schedules

A. The RSD shall present a proposed operational budget to BESE for review in June and for approval in August of each year.

B. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), and R.S. 17:1990(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:311 (January 2011), amended LR 42:553 (April 2016).

Shan N. Davis
Executive Director

1604#013

RULE

Board of Elementary and Secondary Education

Bulletin 133—Scholarship Programs (LAC 28:CLIII.1305)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 133—Scholarship Programs*: §1305, Accountability System for Participating Nonpublic Schools. The revisions allow the state superintendent to align future scholarship school participation and enrollment decisions to the transition policies for new assessments.

Title 28
EDUCATION
Part CLIII. Bulletin 133—Scholarship Programs
Chapter 13. Criteria for School Participation in the Student Scholarships for Educational Excellence Program

§1305. Accountability System for Participating Nonpublic Schools

A. - E.2.b. …

c. The state superintendent may waive either or both of the above provisions for a given school if the school received a score higher than an equivalent school performance score correlating to a letter grade of an "F" according to the school performance score formula outlined in *Bulletin 111—the Louisiana School, District, and State Accountability System*.

3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:83 (January 2013), amended LR 42:553 (April 2016).

Shan N. Davis
Executive Director

1604#014

RULE

Board of Elementary and Secondary Education

Bulletin 134—Tuition Donation Rebate Program
(LAC 28:CLV.103 and 303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 134—Tuition Donation Rebate Program*: §103, Definitions; and §303, Awarding of Scholarships. The revisions are required to ensure alignment with state law (R.S. 47:6301).

Title 28
EDUCATION
Part CLV. Bulletin 134—Tuition Donation Rebate Program
Chapter 1. General Provisions

§103. Definitions

A. - A.2. …

* * *

Qualified Student—a child who is a member of a family that resides in Louisiana with a total household income that does not exceed an amount equal to 250 percent of the federal poverty level based on the federal poverty guidelines established by the federal Office of Management and Budget and is a student who:

i. is entering kindergarten for the first time;

ii. was enrolled in a public school in Louisiana on October 1 and February 1 of the most recent school year; or

iii. received a scholarship from a school tuition organization or the Student Scholarships for Educational Excellence Program for the previous school year.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1024 (April 2013), amended LR 41:41 (January 2015), LR 42:553 (April 2016).

Chapter 3. School Tuition Organizations

§303. Awarding of Scholarships

A. No scholarship shall be designated, referred to, or in any way named after a private entity, nor shall any donation be earmarked by a donor to provide a scholarship for a particular qualified student or a particular qualified school; however, this Subsection shall not prohibit a donation being earmarked for a student with a disability, students with a particular type of disability, or students with any disability.

B. - I.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6301.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 39:1025 (April 2013), amended LR 40:499 (March 2014), LR 41:41 (January 2015), LR 42:554 (April 2016).

Shan N. Davis
Executive Director

1604#015

RULE

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning Center Licensing Regulations (LAC 28:CLXI.709, 905, 1303, 1307, 1713, 1719, 1721, 1901, and 2103)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*: §709, Validity of Licenses; §905, Change in License Type; §1303, Notice of Denial, Revocation or Refusal to Renew; §1307, Appeal of Denial, Revocation or Refusal to Renew; §1713, Supervision; §1719, Orientation Training; §1721, Continuing Education; §1901, General Safety Requirements; and §2103, Daily Transportation (Contract or Center Provided). The policy revisions add a requirement to surrender invalid licenses when a center has closed or has had its license revoked, and allow the Louisiana Department of Education (LDE) to immediately close a center upon revocation and prohibit continued operation during the appeals process if the LDE determines that the health and safety of children are at issue. Other revisions simplify the process for changing license types, clarify policy and remove duplicate information.

Title 28
EDUCATION
Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations

Chapter 7. Licensing Process and Procedures

§709. Validity of Licenses

A. - B. …

C. When a business is sold, discontinued, the operation has moved to a new location, or the license has been revoked, the existing license immediately becomes null and void and the licensee shall surrender the existing license to the Licensing Division.

D. - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39(C) and R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:624 (April 2015), effective July 1, 2015, amended LR 42:554 (April 2016).

Chapter 9. Changes Requiring a New License

§905. Change in License Type

A. …

B. To change license type, an early learning center shall submit a written request to change its license type and a $25 change fee to the Licensing Division.

C. Upon receipt of the written request and fee, and verification of substantial compliance with the applicable licensing regulations, the Licensing Division shall issue a replacement license of the new type to the center and the center shall surrender its existing license to the Licensing Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.36 and R.S. 17:407.38-39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015, amended LR 42:554 (April 2016).

Chapter 13. Denial, Revocation or Non-Renewal of License

§1303. Notice of Denial, Revocation or Refusal to Renew

A. …

B. The denial, revocation or refusal to renew shall be effective when notice is given and the center shall surrender its existing license to the Licensing Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.44.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 42:554 (April 2016).

§1307. Appeal of Denial, Revocation or Refusal to Renew

A. - B. …

C. A center may continue to operate during the appeals unless the Licensing Division determines that the health, safety or welfare of children in care imperatively requires immediate closure of the center and incorporates that finding in its notice of revocation.

D. - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.45.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015), LR 42:554 (April 2016).

Chapter 17. Minimum Staffing Requirements and Standards

§1713. Supervision

A. - F. …

G. Restrooms

1. Children who are developmentally able may be permitted to go to the restroom independently at an early learning center, provided that:

a. a staff member is in proximity to and can see the children to ensure immediate intervention to safeguard a child from harm while in the restroom; and

b. individuals who are not staff members may not enter the center restroom area while in use by any child other than their own child.

2. A child age four and older may be permitted to go and return from the restroom without staff.

H. - I. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:634 (April 2015), effective July 1, 2015, amended LR 41:2107 (October 2015), LR 42:554 (April 2016).

§1719. Orientation Training

A. - A.4. …

B. Within 30 calendar days of date of hire, each staff member shall receive orientation to the additional policies and practices of the center that at a minimum shall include:

B.1. - C.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015, amended LR 42:555 (April 2016).

§1721. Continuing Education

A. Early learning centers shall provide opportunities for continuing education of staff members who are left alone with children, or who have supervisory or disciplinary authority over children.

1. Such staff members of type II and type III centers, excluding foster grandparents, shall obtain a minimum of 12 clock hours of continuing education per center anniversary year.

2. Such staff members of type I centers, excluding foster grandparents, shall obtain a minimum of three clock hours of continuing education per center anniversary year.

a. Beginning July 1, 2015, such staff members of type I centers, excluding foster grandparents, shall obtain a minimum of 6 clock hours of continuing education per center anniversary year.

b. Beginning July 1, 2016, such staff members of type I centers, excluding foster grandparents, shall obtain a minimum of 9 clock hours of continuing education per center anniversary year.

c. Beginning July 1, 2017, such staff members of type I centers, excluding foster grandparents, shall obtain a minimum of 12 clock hours of continuing education per center anniversary year.

B. Staff members of type I, type II and type III centers who are neither left alone with children, nor have supervisory or disciplinary authority over children, shall obtain a minimum of three clock hours of continuing education in job related topics per center's anniversary year.

C. Continuing education for all types of centers shall be conducted by trainers approved by the Licensing Division. The Licensing Division shall keep a registry of approved trainers.

D. Continuing education hours shall be in the areas of:

1. child development;
2. child guidance;
3. child abuse prevention;
4. emergency preparation;
5. licensing regulations;
6. learning activities;
7. health and safety;
8. shaken baby prevention;
9. CPR;
10. first aid; and
11. management/administrative education.

E. The three hours of training by a child care health consultant on infectious diseases, health and safety, and/or food service preparation required in LAC 51:XXI.301.A.9 shall not count towards continuing education hours for staff members.

F. Pediatric first aid training and infant/child/adult CPR training may count as continuing education in the anniversary year in which it is taken.

G. Medication administration training by a child care health consultant may count as continuing education in the anniversary year in which it is taken.

H. Copies of certificates of completion or attendance records shall be maintained at the center and available for inspection by the Licensing Division upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 42:555 (April 2016).

Chapter 19. Minimum Health, Safety, and Environment Requirements and Standards

§1901. General Safety Requirements

A. - A.4. …

B. Lighting. Areas used by children shall be lighted in such a way as to allow visual supervision of the children at all times.

C. End-of-Day Check. The entire center and play yard shall be checked after the last child departs to ensure that no child is left at the center and this check shall be documented. Documentation shall include date, time of visual check, and signature of the staff conducting the visual check.

D. Sex Offender Registry. An early learning center shall register with the Louisiana State Police sex offender registry at www.lsp.org to receive updates when a sex offender moves within two miles of the center.

E. Centers shall not permit any individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to the center.

F. The owner or director of an early learning center shall immediately notify law enforcement personnel and the Licensing Division if they have knowledge that a registered sex offender is on the premises of the center. The verbal report shall be followed by a written report to the Licensing Division within 24 hours.

G. All equipment used by children shall be maintained in a clean and safe condition and in good repair.

H. Moveable equipment shall be secured and supported so that it shall not fall or tip over.

I. Microwave ovens, bottle warming devices and crock pots are prohibited in areas accessible to children.

J. Items that can be harmful to children, such as medications, poisons, cleaning supplies and chemicals, and

equipment, tools, knives and other potentially dangerous utensils, shall kept in a locked cabinet or other secure place that ensures they are inaccessible to children.

K. Plastic bags, when not in use, regardless of purpose or use, shall be made inaccessible to children.

L. Construction, remodeling, and alterations of structures shall be done in such a manner so as to prevent hazards or unsafe conditions, such as fumes, dust and safety hazards.

M. Strings and cords, including but not limited to those found on equipment, window coverings, televisions and radios, shall be inaccessible to children under age four.

N. First aid supplies shall be kept at the center and shall be easily accessible to employees but not accessible to children.

O. The center shall prohibit the use of alcohol and tobacco and the use or possession of illegal substances, unauthorized potentially toxic substances, fireworks and firearms, and pellet and BB guns on the center premises and notice to this effect shall be posted.

P. The personal belongings of center staff members shall be inaccessible to children.

Q. The center shall post a copy of the current "The Safety Box" newsletter issued by the Louisiana Office of the Attorney General and shall immediately remove from the early learning premises any items listed as recalled.

R. Lawn cutting services shall not occur while children are on the playground or outside the early learning center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 42:555 (April 2016).

Chapter 21. Minimum Transportation Requirements and Standards

§2103. Daily Transportation (Contract or Center Provided)

A. - C. …

D. Vehicle Staff

1. A driver and at least one staff member must be in a contracted or center-provided vehicle at all times when transporting children, and minimum child to staff ratios must be met. However, when transporting children ages four and older only, if the vehicle has a communication device that allows the driver to contact emergency personnel, and the driver does not leave the vehicle while children are present in the vehicle, only the driver is required to be present in the vehicle and minimum child to staff ratios are not required to be met.

2. A contracted driver shall be considered a staff member for purposes of this Subsection if the driver is in compliance with the transportation regulations in Chapter 21 of this bulletin, including but not limited to maintaining a daily passenger log in compliance with §2103.F, and completing and documenting a visual passenger check of the vehicle at the end of each route in compliance with §2107.A.

E. - F.3.g. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:642 (April 2015), effective July 1, 2015, amended LR 42:556 (April 2016).

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Executive Director

1604#006

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Instructional Support
(LAC 28:CXV.1703 and 1707)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §1703, Textbooks; and §1707, Disposal of Library Books and Textbooks. The policy revisions are required to implement Act 389 of the 2015 Regular Legislative Session which revises procedures for the adoption, review, procurement, and distribution of textbooks and other instructional materials for use in elementary and secondary schools.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 17. Instructional Support

§1703. Textbooks

A. …

B. The governing authority of each public elementary and secondary school shall adopt policies and regulations for the adoption and use of textbooks and other instructional materials that sufficiently support the needs of all students in meeting state content standards.

1. The LDE shall utilize a transparent process to review textbooks and other instructional materials in the core subjects of English language arts, mathematics, science, and social studies to determine the degree to which each aligns with state content standards.

a. The state review process shall be conducted entirely online and every aspect of the review process including the textbooks and instructional materials under review and any comments submitted by reviewers, parents and other members of the public, and publishers and other content providers, shall be posted online and made readily accessible to all interested parties.

b. All print textbooks and print instructional materials purchased shall be supplied in an electronic format that meets federal requirements consistent with the Individuals with Disabilities Education Act (IDEA), and can be converted in to specialized formats for children with disabilities.

c. The LDE shall provide each school governing authority with a list of all textbooks and other instructional materials reviewed by LDE which includes information

indicating the degree to which each aligns with state content standards.

2. For the adoption of textbooks and other instructional materials that have not been reviewed by the LDE, the policy of the school governing authority shall provide for the establishment of review committees composed of classroom teachers and other educators, all of whom shall be employees of Louisiana public schools, parents of students enrolled in Louisiana public schools, and other educational stakeholders in Louisiana who have interest in or knowledge of curriculum and the subject matter under consideration.

3. Parents and other members of the public shall be afforded the opportunity to review and provide input relative to the textbooks and instructional materials under review prior to final adoption.

4. The purchase of electronic textbooks, instructional materials, and other media or content shall be maximized to the extent possible.

5. Each school governing authority may purchase textbooks and other instructional materials through a state contract or through the central depository or may contract directly with a publisher or other content provider.

C. Textbooks and instructional materials adopted for use in public schools shall accurately reflect the contributions and achievements of people of differing races and promote and understanding of the history and values of the people of the United States and Louisiana, including the free enterprise system, private property, constitutional liberties, democratic value and traditional standards of moral values.

D. Each school governing authority shall provide textbooks and other instructional materials, as available, to students enrolled in a state-approved home study program. The following procedures shall be used for loaning textbooks to be used in approved home study programs. Parents or guardians must proceed through the following steps in order to access textbooks for students in home study:

1. submit an application to the LDE and obtain approval for participation in the Home Study Program;

2. present a copy of the approved home-study application form to the LEA textbook supervisor or designee;

3. select the textbooks and/or materials needed from the listing as available, from the LEA; and

4. provide a deposit equal to 100 percent of the replacement cost. Such deposit will be returned when the books are returned. If books are not returned or paid for, the parent or legal guardian shall not be eligible to continue participation in the textbook rental program until all textbooks debts have been cleared.

E. Each LEA may establish the price and sell any textbook or library book no longer in use to any person or entity for private use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(4), R.S. 17:8.3, R.S. 17:22, R.S. 17:351 et seq, R.S. 17:356, R.S. 1970.4, and R.S. 17:1970.24.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1286 (June 2005), amended LR 37:1141 (April 2011), LR 38:2365 (September 2012), LR 39:2212 (August 2013), LR 42:556 (April 2016).

§1707. Disposal of Library Books and Textbooks

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:8.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1286 (June 2005), repealed LR 42:557 (April 2016).

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1604#008

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Scheduling (LAC 28:CXV.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §901, Scheduling. The policy revisions seek to increase student access to state and federal financial aid by requiring that students graduating spring 2018 and beyond complete an application for financial aid or submit a request to waive that requirement.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 9. Scheduling
§901. Scheduling

A. - B.4. …

5. By the end of the tenth grade, each student's individual graduation plan or the student's IEP, if applicable, shall outline the school graduation requirements relevant to the student's chosen postsecondary goals based on the student's academic record, talents, and interests. Using information provided by the LDE and the Office of Student Financial Assistance, LEAs shall provide the student and the student's parent or legal custodian information regarding state and federal need-based and merit-based financial aid programs to support postsecondary education and training. The LEA shall ensure that each student receives adequate support in completing and submitting an application for financial aid.

6. Each student, with the assistance of his parent or other legal custodian and school counselor shall choose the high school curriculum framework and related graduation requirements that best meet his postsecondary goals.

7. The individual graduation plan or the IEP, if applicable, shall be reviewed annually and updated as necessary to identify the courses to be taken each year until all required courses are completed.

C. Student scheduling shall be individually appropriate and flexible to allow entry into and exit from courses and course sequences that are available for meeting curricular requirements.

D. Beginning with the 2017-2018 school year, each graduating senior shall, as part of his individual graduation

plan and as a requirement for graduation, complete at least one of the following steps to support a successful transition to postsecondary education or training:

1. complete and submit to the Office of Student Financial Assistance an application for a Taylor Opportunity Program for Students (TOPS) award;

2. complete and submit to the U.S. Department of Education a free application for federal student aid; or

3. a parent or legal custodian, or a student legally emancipated or of the legal age of majority, may certify a waiver in writing to the LEA if he refuses to complete such an application;

4. if a graduating senior is not able to fulfill the requirements of Subsection D of this Section due to extenuating circumstances, the LEA may apply for a waiver to be approved by the state superintendent of education to waive the student of this requirement for graduation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:175 and R.S. 17:183.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 36:1498 (July 2010), LR 39:2204 (August 2013), LR 40:2522 (December 2014), LR 42:557 (April 2016).

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1604#007

RULE

Board of Elementary and Secondary Education

Bulletin 1794—State Textbook Adoption
Policy and Procedure Manual
(LAC 28:XXXIII.Chapters 1-21)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has repealed *Bulletin 1794—State Textbook Adoption Policy and Procedure Manual*. This action was required because the laws on which the policies are based were repealed by Act 389 of the 2015 Regular Legislative Session.

Title 28
EDUCATION
Part XXXIII. Bulletin 1794—State Textbook Adoption Policy and Procedure Manual

Chapter 1. Purpose

§101. Introduction

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1436 (August 1999), repromulgated LR 26:991 (May 2000), amended LR 32:1030 (June 2006), repealed LR 42:558 (April 2016).

Chapter 3. General Provisions

§301. Definitions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1436 (August 1999), repromulgated LR 26:992 (May 2000), amended LR 32:1030 (June 2006), LR 33:636 (April 2007), repromulgated LR 34:64 (January 2008), amended LR 35:646 (April 2009), repealed LR 42:558 (April 2016).

§303. Textbook Approval

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S.17:8(A)(B); R.S. 17: 351(A)(B).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1437 (August 1999), repromulgated LR 26:992 (May 2000), amended LR 33:636 (April 2007), repealed LR 42:558 (April 2016).

§303. Textbook Approval

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S.17:8(A)(B); R.S. 17: 351(A)(B).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1437 (August 1999), repromulgated LR 26:992 (May 2000), amended LR 33:636 (April 2007), repealed LR 42:558 (April 2016).

§305. Textbooks and Materials of Instruction

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1437 (August 1999), repromulgated LR 26:992 (May 2000), amended LR 29:124 (February 2003), LR 32:1031 (June 2006), repealed LR 42:558 (April 2016).

§307. Louisiana State Adoption Cycle and Time Lines

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 351 -353; 361-365; 415.1; 463.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1437 (August 1999), repromulgated LR 26:992 (May 2000), repealed LR 42:558 (April 2016).

§309. Funding for Textbooks

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1439 (August 1999), repromulgated LR 26:993 (May 2000), repealed LR 42:558 (April 2016).

§311. Invitation Circular Letter

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1440 (August 1999), repromulgated LR 26:995 (May 2000), amended LR 29:124 (February 2003), LR 35:647 (April 2009), repealed LR 42:558 (April 2016).

§313. Establish State Textbook Adoption Committee

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1440 (August 1999), repromulgated LR 26:996 (May 2000), repealed LR 42:558 (April 2016).

§315. Establish Criteria and Procedure for Evaluation and Selection of Textbooks and Materials of Instruction

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1440 (August 1999), repromulgated LR 26:996 (May 2000), amended LR 32:1031 (June 2006), repealed LR 42:559 (April 2016).

§317. Provide for a Publishers' Orientation

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1440 (August 1999), repromulgated LR 26:996 (May 2000), repealed LR 42:559 (April 2016).

§319. Establish Procedures for Concerned Citizens' Involvement in the Review Process and a Procedure for Response by Textbook Publishers

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1440 (August 1999), repromulgated LR 26:996 (May 2000), amended LR 33:637 (April 2007), repealed LR 42:559 (April 2016).

§321. Role and Responsibilities of the State Textbook Adoption Committee

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1441 (August 1999), repromulgated LR 26:997 (May 2000), repealed LR 42:559 (April 2016).

§325. Adopting Authority

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1441 (August 1999), repromulgated LR 26:997 (May 2000), repealed LR 42:559 (April 2016).

Chapter 5. Local School System Responsibilities

§501. Local Planning

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1442 (August 1999), repromulgated LR 26:998 (May 2000), amended LR 33:637 (April 2007), repealed LR 42:559 (April 2016).

§503. Formal Adoption

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1442 (August 1999), repromulgated LR 26:998 (May 2000), amended LR 29:124 (February 2003), repealed LR 42:559 (April 2016).

§505. Local Implementation

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1442 (August 1999), repromulgated LR 26:998 (May 2000), amended LR 32:1031 (June 2006), repealed LR 42:559 (April 2016).

§507. Local Adoption Procedures

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1443 (August 1999), repromulgated LR 26:998 (May 2000), amended LR 29:124 (February 2003), LR 32:1031 (June 2006), LR 33:2067 (October 2007), repealed LR 42:559 (April 2016).

§509. Ordering

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1443 (August 1999), repromulgated LR 26:999 (May 2000), repealed LR 42:559 (April 2016).

§511. Direct Order of Textbooks

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1444 (August 1999), repromulgated LR 26:1000 (May 2000), repealed LR 42:559 (April 2016).

§513. Waivers

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1444 (August 1999), repromulgated LR 26:1000 (May 2000), amended LR 35:1878 (September 2009), repealed LR 42:559 (April 2016).

§515. Records and Reporting Requirements

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1444 (August 1999), repromulgated LR 26:1000 (May 2000), repealed LR 42:559 (April 2016).

§517. Textbooks for Home Study Program

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13 (A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236-236.1; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1445 (August 1999), repromulgated LR 26:1001 (May 2000), amended LR 30:780 (April 2004), repealed LR 42:560 (April 2016).

§519. Report on Status of Local Ordering—Late Delivery by Publishers

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1445 (August 1999), repromulgated LR 26:1001 (May 2000), repealed LR 42:560 (April 2016).

§521. Sale of Textbooks No Longer in Use

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1445 (August 1999), repromulgated LR 26:1001 (May 2000), repealed LR 42:560 (April 2016).

§523. Reasonable and Proper Care for and Control over Textbooks and Other Materials of Instruction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1446 (August 1999), repromulgated LR 26:1001 (May 2000), amended LR 28:2329 (November 2002), repealed LR 42:560 (April 2016).

§525. Ongoing Inventory System

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1446 (August 1999), repromulgated LR 26:1002 (May 2000), repealed LR 42:560 (April 2016).

Chapter 7. Publishers' Responsibilities

§701. Requirements for Publishers' Participation in State Textbook Adoption

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1446 (August 1999), repromulgated LR 26:1002 (May 2000), amended LR 29:125 (February 2003), LR 32:1031 (June 2006), LR 33:2067 (October 2007), repealed LR 42:560 (April 2016).

§703. Publishers' Formal State Textbook and Materials of Instruction Submission

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1447 (August 1999), repromulgated LR 26:1003 (May 2000), repealed LR 42:560 (April 2016).

§705. Notification of Required Hardware, Software, Special Equipment Needed by State Textbook Adoption Committee Members to Review Textbooks and Materials Submitted by Publishers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1447 (August 1999), repromulgated LR 26:1003 (May 2000), repealed LR 42:560 (April 2016).

§707. Submission of Correlations to State-Approved Content Standards/Curriculum Guides

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1447 (August 1999), repromulgated LR 26:1003 (May 2000), amended LR 32:1032 (June 2006), repealed LR 42:560 (April 2016).

§709. Textbook Samples for Review by State Textbook Adoption Committee Members and State Citizens

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1447 (August 1999), repromulgated LR 26:1003 (May 2000), repealed LR 42:560 (April 2016).

§711. Submission of Galley Proofs

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1448 (August 1999), repromulgated LR 26:1004 (May 2000), repealed LR 42:560 (April 2016).

§713. Samples for Public Review

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1448 (August 1999), repromulgated LR 26:1004 (May 2000), repealed LR 42:560 (April 2016).

§715. Role of the Publisher during State Committee Review

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1448 (August 1999), repromulgated LR 26:1004 (May 2000), repealed LR 42:560 (April 2016).

§717. Written Questions and Responses to Questions Regarding Textbooks under Consideration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1448 (August 1999), repromulgated LR 26:1004 (May 2000), amended LR 32:1032 (June 2006), repealed LR 42:561 (April 2016).

§719. Publisher Conduct during the State Caravan

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the state Board of Elementary and Secondary Education, LR 25:1449 (August 1999), repromulgated LR 26:1005 (May 2000), repealed LR 42:561 (April 2016).

§721. Obligations to Provide Textbooks and Materials of Instruction within Prescribed Time Periods

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1449 (August 1999), repromulgated LR 26:1005 (May 2000), repealed LR 42:561 (April 2016).

§723. Braille Accessibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1449 (August 1999), repromulgated LR 26:1005 (May 2000), amended LR 33:637 (April 2007), repealed LR 42:561 (April 2016).

Chapter 9. Appendix A

§901. Adoption Cycle

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1450 (August 1999), repromulgated LR 26:1005 (May 2000), amended LR 32:1032 (June 2006), repealed LR 42:561 (April 2016).

Chapter 11. Appendix B

§1101. Publisher Affidavit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1451 (August 1999), repromulgated LR 26:1006 (May 2000), repealed LR 42:561 (April 2016).

Chapter 13. Appendix C

§1301. State Adoption Committee Affidavit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1452 (August 1999), repromulgated LR 26:1007 (May 2000), repealed LR 42:561 (April 2016).

Chapter. 15. Appendix

§1501. Local Adoption Subcommittee Affidavit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1453 (August 1999), repromulgated LR 26:1008 (May 2000), repealed LR 42:561 (April 2016).

Chapter 17. Appendix E

§1701. Public Comment Form

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1453 (August 1999), repromulgated LR 26:1009 (May 2000), repealed LR 42:561 (April 2016).

Chapter 19. Appendix F

§1901. Notice of Publisher's Failure to Deliver

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1454 (August 1999), repromulgated LR 26:1010 (May 2000), repealed LR 42:561 (April 2016).

Chapter 20. Appendix G

§2001. National Instructional Materials Accessibility Standard (NIMAS)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:637 (April 2005), repealed LR 42:561 (April 2016).

Chapter 21. Appendix, State Laws

§2101. Free School Books

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1454 (August 1999), repromulgated LR 26:1010 (May 2000), repealed LR 42:561 (April 2016).

§2103. Duties, Functions, and Responsibilities of Board [R.S. 17:7(4)]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1455 (August 1999), repromulgated LR 26:1010 (May 2000), repealed LR 42:561 (April 2016).

§2105. School Books Prescribed By Board; Contracts with Publishers [R.S. 17:8]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1455 (August 1999), repromulgated LR 26:1010 (May 2000), repealed LR 42:562 (April 2016).

§2107. Sale of Schoolbooks No Longer in Use [R.S. 17.8.]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1456 (August 1999), repromulgated LR 26:1011 (May 2000), repealed LR 42:562 (April 2016).

§2109. Operation of Public Elementary and Secondary Schools in Accordance with State Law or Policy: Penalties for Violation [R.S. 17:172]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1456 (August 1999), repromulgated LR 26:1012 (May 2000), repealed LR 42:562 (April 2016).

§2111. Free School Books and other Materials of Instruction [R.S. 17:351]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1456 (August 1999), repromulgated LR 26:1012 (May 2000), repealed LR 42:562 (April 2016).

§2113. Books, Films, Other School Materials; Screening Required [R.S. 17:352]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1;172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1456 (August 1999), repromulgated LR 26:1012 (May 2000), repealed LR 42:562 (April 2016).

§2115. Costs of Administration; Textbooks and Instructional Material Distribution to Nonpublic School Students [R.S. 17:353]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1456 (August 1999), repromulgated LR 26:1013 (May 2000), repealed LR 42:562 (April 2016).

§2117. Required Reports and Records; Cost Reimbursement to Approved Nonpublic Schools (Reimbursement of Required Costs) [R.S. 17:361]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1457 (August 1999), repromulgated LR 26:1013 (May 2000), repealed LR 42:562 (April 2016).

§2119. Applications for Reimbursement [R.S. 17:362]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of State Elementary and Secondary Education, LR 25:1457 (August 1999), repromulgated LR 26:1013 (May 2000), repealed LR 42:562 (April 2016).

§2121. Maintenance of Records [R.S. 17:363]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 72; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1457 (August 1999), repromulgated LR 26:1013 (May 2000), repealed LR 42:562 (April 2016).

§2123. Payment [R.S. 17:364]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1457 (August 1999), repromulgated LR 26:1013 (May 2000), repealed LR 42:562 (April 2016).

§2125. Audit [R.S. 17:365]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1457 (August 1999), repromulgated LR 26:1013 (May 2000), repealed LR 42:562 (April 2016).

§2127. Materials; Adoption Procedures [R.S. 17:415.1]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1457 (August 1999), repromulgated LR 26:1013 (May 2000), repealed LR 42:562 (April 2016).

§2129. SCR 15 of 1997, Regular Session

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1457 (August 1999), repromulgated LR 26:1014 (May 2000), repealed LR 42:562 (April 2016).

§2131. SCR 149 of 1997, Regular Session

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of State Elementary and Secondary Education, LR 25:1458 (August 1999), repromulgated LR 26:1014 (May 2000), repealed LR 42:563 (April 2016).

§2132. R.S. 39:1615 Multi-Year Contracts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of State Elementary and Secondary Education, LR 26:1014 (May 2000), repealed LR 42:563 (April 2016).

§2133. Books for School; Special Plates [R.S. 47:463.46]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 13(A) of 1984; R.S. 17:7(4); 8-8.1; 172; 236; 351-353; 361-365; 415.1; 463.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:1458 (August 1999), repromulgated LR 26:1014 (May 2000), repealed LR 42:563 (April 2016).

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Executive Director

1604#009

RULE

Board of Elementary and Secondary Education

Organization—Advisory Councils (LAC 28:I.503)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Louisiana Administrative Code*, Title 28, Part I, §503, Advisory Councils, to repeal the Textbook/Media/Library Advisory Council from the BESE code pursuant to Act 389 of the 2015 Regular Legislative Session. The changes repeal a policy creating the Textbook/Media/Library Advisory Council (TMLAC) and establishing its membership and operations. These revisions have been made in response to Act 389 of the 2015 Regular Legislative Session, which revised procedures for the adoption, review, procurement, and distribution of textbooks and other instructional materials for use in elementary and secondary schools. The Act specifically repealed statutes authorizing the TMLAC, instead requiring BESE to prescribe a process for textbook review, adoption, procurement, and distribution. As a part of this process, members of the public will have the opportunity to view textbooks under review and submit comments during the review period and prior to final adoption (R.S. 17:351.1).

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 5. Organization

§503. Advisory Councils

A. - C.3.d.ii. ...

4. - 4.c.ii. Repealed.

D. - G.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:6(A)(15), R.S. 17:24.4, and R.S. 17:11.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:416 (March 2008), amended LR 35:1874 (September 2009), LR 36:2851 (December 2010), LR 37:2140 (July 2011), LR 38:772 (March 2012), LR 38:3152 (December 2012), LR 39:3263 (December 2013), LR 42:563 (April 2016).

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Executive Director

1604#010

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Definitions of Major Source and
Major Stationary Source Relative to Greenhouse Gases
(LAC 33:III.502 and 509)(AQ358)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.502.A and 509.B (AQ358).

This Rule deletes the major source threshold for greenhouse gases (GHGs) (i.e., 100,000 tons per year of carbon dioxide equivalents, or CO2e) from the definitions of "major source" in LAC 33:III.502.A and "major stationary source" in LAC 33:III.509.B. These definitions are used to determine applicability of the part 70 (title V) operating permits and prevention of significant deterioration (PSD) programs under LAC 33:III.507 and 509, respectively. In Utility Air Regulatory Group v. EPA, decided June 23, 2014, the U.S. Supreme Court found that:

> EPA exceeded its statutory authority when it interpreted the Clean Air Act to require PSD and Title V permitting for stationary sources based on their greenhouse gas emissions. Specifically, the Agency may not treat greenhouse gases as a pollutant for purposes of defining a "major emitting facility" (or a "modification" thereof) in the PSD context or a "major source" in the Title V context. To the extent its regulations purport to do so, they are invalid.

In sum, the court held that a stationary source could not be considered a major source for title V or PSD purposes based solely on its emissions of GHGs. The basis and rationale for this Rule are to delete the major source threshold for GHGs from the definitions of major source in LAC 33:III.502.A and major stationary source in LAC 33:III.509.B consistent

with the aforementioned Supreme Court decision. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§502. Definitions

A. Except where specifically provided in another Section herein, the following definitions apply to terms used in this Chapter. Except as provided in this Chapter, terms used in this Chapter retain the definition provided them in LAC 33:III.111 or the Louisiana air quality regulations. Wherever provisions related to the Acid Rain Program are concerned, the definitions provided in 40 CFR part 72 shall apply.

* * *

Major Source—for the purposes of determining the applicability of 40 CFR part 70 or of LAC 33:III.507, any stationary source or any group of stationary sources that are located on one or more contiguous or adjacent properties, that are under common control of the same person (or persons under common control), and that are described in Subparagraph a, b, or c of this definition:

a. - b.ii. …

c. any major stationary source as defined in part D (nonattainment) of title I of the Clean Air Act, including any source defined as a major stationary source under LAC 33:III.504.K.

d. Repealed.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:1950 (September 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 36:2553 (November 2010), LR 37:1148 (April 2011), LR 37:1391 (May 2011), amended by the Office of the Secretary, Legal Division, LR 41:2608 (December 2015), LR 42:564 (April 2016).

§509. Prevention of Significant Deterioration

A. - A.5. …

B. Definitions. For the purpose of this Section, the terms below shall have the meaning specified herein as follows.

* * *

Major Stationary Source—

a. - b. …

c. any physical change that would occur at a source not otherwise qualifying as a major stationary source under Subparagraphs a or b of this definition if the change would constitute a major source by itself;

d. a major source that is major for volatile organic compounds or nitrogen oxides shall be considered major for ozone;

e. the fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Section whether it is a major stationary source, unless the source is listed in Table A of this definition or, as of August 7, 1980, is being regulated under section 111 or 112 of the Clean Air Act.

Table A—Stationary Sources of Air Pollutants	
1	Fossil fuel-fired steam electric plants of more than 250 million British thermal units (Btu) per hour heat input
2	Coal cleaning plants (with thermal dryers)
3	Kraft pulp mills
4	Portland cement plants
5	Primary zinc smelters
6	Iron and steel mill plants
7	Primary aluminum ore reduction plants
8	Primary copper smelters
9	Municipal incinerators capable of charging more than 250 tons of refuse per day
10	Hydrofluoric, sulfuric, and nitric acid plants
11	Petroleum refineries
12	Lime plants
13	Phosphate rock processing plants
14	Coke oven batteries
15	Sulfur recovery plants
16	Carbon black plants (furnace process)
17	Primary lead smelters
18	Fuel conversion plants
19	Sintering plants
20	Secondary metal production plants
21	Chemical process plants
22	Fossil fuel boilers (or combinations thereof) totaling more than 250 million Btu per hour heat input.
23	Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels
24	Taconite ore processing plants
25	Glass fiber processing plants
26	Charcoal production plants

* * *

C. - AA.15.b. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 31:3135, 3156 (December 2005), LR 32:1600 (September 2006), LR 32:1843 (October 2006), LR 36:2556 (November 2010), LR 37:1148 (April 2011), repromulgated LR 37:1389 (May 2011), amended LR 37:1570 (June 2011), repromulgated LR 37:2146 (July 2011), amended by the Office of the Secretary, Legal Division, LR 38:3163 (December 2012), LR 39:1280 (May 2013), LR 42:402 (March 2016), LR 42:564 (April 2016).

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RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Hazardous Waste Electronic Manifest
(LAC 33:V.109, 1107, 1301, 1307 and 1516)(HW117ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.109, 1107, 1301, 1307 and 1516 (Log #HW117ft).

This Rule is identical to federal regulations found in 79 FR 26, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule adopts the federal electronic manifest system for tracking shipments of hazardous waste in Louisiana. Louisiana's hazardous waste program operates under a federal grant from the U.S. EPA. In order to maintain this grant, the state's hazardous waste regulations are required to be equivalent to or more stringent than the corresponding federal regulations. The basis and rationale of this Rule are to mirror the federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—Hazardous Waste
Chapter 1. General Provisions and Definitions
§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Electronic Manifest (or *e-Manifest*)—the electronic format of the hazardous waste manifest that is obtained from EPA's national e-manifest system and transmitted electronically to the system, and that is the legal equivalent of EPA Forms 8700-22 (manifest) and 8700-22A (continuation sheet).

Electronic Manifest System (or *e-Manifest System*)—EPA's national information technology system through which the electronic manifest may be obtained, completed, transmitted, and distributed to users of the electronic manifest and to regulatory agencies.

* * *

Manifest—the shipping document EPA Form 8700-22 (including, if necessary, EPA Form 8700-22A), or the electronic manifest, originated and signed by the generator or offeror in accordance with the instructions in the appendix to 40 CFR part 262 and the applicable requirements of 40 CFR parts 262-265.

* * *

User of the Electronic Manifest System—a hazardous waste generator; a hazardous waste transporter; an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility; or any other person that:

1. is required to use a manifest to comply with:

a. any federal or state requirement to track the shipment, transportation, and receipt of hazardous waste or other waste material that is shipped from the site of generation to an off-site designated facility for treatment, storage, recycling, or disposal; or

b. any federal or state requirement to track the shipment, transportation, and receipt of rejected wastes or regulated container residues that are shipped from a designated facility to an alternative facility, or returned to the generator; and

2. elects to use the system to obtain, complete, and transmit an electronic manifest format supplied by the EPA electronic manifest system; or

3. elects to use the paper manifest form and submits to the system for data processing purposes a paper copy of the manifest (or data from such a paper copy), in accordance with LAC 33:V.1516.B.1.e.

[NOTE: These paper copies are submitted for data exchange purposes only and are not the official copies of record for legal purposes.]

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:1625 (August 2007), LR 33:2098 (October 2007), LR 34:71 (January 2008), LR 34:615 (April 2008), LR 34:1009 (June 2008), LR 34:1894 (September 2008), LR 34:2396 (November 2008), LR 36:1235 (June 2010), repromulgated LR 36:1535 (July 2010), amended LR 36:2554 (November 2010), LR 38:774, 781 (March

2012), repromulgated LR 38:1009 (April 2012), amended by the Office of the Secretary, Legal Division, LR 40:1338 (July 2014), LR 41:2600 (December 2015), LR 42:565 (April 2016).

Chapter 11. Generators

Subchapter A. General

§1107. The Manifest System

A. - A.8. …

9. Electronic Manifest. In lieu of using the manifest form specified in Paragraph A.1 of this Section, a person required to prepare a manifest under Paragraph A.1 of this Section may prepare and use an electronic manifest, provided that the person:

a. complies with the requirements in LAC 33:V.1107.F for use of electronic manifests; and

b. complies with the requirements of 40 CFR 3.10 for the reporting of electronic documents to EPA.

B. - E.2. …

F. Use of the Electronic Manifest

1. Legal Equivalence to Paper Manifests. Electronic manifests that are obtained, completed, and transmitted in accordance with LAC 33:V.1107.A.9, and used in accordance with this Section in lieu of EPA Forms 8700-22 and 8700-22A are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, provide, use, or retain a manifest.

a. Any requirement in these regulations to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of LAC 33:V.1107.G.

b. Any requirement in these regulations to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an electronic manifest is transmitted to the other person by submission to the system.

c. Any requirement in these regulations for a generator to keep or retain a copy of each manifest is satisfied by retention of a signed electronic manifest in the generator's account on the national e-manifest system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector.

d. No generator may be held liable for the inability to produce an electronic manifest for inspection under this Section if the generator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the generator bears no responsibility.

2. A generator may participate in the electronic manifest system either by accessing the electronic manifest system from its own electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the generator's site by the transporter who accepts the hazardous waste shipment from the generator for off-site transportation.

3. Restriction on Use of Electronic Manifests. A generator may prepare an electronic manifest for the tracking of hazardous waste shipments involving any RCRA hazardous waste only if it is known at the time the manifest is originated that all waste handlers named on the manifest participate in the electronic manifest system.

4. Requirement for One Printed Copy. To the extent the Hazardous Materials regulation on shipping papers for carriage by public highway requires shippers of hazardous materials to supply a paper document for compliance with 49 CFR 177.817, a generator originating an electronic manifest must also provide the initial transporter with one printed copy of the electronic manifest.

5. Special Procedures when Electronic Manifest is Unavailable. If a generator has prepared an electronic manifest for a hazardous waste shipment, but the electronic manifest system becomes unavailable for any reason prior to the time that the initial transporter has signed electronically to acknowledge the receipt of the hazardous waste from the generator, then the generator must obtain and complete a paper manifest and if necessary, a continuation sheet (EPA Forms 8700-22 and 8700-22A) in accordance with the manifest instructions in the appendix to 40 CFR part 262, and use these paper forms from this point forward in accordance with the requirements of LAC 33:V.1107.D.

6. Special Procedures for Electronic Signature Methods Undergoing Tests. If a generator has prepared an electronic manifest for a hazardous waste shipment, and signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the generator shall also sign with an ink signature the generator/offeror certification on the printed copy of the manifest provided under LAC 33:V.1107.F.4.

7. Imposition of User Fee. A generator who is a user of the electronic manifest may be assessed a user fee by EPA for the origination of each electronic manifest. EPA shall maintain and update from time-to-time the current schedule of electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to 40 CFR part 262.

G. Electronic Manifest Signatures

1. Electronic signature methods for the e-Manifest system shall be a:

a. legally valid and enforceable signature under applicable EPA and other federal requirements pertaining to electronic signatures; and

b. method that is designed and implemented in a manner that EPA considers to be as cost effective and practical as possible for the users of the manifest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:266, 267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), LR 27:42 (January 2001), LR 27:709 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006), LR 33:89 (January 2007), repromulgated LR 33:281

(February 2007), amended LR 33:2101 (October 2007), LR 34:622 (April 2008), LR 38:775 (March 2012), amended by the Office of the Secretary, Legal Division, LR 42:566 (April 2016).

Chapter 13. Transporters

§1301. Applicability

A. The revised manifest form and procedures in 40 CFR 260.10, 261.7, 263.20, and 263.21, had an effective date of September 5, 2006. The manifest form and procedures in 40 CFR 260.10, 261.7, 263.20, and 263.21, contained in 40 CFR parts 260 to 265, edition revised as of July 1, 2004, were applicable until September 5, 2006. This Chapter establishes standards that apply to persons transporting hazardous waste within the state of Louisiana if the transportation requires a manifest under LAC 33:V.1516.

B. - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:666 (April 1998), LR 24:1694 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 32:824 (May 2006), LR 38:789 (March 2012), amended by the Office of the Secretary, Legal Division, LR 42:567 (April 2016).

§1307. The Manifest System

A. A transporter may not accept hazardous waste from a generator or another transporter unless it is accompanied by a manifest form (EPA Form 8700-22, and if necessary, EPA Form 8700-22A), signed by the generator in accordance with the provisions of LAC 33:V.1107, or is provided with an electronic manifest that is obtained, completed, and transmitted in accordance with LAC 33:V.1107.A.9, and signed with a valid and enforceable electronic signature as described in LAC 33:V.1107.G. The transportation of any hazardous wastes without a manifest shall be deemed a violation of these regulations and the Act. In the case of exports other than those subject to LAC 33:V.1125, a transporter may not accept such waste from a primary exporter or other person:

1. …

2. unless, in addition to a manifest signed by the generator, such waste is also accompanied by an EPA acknowledgment of consent which, except for shipments by rail, is attached to the manifest, or shipping paper for exports by water (bulk shipment). For exports of hazardous waste subject to the requirements of LAC 33:V.1125, a transporter may not accept hazardous waste without a tracking document that includes all information required by LAC 33:V.1127.D.

B. - H.4. …

I. Use of Electronic Manifest—Legal Equivalence to Paper Forms for Participating Transporters. Electronic manifests that are obtained, completed, and transmitted in accordance with LAC 33:V.1107.A.9, and used in accordance with this Section in lieu of EPA Forms 8700-22 and 8700-22A, are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, carry, provide, give, use, or retain a manifest.

1. Any requirement in these regulations to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with, or obtaining a valid and enforceable electronic signature within the meaning of LAC 33:V.1107.G.

2. Any requirement in these regulations to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person by submission to the system.

3. Any requirement in these regulations for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment, except that to the extent that the hazardous materials regulation on shipping papers for carriage by public highway requires transporters of hazardous materials to carry a paper document to comply with 49 CFR 177.817, a hazardous waste transporter must carry one printed copy of the electronic manifest on the transport vehicle.

4. Any requirement in these regulations for a transporter to keep or retain a copy of a manifest is satisfied by the retention of an electronic manifest in the transporter's account on the e-manifest system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector.

5. No transporter may be held liable for the inability to produce an electronic manifest for inspection under this Section, if that transporter can demonstrate that the inability to produce the electronic manifest is exclusively due to a technical difficulty with the EPA system for which the transporter bears no responsibility.

J. A transporter may participate in the electronic manifest system either by accessing the electronic manifest system from the transporter's own electronic equipment, or by accessing the electronic manifest system from the equipment provided by a participating generator, by another transporter, or by a designated facility.

K. Special Procedures when Electronic Manifest is not Available. If after a manifest has been originated electronically and signed electronically by the initial transporter, and the electronic manifest system should become unavailable for any reason, then the following requirements shall be met:

1. the transporter in possession of the hazardous waste when the electronic manifest becomes unavailable shall reproduce sufficient copies of the printed manifest that is carried on the transport vehicle pursuant to LAC 33:V.1307.I.1.c, or obtain and complete another paper manifest for this purpose. The transporter shall reproduce sufficient copies to provide the transporter and all subsequent waste handlers with a copy for their files, plus two additional copies that will be delivered to the designated facility with the hazardous waste;

2. on each printed copy, the transporter shall include a notation in the special handling and additional description space (item 14) that the paper manifest is a replacement manifest for a manifest originated in the electronic manifest system, shall include (if not pre-printed on the replacement

manifest) the manifest tracking number of the electronic manifest that is replaced by the paper manifest, and shall also include a brief explanation why the electronic manifest was not available for completing the tracking of the shipment electronically;

3. a transporter signing a replacement manifest to acknowledge receipt of the hazardous waste must ensure that each paper copy is individually signed and that a legible handwritten signature appears on each copy; and

4. from the point at which the electronic manifest is no longer available for tracking the waste shipment, the paper replacement manifest copies shall be carried, signed, retained as records, and given to a subsequent transporter or to the designated facility, following the instructions, procedures, and requirements that apply to the use of all other paper manifests.

L. Special Procedures for Electronic Signature Methods Undergoing Tests. If a transporter using an electronic manifest signs this manifest electronically using an electronic signature method, which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the transporter shall sign the electronic manifest electronically, and also sign with an ink signature the transporter acknowledgement of receipt of materials on the printed copy of the manifest that is carried on the vehicle in accordance with LAC 33:V.1307.I.1.c. This printed copy bearing the generator's and transporter's ink signatures shall also be presented by the transporter to the designated facility to sign in ink to indicate the receipt of the waste materials or to indicate discrepancies. After the owner/operator of the designated facility has signed this printed manifest copy with its ink signature, the printed manifest copy shall be delivered to the designated facility with the waste materials.

M. Imposition of User Fee for Electronic Manifest Use. A transporter who is a user of the electronic manifest may be assessed a user fee by EPA for the origination or processing of each electronic manifest. EPA shall maintain and update from time-to-time the current schedule of electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to 40 CFR part 262.

N. Electronic Manifest Signatures. Electronic manifest signatures shall meet the criteria described in LAC 33:V.1107.G.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1109 (October 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:666 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:710 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:824 (May 2006), amended by the Office of the Secretary, Legal Division, LR 42:567 (April 2016).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1516. Manifest System for Treatment, Storage, and Disposal (TSD) Facilities

A. - A.2. …

B. Use of the Manifest System

1. - 1.d. …

e. within 30 days of delivery, send the top copy (page 1) of the manifest to the e-manifest system for purposes of data entry and processing. In lieu of mailing this paper copy to EPA, the owner or operator may transmit to the EPA system an image file of page 1 of the manifest, or both a data string file and the image file corresponding to page 1 of the manifest. Any data or image files transmitted to EPA under this Subparagraph must be submitted in data file and image file formats that are acceptable to EPA and that are supported by EPA's electronic reporting requirements and by the electronic manifest system; and

f. retain at the facility a copy of each manifest for at least three years from the date of delivery.

B.2. - D.7. …

* * *

E. Reserved.

F. Legal Equivalence to Paper Manifests. Electronic manifests that are obtained, completed, and transmitted in accordance with LAC 33:V.1107.A.9, and used in accordance with this section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, provide, use, or retain a manifest.

1. Any requirement in these regulations for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 40 CFR 262.25.

2. Any requirement in these regulations to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person.

3. Any requirement in these regulations for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment.

4. Any requirement in these regulations for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's electronic manifest copies in its account on the e-manifest system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector.

5. No owner or operator may be held liable for the inability to produce an electronic manifest for inspection under this Section if the owner or operator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the owner or operator bears no responsibility.

G. An owner or operator may participate in the electronic manifest system either by accessing the electronic manifest system from the owner's or operator's electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the owner's or operator's site by the transporter who delivers the waste shipment to the facility.

H. Special Procedures Applicable to Replacement Manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures shall apply to the delivery of the hazardous waste by the final transporter.

1. Upon delivery of the hazardous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement manifest by hand in item 20 (designated facility certification of receipt) and note any discrepancies in item 18 (discrepancy indication space) of the paper replacement manifest.

2. The owner or operator of the facility must give one copy of the paper replacement manifest back to the final transporter.

3. Within 30 days of delivery of the waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator, and send an additional signed and dated copy of the paper replacement manifest to the electronic manifest system.

4. The owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least three years from the date of delivery.

I. Special Procedures Applicable to Electronic Signature Methods Undergoing Tests. If an owner or operator using an electronic manifest signs this manifest electronically using an electronic signature method, which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the owner or operator shall also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator shall retain this original copy among its records for at least three years from the date of delivery of the waste.

J. Imposition of User Fee for Electronic Manifest Use. An owner or operator who is a user of the electronic manifest format may be assessed a user fee by EPA for the origination or processing of each electronic manifest. An owner or operator may also be assessed a user fee by EPA for the collection and processing of paper manifest copies that owners or operators must submit to the electronic manifest system operator under LAC 33:V.1516.B.1.e. EPA shall maintain and update from time-to-time the current schedule of electronic manifest system user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to 40 CFR part 262.

K. Electronic Manifest Signatures. Electronic manifest signatures shall meet the criteria described in 40 CFR 262.25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:825 (May 2006), amended LR 33:2104 (October 2007), LR 34:623 (April 2008), LR 34:1012 (June 2008), LR 38:777, 789 (March 2012), amended by the Office of the Secretary, Legal Division, LR 42:568 (April 2016).

Herman Robinson
General Counsel

1604#049

RULE

Office of the Govenor
Crime Victims Reparations Board

Compensation to Victims
(LAC 22:XIII.103, 303, and 503)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and R.S. 46:1801 et seq., which is the Crime Victims Reparations Act, the Crime Victims Reparations Board hereby promulgates rules and regulations regarding the awarding of compensation to applicants. There will be no impact on family earnings or the family budget as set forth in R.S. 49:972.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part XIII. Crime Victims Reparations Board
Chapter 1. Authority and Definitions
§103. Definitions

A. …

* * *

Claimant—a victim or a dependent of a deceased victim, or the legal representative of either, an intervenor, the healthcare provider who provides healthcare services associated with a forensic medical examination as defined in R.S. 15:622, or in the event of a death, a person who legally assumes the obligation or who voluntarily pays the medical or the funeral or burial expenses incurred as a direct result of the crime.

* * *

Healthcare Provider—either of the following:

a. a physician or other healthcare practitioner licensed, certified, registered or otherwise authorized to perform specified healthcare services consistent with state law;

b. a facility or institution providing healthcare services, including but not limited to a hospital or other licensed inpatient center, ambulatory surgical or treatment center, skilled nursing facility, inpatient hospice facility, residential treatment center, diagnostic, laboratory, or imaging center, or rehabilitation or other therapeutic health setting.

Healthcare Services—means services, including but not limited to items, supplies, or drugs for the diagnosis, prevention, treatment, cure, or relief of a health condition,

illness, injury, or disease ancillary to a sexually-oriented offense.

Pecuniary Loss—amount of expense reasonably and necessarily incurred by reason of personal injury as a consequence of death, or a catastrophic property loss, and includes:

a. for personal injury:

i. …

ii. actual loss of past earnings and anticipated loss of future earnings because of a disability resulting from the personal injury; or the receipt of medically indicated services for a victim related to the personal injury.

a.iii. - d. …

* * *

Sexually-Oriented Criminal Offense—includes any offense listed as a sexual offense in R.S. 15:541(24).

Victim—

a. Any person who suffers personal injury, death, or catastrophic property loss as a result of a crime committed in this state and covered by this Chapter. This includes any person who is a victim of human trafficking as defined by R.S. 14:46.2, a victim of trafficking of children for sexual purposes as defined by R.S. 14:46.3, or a victim of any offense involving commercial sexual exploitation including but not limited to R.S. 14:81.1, 81.3, 82, 82.1, 82.2, 83, 83.1, 83.2, 83.3, 83.4, 84, 85, 86, 89.2, 194.1, 95 and 282.

b. - c. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May l994), amended LR 22:710 (August l996), LR 24:328 (February 1998), LR 25:26 (January 1999), LR 26:1019 (May 2000), LR 29:577 (April 2003), LR 31:1330 (June 2005), LR 32:242 (February 2006), LR 35:65 (January 2009), LR 37:1605 (June 2011), LR 42:569 (April 2016).

Chapter 3. Eligibility and Application Process

§303. Application Process

A. Claimant Responsibility

1. Applications for reparations must be submitted to the sheriff's office in the parish where the crime occurred except for claims involving an adult victim of a sexually-oriented criminal offense. Applications involving an adult victim of a sexually-oriented criminal offense are sent directly to the board office;

2. - 2.b.

c. Reserved.

d. An adult victim of sexually-oriented criminal offense is not required to report the crime to any law enforcement officer in order to file an application. However, if the victim chooses to report the sexually-oriented criminal offense, then the victim may take up to a year from the date of the crime to report it.

e. If a victim chooses not to report the crime to a law enforcement officer, he or she must submit a certification from a healthcare provider or coroner that a forensic medical examination of the victim was conducted.

3. - 4. ...

5. All invoices, bills, etc. must indicate the victim/claimant as the guarantor, except for victims of a sexually-oriented criminal offense. Victims of a sexually-oriented criminal offense cannot be billed for costs associated with a forensic medical exam.

A.6. - D.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Crime Victims Reparations Board, LR 20:539 (May1994), amended LR 22:710 (August 1996), amended by the Office of the Governor, Crime Victims Reparations Board, LR 42:570 (April 2016).

Chapter 5. Awards

§503. Limits on Awards

A. General

1. - 2. …

3. Forensic medical examinations shall not exceed $1,000 for each case.

B. - O.3.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1801 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August l996), LR 24:328 (February 1998), LR 25:26 (January 1999), LR 26:1019 (May 2000), LR 29:577 (April 2003), LR 31:1330 (June 2005), LR 32:242 (February 2006), LR 35:65 (January 2009), LR 37:1605 (June 2011), LR 39:1042 (April 2013), LR 42:570 (April 2016).

Lamarr Davis
Chairman

1604#036

RULE

Department of Health and Hospitals
Board of Medical Examiners

General Information; Complaints and Investigations; Adjudication (LAC 46:XLV.8315, 9707, 9709, and 9711)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1261-1292, the board has adopted an organizational Rule and amended its rules on investigations and complaints of physicians. The changes are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 4. Administrative Provisions

Chapter 83. General Information

Subchapter B. Board Organization

§8315. Executive Director; Director of Investigations

A. No individual shall simultaneously hold the positions of executive director and director of investigations for the board nor shall the executive director serve as an investigator on any complaint received or initiated by the board with respect to a physician. Each of these positions may be filled by the board on an interim basis; however, if a position remains vacant for a period of six months, the board shall notify its legislative oversight committees of such fact and its plans and anticipated time frame within which to fill the position.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 1261-1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 42:570 (April 2016).

Subpart 5. Rules of Procedure

Chapter 97. Complaints and Investigations

§9707. Complaint Processing

A. - B. …

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2628 (December 2015), amended LR 42:571 (April 2016).

§9709. Preliminary Review

A. …

B. During a review such action may be initiated and taken as deemed necessary or appropriate and additional information may be obtained to assist in the determination. As part of the preliminary review:

1. documents and information which may be needed to determine if the complaint is jurisdictional and whether sufficient cause exist to warrant formal investigation may be gathered and secured. To assist in a review a designee authorized by the board is authorized to issue, as necessary or upon request of board staff, subpoenas to obtain medical, hospital and pharmacy records and records from law enforcement, state and federal agencies. Affidavits may be obtained to preserve the testimony of a complainant and complaint witnesses;

B.2. - E. …

F. At the conclusion of a preliminary review a determination shall be made as to whether the complaint is jurisdictional and there is sufficient cause for investigation. If the complaint:

1. is not jurisdictional or there is insufficient cause for investigation, a report and recommendation shall be submitted to the board to close the complaint without investigation. If approved by the board, the complainant and the licensee, if the licensee was notified of the preliminary review, shall be notified of the disposition. If not approved by the board, the board shall direct the board's staff to undertake such additional review as may be necessary or indicated within a specified period of time. A complaint closed after preliminary review shall not be considered an investigation by the board and need not be reported as such by a licensee on subsequent renewal applications to the board;

2. - 2.c. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2628 (December 2015), amended LR 42:571 (April 2016).

§9711. Formal Investigation

A. - B. …

C. Once a formal investigation is initiated by the board, an investigation shall be undertaken to determine whether or not there is sufficient information and evidence to indicate that a violation of the law has occurred. To assist in a formal investigation subpoenas may be issued in the same manner as set forth in §9709.B to obtain any of the items listed therein and any other documents and other information, the appearance of witnesses and sworn testimony.

D. - F. …

G. If the investigation provides sufficient information and evidence to indicate that a violation of the law has occurred, an administrative complaint may be filed with the board, pursuant to Chapter 99 of these rules, provided one or more of the following conditions exist:

1. a draft administrative complaint, in the form and content specified in §9903.B of these rules, has been mailed or provided to the licensee accompanied by a letter providing a reasonable opportunity for a conference to show compliance with all lawful requirements for the retention of the license without restriction, or to show that the complaint is unfounded as contemplated by R.S. 49:961(C); however, the licensee fails to respond to the complaint and letter, waives the opportunity, or the response does not satisfactorily demonstrate lawful compliance or that the complaint is unfounded. Such conference shall be attended only by the board's director of investigations or the investigator assigned to the matter and legal counsel, if any, and by the physician and the physician's counsel, if any;

2. - 3. …

H. Formal investigations shall be completed within 24 months after initiated by the board. However, this period may be increased by the board for satisfactory cause and no complaint shall be dismissed solely because a formal investigation was not completed within this period. This period shall also not apply to any investigation pending on July 1, 2015.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2629 (December 2015), amended LR 42:571 (April 2016).

Eric D. Torres
Executive Director

1604#055

RULE

Department of Health and Hospitals
Board of Nursing

Advanced Practice Registered Nurse Authorized Practice
(LAC 46:XLVII.4513)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., that the Louisiana State Board of Nursing (LSBN) is amending regulations regarding LAC 46:XLVII.4513. The Notice of Intent for Title 46, Professional and Occupational Standards, Part XLVII, Nurses: Practical Nurses and Registered Nurses, Subpart 2, Registered Nurses, Chapter 45, Advanced Practice Registered Nurses, was published in the October 20, 2015 issue of the *Louisiana Register* and a Potpourri notice was provided in the December 20, 2015 issue. The revision allows LSBN to clarify the exemption of CRNAs from the requirement to have a collaborative

practice agreement to provide anesthesia care and ancillary services to patients in a hospital or other licensed surgical facility

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLVII. Nurses: Practical Nurses and Registered Nurses
Subpart 2. Registered Nurses
Chapter 45. Advanced Practice Registered Nurses
§4513. Authorized Practice

A. - D.10. ...

11. Limitation

a. - b. ...

c. Exclusion. Nothing herein shall require a CRNA to have a collaborative practice agreement to provide anesthesia care and ancillary services to patients in a hospital or other licensed surgical facility.

i. Anesthesia care includes modalities associated with the delivery of anesthesia. Anesthesia care provided by a CRNA shall be in accord with the educational preparation of that CRNA in compliance with R.S. 37:930(A)(3) and includes:

(a). the administration, selection, and prescribing of anesthesia related drugs or medicine during the perioperative period necessary for anesthesia care; and

(b). prescribing diagnostic studies, legend and controlled drugs, therapeutic regimens, and medical devices and appliances necessary for anesthesia care.

ii. Ancillary services provided by CRNAs shall be in accordance with R.S. 37:930(A)(3):

(a). shall include services provided by a CRNA in accord with the educational preparation of that CRNA;

(b). shall be pursuant to a consult for the service by a licensed prescriber if the services are not directly related to anesthesia care; and

(c). may include prescribing diagnostic studies, legend and controlled drugs, therapeutic regimens, and medical devices and appliances for assessment, administration or application while the patient is in the hospital or other licensed surgical facility in the state of Louisiana.

iii. Nothing herein shall provide for services by a CRNA which are otherwise prohibited by law.

11.d. - 14.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K) and R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:598 (August 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 25:1245 (July 1999), LR), amended by the Department of Health and Hospitals, Board of Nursing, 27:727 (May 2001), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 28:487 (March 2002), repromulgated LR 28:1205 (June 2002), amended by the Department of Health and Hospitals, Board of Nursing, LR 31:2023 (August 2005), LR 33:1870 (September 2007), LR 40:63 (January 2014), LR 40:2249 (November 2014), LR 42:572 (April 2016).

Karen C. Lyon
Executive Director

1604#042

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment
Durable Medical Equipment—Cochlear Devices
(LAC 50:XV.8717 and 8719)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XV.8717 and 8719 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment
Chapter 87. Durable Medical Equipment—Hearing Devices
Subchapter B. Cochlear Device
§8717. Eligibility and Prior Authorization

A. Coverage is available for cochlear implantation for recipients 1 year of age through 20 years of age with profound bilateral sensorineural hearing loss.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:1300 (July 1998), repromulgated LR 29:181 (February 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:572 (April 2016).

§8719. Recipient Criteria

A. Recipient Criteria (General). The following criteria apply to all candidates. Recipient must:

1. ...

2. be a profoundly deaf child, age 1 year or older or be a post-linguistically deafened adult through the age of 20 years;

3. - 8. ...

B. Recipient Criteria (Specific)

1. Children 1 Year through 9 Years. In addition to documentation that candidates meet general criteria, the requestor shall provide documentation that:

1.a. - 4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:1300 (July 1998), repromulgated LR+ 29:181 (February 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:572 (April 2016).

Rebekah E. Gee MD, MPH
Secretary

1604#075

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Inpatient Hospital Services
Public-Private Partnerships
Reimbursement Methodology
(LAC 50:V.1703)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:V.1703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services
Chapter 17. Public-Private Partnerships
§1703. Reimbursement Methodology

A. Reserved.

B. Effective for dates of service on or after April 15, 2013, a major teaching hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to provide acute care hospital services to Medicaid and uninsured patients and which assumes providing services that were previously delivered and terminated or reduced by a state-owned and operated facility shall be reimbursed as follows.

1. The inpatient reimbursement shall be reimbursed at 95 percent of allowable Medicaid costs. The interim per diem reimbursement may be adjusted not to exceed the final reimbursement of 95 percent of allowable Medicaid costs.

C. - E.3. Reserved.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:573 (April 2016).

Rebekah E. Gee MD, MPH
Secretary

1604#076

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Outpatient Hospital Services
Public-Private Partnerships
Reimbursement Methodology
(LAC 50:V.6703)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:V.6703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 5. Outpatient Hospital Services
Chapter 67. Public-Private Partnerships
§6703. Reimbursement Methodology

A. Payments to qualifying hospitals shall be made on a quarterly basis in accordance with 42 CFR 447.321.

B. Effective for dates of service on or after April 15, 2013, a major teaching hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to provide acute care hospital services to Medicaid and uninsured patients, and which assumes providing services that were previously delivered and terminated or reduced by a state owned and operated facility shall be reimbursed as follows.

1. Outpatient Surgery. The reimbursement amount for outpatient hospital surgery services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost.

2. Clinic Services. The reimbursement amount for outpatient clinic services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost.

3. Laboratory Services. The reimbursement amount for outpatient clinical diagnostic laboratory services shall be the Medicaid fee schedule amount on file for each service.

4. Rehabilitative Services. The reimbursement amount for outpatient clinic services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost.

5. Other Outpatient Hospital Services. The reimbursement amount for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be an interim payment equal to 95 percent of allowable Medicaid cost.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:573 (April 2016).

Rebekah E. Gee MD, MPH
Secretary

1604#077

RULE

Department of Public Safety and Corrections
Gaming Control Board

Application and License (LAC 42:XI.2405)

The Department of Public Safety and Corrections, Louisiana Gaming Control Board, in accordance with R.S. 27:15 and 24 and with the Administrative Procedure Act, R.S. 49:950 et seq., has amended LAC 42:XI.2405, Application and License.

Title 42
LOUISIANA GAMING
Part XI. Video Poker
Chapter 24. Video Draw Poker
§2405. Application and License

A.1. - B.9. …

10. Non-Force Majeure Surrender of License. All licensees shall continue to operate the business described in the application during the term of the license. In the event the business is not in operation for a period of 30 consecutive calendar days during which the business would normally operate, for any reason other than damage caused by a force majeure event, the licensee and device owner shall immediately notify the division of such fact and the licensee shall immediately surrender its license.

a. If surrendered in accordance with Paragraph B.10 of this Section, no video draw poker gaming devices may be operated at the premises unless and until the license is returned to the licensee.

b. The license may be returned to the licensee when business operations are resumed for the unexpired term of the license provided that the license has not been revoked and is not under suspension and further provided that no more than 180 days has elapsed from the date the license was surrendered.

c. Licenses surrendered in accordance with Paragraph B.10 of this Section shall not be subject to renewal unless the license has been returned to the licensee.

d. Failure to surrender the license as provided in Paragraph B.10 of this Section shall constitute grounds for revocation, suspension or non-renewal of the license.

11. Force Majeure. Within 15 days following a force majeure event which has damaged the licensed establishment and/or affected the operation of the business or its criteria or amenities, the licensee shall notify the division in writing of the event and resulting damage to the licensed establishment. The determination of whether the damage to the licensed establishment was the result of a force majeure event shall be solely within the discretion of the division.

a. All Licensed Establishments—Inability to Operate Business—Temporary Surrender

i. Within 30 days following a force majeure event which has affected the ability to operate the business described in the application, the licensee shall temporarily surrender its license.

ii. The license shall be eligible for renewal during the period of temporary surrender if a complete renewal application with required fees is submitted timely.

iii. No video draw poker gaming devices may be operated at the licensed establishment during the period of temporary surrender.

iv. When business operations resume, the licensee shall immediately notify the division in writing and request a compliance inspection.

v. Within 10 days following the compliance inspection, the license will be returned to the licensee if, following an on-site inspection of the licensed establishment, the division determines that the licensee is in compliance with all applicable physical amenities and permit requirements.

vi. A license may be revoked or suspended or a renewal application denied for reasons other than the inability to operate the business described in the application during the period of temporary surrender, including, without limitation, the failure to provide the notifications or surrender the license as required by Paragraph B.11 of this Section.

b. Truck Stop Facilities Only—Fuel Facility Operational—Waiver of Surrender Requirement

i. A licensed truck stop facility may be granted a 60-day waiver from the surrender provisions of Subparagraph B.11.a of this Section following a force majeure event which has not affected the operation of the fuel facility, but has resulted in the inability of the licensee to maintain and operate the on-site restaurant, the stable parking area, the onsite repair service, or any of its required amenities, provided that the licensee notifies the division in writing of the damage to the licensed establishment in accordance with the notification requirement in Paragraph B.11 of this Section and the division determines, following an on-site inspection of the licensed establishment, that the damage was in fact the result of a force majeure event.

ii. The division may grant one 60-day extension if it determines that the licensee has made substantial progress towards completing the necessary repairs within the original 60-day waiver period and the licensee can demonstrate a reasonable likelihood of completing the necessary repairs within the next 60 days.

iii. No waiver shall be granted if the force majeure event has affected the ability of the licensee to operate the fuel facility.

iv. Under no circumstances shall a licensee continue video poker operations after the expiration of the 60-day waiver or any extension thereof granted by the division without completing the necessary repairs and resuming normal operations. If the licensee has not completed necessary repairs and resumed normal operations, it shall immediately surrender the license upon the expiration of the 60-day waiver or any extension granted by the division.

v. When business operations resume, the licensee shall immediately notify the division in writing and request a compliance inspection.

vi. The license shall be eligible for renewal during the period of waiver if a complete renewal application with required fees is submitted timely.

vii. During the period of waiver, a license may be revoked or suspended or a renewal application denied, for reasons other than failure to operate that portion(s) of the business operations, criteria, and/or amenities for which the waiver was granted, including, without limitation, the failure to provide the notifications required in Paragraph B.11 of this Section.

C. - D.7. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:2322 (October 2000), LR 27:61 (January 2001), LR 29:362 (March 2003), LR 30:267 (February 2004), repromulgated LR 30:439 (March 2004), amended LR 34:1037 (June 2008), LR 35:82 (January 2009), repromulgated LR 35:490 (March 2009), amended LR 36:2045 (September 2010), LR 38:2935 (November 2012), LR 40:1105, 1109 (June 2014), repromulgated LR 40:1382 (July 2014), amended LR 40:1384 (July 2014), LR 41:1498 (August 2015), LR 42:574 (April 2016).

Ronnie Jones
Chairman

1604#040

RULE

Department of Public Safety and Corrections
Gaming Control Board

Application and Reporting Forms (LAC 42:III.120)

The Department of Public Safety and Corrections, Louisiana Gaming Control Board, in accordance with R.S. 27:15 and 24 and with the Administrative Procedure Act, R.S. 49:950 et seq., has amended LAC 42:III.120, Application and Reporting Forms.

Title 42
LOUISIANA GAMING
Part III. Gaming Control Board

Chapter 1. General Provisions

§120. Application and Reporting Forms

A. - A.3.i. …

j. multiple use reporting form, DPSSP 6600;

k. - u. …

v. video draw poker associated business entity form, DPSSP 6504;

w. application withdrawal/license surrender form, LGCBVP 0100;

x. surrender waiver request form, LGCBVP 0101.

4. - 6.a. …

b. labor organization registration statement, LGCBGEN 0100.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 26:340 (February 2000), amended LR 40:1379 (July 2014), LR 41:2176 (October 2015), LR 42:575 (April 2016).

Ronnie Jones
Chairman

1604#041

RULE

Workforce Commission
Plumbing Board

Plumbing (LAC 46:LV.101, Chapter 3 and 1005)

The Louisiana State Plumbing Board (board), pursuant to R.S. 37:1366(I), which authorizes the board to establish and determine by rule minimum requirements relative to continuing professional development for the renewal or reinstatement of any license or special endorsement issued by the board, has amended the plumbing regulations, LAC 46:LV. 101, 301, 303, 304, 305, 306, 307, 310, 312, 313, and 1005, in accordance with the Administrative Procedure Act. The Rule change allows the board to direct individuals to the appropriate industry guidelines indicated for licensing and recertification for medical gas piping installers, medical gas and vacuum systems verifiers and water supply protection specialists, effective upon publication in the *Louisiana Register*.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LV. Plumbers

NOTE: All references of the "latest edition" to the ASSE and NFPA refer to the latest editions as adopted by the Department of Health and Hospitals, Office of Public Health in LAC 51:XIV.

Chapter 1. Introductory Information

§101. Definitions

* * *

Backflow Prevention Device—an assembly that has been investigated and approved by the American Society of Sanitary Engineering International (ASSE), and, if applicable, by the Louisiana Department of Health and Hospitals.

* * *

Medical Gas and Vacuum System Verification—the work or business of testing and verifying medical gas piping installations and systems. Medical gas piping systems include vacuum piping. The medical gas piping systems subject to this definition include facilities and laboratories within the scope of National Fire Protection Association (NFPA) *NFPA 99 Health Care Facilities Code*, latest edition. It shall include a person's ability to understand and apply NFPA 99, as well as standards listed in section 1.4 of the *Professional Qualifications Standard for Medical Gas Systems Installers, Inspectors and Verifiers*, *ASSE-Series 6000, Standard 6030*, latest edition, and to properly document findings to be kept as a permanent record for

review by the Louisiana State Fire Marshal or other governmental agencies with compliance and enforcement authority.

Medical Gas and Vacuum Systems Verifier—a natural person who possesses the necessary qualifications and knowledge to test and verify the operation of medical gas and vacuum piping systems, subject to the professional qualification standards established by the American Society of Sanitary Engineering International (ASSE) *Series 6000, Standard 6030*, (latest edition), and who is licensed as such by the board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:49 (January 1991), amended by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:575 (April 2016).

Chapter 3. Licenses

§301. Licenses Required

A. - K. …

L. Repealed.

M. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICALNOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:49 (January 1991), amended by the Department of Labor, Plumbing Board LR 19:897 (July 1993), LR 19:1593 (December 1993), LR 21:1348 (December 1995), LR 25:1857 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:576 (April 2016).

§303. Application for License

A. - D. …

E. An application for a water supply protection specialist endorsement to a master or journeyman plumber license shall be completed and sworn to before a notary public by the applicant. The applicant must submit proof that he is licensed by the board at the time of application as a master or journeyman plumber. The applicant must submit proof that he has completed a course of training described in §310.C of these regulations. He must furnish whatever other information relevant to his experience that is requested in the application form or specifically requested by the board.

F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:50 (January 1991), amended by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:576 (April 2016).

§304. Medical Gas Piping Installer License

A. - B. …

1. The program is open to those members of the public that meet the requirements of American Society of Sanitary Engineering International (ASSE) *Professional Qualifications Standard for Medical Gas Systems Personnel Series 6000, Standard 6010*, latest edition.

2. The program meets criteria prescribed by the board and compliant with the guidelines of the *ASSE International Series 6000, Standard 6010*, latest edition.

a. - q. Repealed.

3. …

4. The program must be conducted at a facility capable of housing brazing qualification procedures administered to trainees in accordance with either section IX, "Welding and Brazing Qualifications" of the American Society of Mechanical Engineers (ASME) *Boiler and Pressure Code* or AWS B2.2, standard for brazing procedure and performance qualification, as modified by National Fire Protection Association (NFPA) *NFPA 99 Health Care Facilities Code*, latest edition. Such brazing training must be performed and qualified on 1 1/2 inch nominal type "L" copper tubing in compliance with section IX of the *ASME Boiler and Pressure Vessel Code*, latest edition, *NFPA 99, Health Care Facilities Code*, latest edition and *ASSE International Series 6000, Standard 6010*, latest edition.

5. Courses of instruction defined in §304.B must be provided by a person or persons possessing a current medical gas system instructor certification compliant with the guidelines of *ASSE Series International Series 6000, Standard 6050*, latest edition.

C. - E. …

F. A medical gas piping installer license application must be submitted to the office of the state Plumbing Board of Louisiana not less than 30 days before any scheduled examination. Failure to report for the examination will result in the forfeiture of the applicant's fee. This forfeiture may be reversed by the board upon a showing of good cause by the applicant explaining his failure to attend the scheduled examination.

G. …

H. The board may accept, in lieu of an examination directly administered by the board to any applicant, the verifiable results of an examination administered by an organization meeting the criteria of *ASSE Series 6000, Standard 6010* §10-3.2.3, latest edition and certified pursuant to R.S. 37:1368(G) as evidence of successful completion of the examination referred to in R.S. 37:1368(G). Any papers from such examinations must be available for inspection and the board may require notarized affidavits from the applicant and the administering organization representative attesting to the accuracy of the examination results and the scope of any such examination, which must minimally include the subject areas of the practical examination described in §304.B.4 of the regulations.

I. …

J. A medical gas piping installer shall, as a condition of licensing under these regulations, maintain his brazer performance qualification in accordance with *NFPA 99 Health Care Facilities Code*, latest edition.

K. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D) and R.S. 37:1368(G).

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 21:1349 (December 1995), amended LR 25:1858 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:576 (April 2016).

§305. Requirements to take Exam for Journeyman Plumber's License

A. - A.3. …

4. He shall submit his application and required documents to the office of the state Plumbing Board of Louisiana not less than 30 days before any scheduled examination. The board shall inform all interested persons of the examination schedule.

A.5. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(A) and (D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated LR 14:440 (July 1988), amended LR 15:1088 (December 1989), amended and repromulgated by the Department of Employment and Training, Plumbing Board, LR 17:51 (January 1991), amended by the Department of Labor, Plumbing Board, LR 24:1948 (October 1998), LR 25:1857 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:577 (April 2016).

§306. Requirements to take Exam for Master Plumber License

A. - A.4. …

5. He shall submit his application and required documents to the office of the state Plumbing Board of Louisiana not less than 30 days before any scheduled examination. The board shall inform all interested persons of the examination schedule.

A.6. - G. …

AUTHORITY NOTE: Adopted in accordance with R.S. 37:1377 and R.S. 37:1366.

HISTORICAL NOTE: Adopted by the Department of Labor, state Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, State Plumbing Board, LR 17:52 (January 1991), amended by the Department of Labor, Plumbing Board, LR 25:1858 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:577 (April 2016).

§307. Renewals

A. - D. …

E. To be considered timely filed, any renewal application under §307 must actually be received at the office of the state Plumbing Board of Louisiana within the time specified for filing or be sent to that office by first-class mail, postage prepaid, and bearing a postmark showing that the application was mailed on or before the last day for filing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated LR 2:419 (December 1976), amended LR 7:588 (November 1981), amended by Department of Employment and Training, Plumbing Board, LR 17:52 (January 1991), LR 18:30 (January 1992), amended by the Department of Labor, Plumbing Board, LR 21:1350 (December 1995), LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:577 (April 2016).

§310. Water Supply Protection Specialist Endorsement

A. - B. …

C. As authorized by R.S. 37:1368(H), the board shall recognize and certify certain programs of education and training of water supply protection offered by private or public organizations or institutions compliant with *ASSE International, Cross-Connection Control Professional Qualifications Standard ASSE Series 5000*. A journeyman or master plumber licensed by this board who successfully completes any such program shall qualify for admission to an examination offered under §310.A of these regulations. Any such organization must satisfy the board that its program or programs includes training and testing as specified in the *ASSE Series 5000, Standard 5110, Professional Qualifications for Backflow Prevention Assembly Testers*.

1. - 15. Repealed.

D. Courses of instruction defined in §310.C must be provided by a person or persons meeting the credentials and requirements of *ASSE Series 5000, Standard 5110, Professional Qualifications Standard for Backflow Prevention Assembly Testers and ASSE International Guidelines for Cross-Connection Control Certification*.

E. - H. …

I. A water supply protection specialist endorsement application must be submitted to the office of the state Plumbing Board of Louisiana not less than 30 days before any scheduled examination.

J. - K. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D) and R.S. 37:1368(H).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 21:1350 (December 1995), amended by the Department of Labor, Plumbing Board, LR 25:1859 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:577 (April 2016).

§312. Medical Gas and Vacuum Systems Verifier

A. - B. …

1. The program is conducted at a training facility and given to those persons that meet the requirements of American Society of Sanitary Engineering (ASSE) *Professional Qualifications Standard for Medical Gas Systems Personnel Series 6000, Standard 6030*, latest edition.

2. The program meets criteria prescribed by the board and American Society of Sanitary Engineering (ASSE), *Series 6000, Standard 6030*, latest edition.

a. - k. Repealed.

3. Courses of instruction defined in §312.B must be provided by a person or persons possessing a current medical gas system instructor certification in compliance with *ASSE Series 6000, Standard 6050*, latest edition.

C. - D. …

E. The board may accept, in lieu of an examination directly administered by the board to any applicant, the verifiable results of an examination administered by an organization meeting the criteria of *ASSE Series 6000, Standard 6030*, §30-3.2.3, latest edition and certified pursuant to R.S. 37:1368(I), as evidence of successful completion of the examination necessary for the issuance of a license for medical gas and vacuum systems verifier. Any papers from such examinations must be available for inspection and the board may require notarized affidavits from the applicant and the administering organization representative attesting to the accuracy of the examination results and the scope of any such examination, which must minimally include the subject areas described in *ASSE Series 6000, Standard 6030*, latest edition.

F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:577 (April 2016).

§313. Standards for Medical Gas and Vacuum Systems Verifier

A. - C.2. …

3. documentation of each board-licensed medical gas piping installer's braze performance qualification in accordance with *NFPA 99, Health Care Facilities Code* latest edition;

4. - 6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1336(D).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 26:330 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:578 (April 2016).

Chapter 10. Continuing Professional Education Programs

§1005. Medical Gas Piping Installers and Medical Gas Verifiers

A. CPE Requirement

1. Effective January 1, 2016, in addition to the yearly renewal of their license, all persons seeking to renew a medical gas piping installer or medical gas verifier license issued by the Louisiana state Plumbing Board are required to show proof of attendance at a board-approved industry related recertification program, every NFPA 99 code cycle, compliant with the guidelines of the American Society of Sanitary Engineering International (ASSE) *Professional Qualification Standards Series 6000/6010 for Medical Gas Systems Installers* or *6030 for Medical Gas Systems Verifiers* or its equivalent as defined in §304 and §312. Such recertification shall satisfy the endorsee's obligation to maintain continuing professional education relative to the medical gas systems installer and medical gas systems verifier, but shall not diminish or affect licensee's obligation to fulfill continuing professional education requirements for journeyman or master plumbing licenses or water supply protection specialist endorsement, if applicable.

B. - E.6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(I).

HISTORICAL NOTE: Promulgated by the Department of Labor, State Plumbing Board, LR 30:2074 (September 2004), amended LR 37:905 (March 2011), LR 37:2441 (August 2011), amended by the Workforce Commission, Plumbing Board, LR 42:578 (April 2016).

John Barker
Executive Director

1604#025

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.613)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the revision of *Bulletin 111—The Louisiana School, District, and State Accountability System*: §613, Calculating a Graduation Index. In April 2015, BESE approved policy that created a pathway to a diploma for students assessed on the Louisiana Alternate Assessment Level 1 (LAA 1). This proposed change updates language regarding the graduation index calculation to include high school diplomas earned through the pathway for students assessed on the LAA 1, awarding accountability points to schools and districts whose students are successful in earning these diplomas.

Title 28
EDUCATION
Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System
Chapter 6. Graduation Cohort, Index, and Rate
§613. Calculating a Graduation Index

A. - B. …

* * *

C. Beginning in 2016-2017 (2015-2016 graduates), points shall be assigned for each member of a cohort according to the following table.

Student Result	Points
HS Diploma plus (a). AP score of 3 or higher, IB Score of 4 or higher, or CLEP score of 50 or higher OR (b). Advanced statewide Jump Start credential *Students achieving both (a) and (b) will generate 160 points.	150
HS Diploma plus (a). At least one passing course grade for TOPS core curriculum credit of the following type: AP**, college credit, dual enrollment, or IB** OR (b). Basic statewide Jump Start credential *Students achieving both (a) and (b) will generate 115 points. **Students must take the AP/IB exam and pass the course to earn 110 points.	110
Four-year graduate (includes Career Diploma student with a regional Jump Start credential)	100
HS Diploma earned through pathway for students assessed on the LAA1	100
Five-year graduate with any diploma *Five-year graduates who earn an AP score of 3 or higher, an IB score of 4 or higher, or a CLEP score of 50 or higher will generate 140 points.	75
Six-year graduate with any diploma	50
HiSET	25
Non-graduate without HiSET	0

D. The graduation index of a school shall be the average number of points earned by cohort members, except that students assessed using the LAA 1 shall be included in the graduation index for the year in which they graduated or the year in which they exited after at least four years in high school with no subsequent re-enrollment by October 1 of the following academic year. Students who are not exited will be counted in the year that they reach the age of 22.

1. Starting with the graduating class of 2017-2018 (2019 SPS), only WIC-approved industry based certifications (IBCs) will be included as basic statewide credentials.

E.1. The diploma must be earned no later than the third administration of the summer retest following the fourth year of high school of the students' cohort.

a. For example, a student who finishes the fourth year of high school in 2012 must complete the assessment requirements before or during the 2014 summer test administration.

2. When related to awarding fifth-year graduate points, the enrollment must be continuous and consist of at least 45 calendar days.

F. To ensure the accuracy of data used to calculate the graduation index, the calculation shall lag one year behind the collection of the data. (The index earned by the graduating class of 2012 will be used for 2013 accountability calculations.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1025 (June 2006), amended LR 33:2031 (October 2007), LR 33:2594 (December 2007), LR 35:1472 (August 2009), LR 36:1769 (August 2010), repromulgated LR 36:1994 (September 2010), LR 36:2243 (October 2010), LR 37:3201 (November 2011), LR 38:1391 (June 2012), LR 38:3109 (December 2012), LR 39:306 (February 2013), LR 39:2444 (September 2013), LR 40:1317 (July 2014), LR 41:615 (April 2015), LR 42:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions will have no effect on costs or savings to state or local governmental units.

In April 2015, BESE approved policy that created a pathway to a diploma for students assessed on the Louisiana Alternate Assessment Level 1 (LAA 1). This proposed change updates language regarding the graduation index calculation to include high school diplomas earned through the pathway for students assessed on the LAA 1, awarding accountability points to schools and districts whose students are successful in earning these diplomas.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1604#020

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools—Definitions;
Charter School Recruitment and Enrollment
(LAC 28:CXXXIX.103 and 2701)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the revision of *Bulletin 126—Charter Schools*: §103, Definitions; and §2701, Students Eligible to Attend. The proposed revisions provide for the implementation of a uniform policy to require type 2 charter schools to collect and verify student residency information. Additionally, the proposed revisions contain a list of documents that will be acceptable as evidence of residency.

Title 28
EDUCATION
Part CXXXIX. Bulletin 126—Charter Schools
Chapter 1. General Provisions
§103. Definitions

A. The words defined in this Section shall have the meanings set forth below whenever they appear in this policy, unless:

1. the context in which they are used clearly requires a different meaning; or

2. a different definition is prescribed for a particular provision.

* * *

Domicile—the place where the student predominantly sleeps, takes meals, and maintains personal belongings.

* * *

Legal Custody—the legal status created by a court order which establishes in a custodian the right to have physical custody of the child. Custody for educational

purposes only or provisional custody by mandate will not be accepted.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3973.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1357 (July 2008), amended LR 37:867 (March 2011), LR 37:2383 (August 2011), LR 38:37 (January 2012), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:1583 (July 2012), LR 39:3062 (November 2013), LR 40:1321 (July 2014), LR 42:

Chapter 27. Charter School Recruitment and Enrollment

§2701. Students Eligible to Attend

A. Type 2 Charter Schools. Students meeting residency requirements established in a type 2 charter school's charter are eligible to attend a type 2 charter school. A type 2 charter school may establish residency requirements for students living within the state or may establish residency requirements restricted to a particular parish or parishes.

1. Type 2 charter schools shall collect and verify documents substantiating the residency of each student prior to submitting residency information to statewide student information system. Acceptable documents shall be as follows:

a. mortgage (if owned);

b. tax assessor's bill (if owned);

c. homestead exemption bill (if owned);

d. current lease of residence for the school year (if leased);

e. current rent receipt (if leased);

f. previous two months utility bill (Disconnect notices are not acceptable:

i. gas;

ii. water or sewer;

iii. telephone (land line only);

iv. cable or satellite television bill;

v. internet service;

g. current driver's license or government-issued identification;

h. current official letter from a government agency such as Department of Children and Family Services or Department of Health and Hospitals regarding services provided; or

i. current bank statements.

2. The name of the parent or legal custodians must appear on each document and the addresses must match on all documents. The residency information must be updated annually prior to the start of school for the student to be enrolled in that school year.

3. If the parent or legal custodian neither owns nor rents a residence and is therefore living with another individual, the parent or legal custodian must provide a notarized affidavit of residency signed by the parent or legal custodian of the student as well as the individual with whom the parent or legal custodian is living. The affidavit of residency must attest to the following:

a. student's name;

b. name of parent or legal custodian;

c. address of parent or legal custodian;

d. name of the person with whom the parent or legal custodian is living;

e. a statement of attestation by the parent or legal custodian that the student is living with him at the address recorded on the affidavit and that the student has no other residence or domicile; and

f. a statement of attestation by the person with whom the parent or legal custodian is living that these persons in fact live with the individual listed.

4. The person with whom the parent or legal custodian and student are living (who has signed the notarized affidavit) must provide three forms of evidence of residency from the acceptable list of documents outlined above.

5. If parents are separated, divorced or if the legal custodian is other than the biological parents, legal custody documents, signed by a judge with a docket number, indicating the legal custodian or domiciliary parent must be provided.

6. The residency requirements must also be included in the application requirements section contained in exhibit D of the type 2 charter school contracts.

7. Nothing in this policy shall prohibit the admission or readmission to school of a student who meets the definition of homeless under the Federal McKinney-Vento Act (42 U.S.C. 11431 et seq.).

B. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:10.5, R.S. 17:10.7, and R.S. 17:1990.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008), amended LR 37:875 (March 2011), LR 37:2390 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 42:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 126—Charter Schools Definitions;Charter School Recruitment and Enrollment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revision may impact enrollment at some charter schools as well as the distribution of Minimum Foundation Program (MFP) formula funding for students who cannot verify residency status.

The proposed revisions provide for the implementation of a uniform policy to require Type 2 charter schools to collect and verify student residency information. Additionally, the proposed revisions contain a list of documents that will be acceptable as evidence of residency.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1604#027

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools—State Funding
(LAC 28:CXXXIX.2301)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the revision of *Bulletin 126—Charter Schools*: §2301, State Funding. This action removes language that was deleted by Act 467 of the 2015 Regular Legislative Session and references the policy containing requirements related to allocation of funds for certain charter schools.

Title 28
EDUCATION
Part CXXXIX. Bulletin 126—Charter Schools
Chapter 23. Charter School Funding
§2301. State Funding

A. - D. …

E. Beginning on July 1, 2016, for allocations in a school district with one or more Type 3B charter schools in a parish that contains a municipality with a population of 300,000 or more persons according to the latest federal decennial census, refer to Bulletin 129—*The Recovery School District*, §1111.

F. - G.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1371 (July 2008), amended LR 37:874 (March 2011), LR 39:3250 (December 2013), LR 40:1324 (July 2014), LR 42:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 126
Charter Schools—State Funding

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions will impact state authorized Type 4 and Type 5 charter schools located in Orleans Parish. Fiscal Impacts are discussed in the proposed rule changes for Bulletin 129 which contains the specific distribution language.

The proposed changes remove language that was deleted by Act 467 of the 2015 Regular Legislative Session and reference the policy containing the requirements related to allocation of funds for certain charter schools.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1604#028

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District
(LAC 28:CXLV.1111)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has approved for advertisement the revision of *Bulletin 129—The Recovery School District*: §1111, Allocation of Funds. This action is required by Act 467 of the 2015 Regular Legislative Session which directs BESE to determine the student characteristics or needs used for the district-level allocation policy in Orleans Parish.

Title 28
EDUCATION
Part CXLV. Bulletin 129—The Recovery School District
Chapter 11. Fiscal Management
§1111. Allocation of Funds

A. - F. …

G. District-Level Allocations Provided by Statute

1. For allocations in a school district with one or more type 3B charter schools in a parish that contains a municipality with a population of 300,000 or more persons according to the latest federal decennial census, the total amount of minimum foundation program formula funds

allocated to the local school board and to type 1, 1B, 3, 3B, 4, and 5 charter schools that are located within the district shall be allocated using a district-level computation based on student characteristics or needs as determined by BESE.

2. The LDE shall facilitate a collaborative process that includes representatives from the RSD, the Louisiana Association of Public Charter Schools, any affected local school board and any organization representing its authorized charter schools, and advocates for students with disabilities in the development of the district-level allocation policy that shall take effect on July 1, 2016.

AUTHORITY NOTE:Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S.17:1990(A)(2), and 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:311 (January 2011), amended LR 42:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 129
The Recovery School District

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revisions will have no impact on the cost of the Minimum Foundation Program (MFP) formula, however, it will result in the redistribution of funds to certain local school districts and charter schools located within Orleans Parish. The policy changes determine the student characteristics or needs on which the formula for the district level allocation of the MFP funds in Orleans parish will be based. The formula is determined by stakeholders through a collaborative process required in state law.

These policy changes are required by Act 467 of the 2015 Regular Legislative Session which directs BESE to determine the student characteristics or needs used for the district-level allocation policy in Orleans Parish.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux	Evan Brasseaux
Deputy Superintendent	Staff Director
1604#029	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 141—Louisiana Student Standards for English Language Arts (LAC 28:CLXIX.Chapters 1-23)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education (BESE) approved for advertisement to adopt *Bulletin 141—Louisiana Student Standards for English Language Arts*. R.S. 17:24.4 requires BESE to develop state content standards for required subjects to be taught in the public elementary and secondary schools of this state. State content standards are statements that define what a student should know or be able to accomplish at the end of a specific time period or grade level or at the completion of a course. Act 329 of the 2015 Regular Session provided for the review and development of state content standards for English language arts (ELA) and mathematics. This bulletin contains the revised Louisiana student standards for English language arts.

Title 28

EDUCATION

Part CLXIX. Bulletin 141—Louisiana Student Standards for English Language Arts

Chapter 1. Introduction

§101. Introduction

A. The Louisiana student standards define what a public school student should know or be able to accomplish at the end of a specific time period or grade level or at the completion of a course. They represent the knowledge and skills needed for students to successfully transition from each grade and ultimately to postsecondary education and the workplace, as determined by content experts, elementary and secondary educators and school leaders, postsecondary education leaders, and business and industry leaders. The standards set forth what learning should be taught; local education agencies, their school leaders and classroom educators should determine how the standards should be taught, including the curricula and instructional materials that should be used to meet students' individual needs in mastering the standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 3. Kindergarten

§301. Reading Literature

A. With prompting and support, ask and answer questions about key details in a text.

B. With prompting and support, retell familiar stories, including key details.

C. With prompting and support, identify characters, settings, and major events in a story.

D. Ask and answer questions about unknown words in a text.

E. Recognize common types of texts (e.g., storybooks, poems).

F. With prompting and support, define the role of the author and the illustrator of a story in telling the story.

G. With prompting and support, make connections between the illustrations in the story and the text.

H. With prompting and support, compare and contrast the adventures and experiences of characters in familiar stories.

I. Actively engage in group reading activities with purpose and understanding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§303. Reading Informational Text

A. With prompting and support, ask and answer questions about key details in a text.

B. With prompting and support, identify the main topic and retell key details of a text.

C. With prompting and support, describe the connection between two individuals, events, ideas, or pieces of information in a text.

D. With prompting and support, ask and answer questions about unknown words in a text.

E. Identify the front cover, back cover, and title page of a book.

F. With prompting and support, define the role of the author and the illustrator of a text and present the ideas or information in a text.

G. With prompting and support, make connections between the illustrations and the text.

H. With prompting and support, identify the reason(s) an author gives to support point(s) in a text.

I. With prompting and support, identify similarities and differences between two texts on the same topic.

J. Actively engage in group reading activities with purpose and understanding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§305. Reading Foundations

A. Demonstrate understanding of the organization and basic features of print.

1. Follow words from left to right, top to bottom, and page by page.

2. Recognize that spoken words are represented in written language by specific sequences of letters.

3. Understand that words are separated by spaces in print.

4. Recognize and name all upper- and lowercase letters of the alphabet.

B. Demonstrate understanding of spoken words, syllables, and sounds (phonemes).

1. Recognize and produce rhyming words.

2. Count, pronounce, blend, and segment syllables in spoken words.

3. Blend and segment onsets and rimes of single-syllable spoken words.

4. Isolate and pronounce the initial, medial vowel, and final sounds (phonemes) in three-phoneme (consonant-vowel-consonant, or CVC) words. (This does not include CVCs ending with /l/, /r/, or /x/.)

5. Add or substitute individual sounds (phonemes) in simple, one-syllable words to make new words.

C. Know and apply grade-level phonics and word analysis skills in decoding words.

1. Demonstrate basic knowledge of one-to-one letter-sound correspondences by producing the primary or many of the most frequent sounds for each consonant.

2. Associate the long and short sounds with common spellings (graphemes) for the five major vowels.

3. Read common high-frequency words by sight (e.g., the, of, to, you, she, my, is, are, do, does).

4. Distinguish between similarly spelled words by identifying the sounds of the letters that differ.

D. Read emergent-reader texts with purpose and understanding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§307. Writing

A. Use a combination of drawing, dictating, and writing to compose opinion pieces in which they tell a reader the topic or the name of the book they are writing about and state an opinion or preference about the topic or book (e.g., My favorite book is ...).

B. Use a combination of drawing, dictating, and writing to compose informative/explanatory texts in which they name what they are writing about and supply some information about the topic.

C. Use a combination of drawing, dictating, and writing to narrate a single event or several loosely linked events, tell about the events in the order in which they occurred, and provide a reaction to what happened.

D. With guidance and support, orally respond to questions and suggestions from adults and peers and add details to strengthen writing as needed.

E. With guidance and support from adults and peers, explore a variety of digital tools by participating in the production of a published writing.

F. With guidance and support from adults, participate in shared research and writing projects (e.g., explore a number of books by a favorite author and express opinions about them).

G. With guidance and support from adults, recall information from experiences or gather information from provided sources to answer a question.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§309. Speaking and Listening

A. Participate in collaborative conversations with diverse partners about kindergarten topics and texts with peers and adults in small and larger groups.

1. Follow agreed-upon rules for discussions (e.g., listening to others and taking turns speaking about the topics and texts under discussion).

2. Continue a conversation through multiple exchanges.

B. Confirm understanding of a text read aloud or information presented orally or through other media by asking and answering questions about key details and requesting clarification if something is not understood.

C. Ask and answer questions in order to seek help, get information, or clarify something that is not understood.

D. Describe familiar people, places, things, and events and, with prompting and support, provide additional detail.

E. Add drawings or other visual displays to descriptions as desired to provide additional detail.

F. Speak audibly and express thoughts, feelings, and ideas clearly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§311. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Print many upper and lowercase letters.

2. Use frequently occurring nouns and verbs.

3. Form regular plural nouns orally by adding /s/ or /es/ (e.g., dog, dogs; wish, wishes).

4. Understand and use question words (interrogatives) (e.g., who, what, where, when, why, how).

5. Use the most frequently occurring prepositions (e.g., to, from, in, out, on, off, for, of, by, with).

6. Produce and expand complete sentences in shared language activities.

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Capitalize the first word in a sentence and the pronoun I.

2. Recognize and name end punctuation.

3. Write a letter or letters for most consonant and short-vowel sounds (phonemes).

4. Spell simple words phonetically, drawing on knowledge of sound-letter relationships.

C. Determine or clarify the meaning of unknown and multiple-meaning words and phrases based on kindergarten reading and content.

1. With guidance and support, identify new meanings for familiar words and apply them accurately (e.g., knowing a duck is a bird and learning the verb to duck).

2. With guidance and support, use the most frequently occurring inflections and affixes as a clue to the meaning of an unknown word (e.g., /-ed/, /-s/, /re-/, /un-/, /pre-/, /-ful/, /-less/).

D. With guidance and support from adults, explore word relationships and nuances in word meanings.

1. Sort common objects into categories (e.g., shapes, foods) to gain a sense of the concepts the categories represent.

2. Demonstrate understanding of frequently occurring verbs and adjectives by relating them to their opposites (antonyms).

3. Identify real-life connections between words and their use (e.g., note places at school that are colorful).

4. Distinguish shades of meaning among verbs describing the same general action (e.g., walk, march, strut, prance) by acting out the meanings.

E. Use words and phrases acquired through conversations, reading and being read to, and responding to texts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 5. Grade 1

§501. Reading Literature

A. Ask and answer questions about key details in a text.

B. Retell stories, including key details.

C. Recognize and understand the central message or lesson.

D. Describe characters, settings, and major events in a story, using key details.

E. Identify words and phrases in stories or poems that suggest feelings or appeal to the senses.

F. Explain major differences between books that tell stories and books that give information, drawing on a wide reading of a range of text types.

G. Identify who is telling the story at various points in a text.

H. Use illustrations and details in a story to describe its characters, setting, or events.

I. Compare and contrast the adventures and experiences of characters in stories.

J. With prompting and support, read prose and poetry of appropriate complexity for grade 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§503. Reading Informational Text

A. Ask and answer questions about key details in a text.

B. Identify the main topic and retell key details of a text.

C. Describe the connection between two individuals, events, ideas, or pieces of information in a text.

D. Ask and answer questions to help determine or clarify the meaning of words and phrases in a text.

E. Know and use various text features (e.g., headings, tables of contents, glossaries, electronic menus, icons) to locate key facts or information in a text.

F. Distinguish between information provided by pictures or other illustrations and information provided by the words in a text.

G. Use the illustrations and details in a text to describe its key ideas.

H. Identify the reasons an author gives to support points in a text.

I. Identify basic similarities in and differences between two texts on the same topic (e.g., in illustrations, descriptions, or procedures).

J. With prompting and support, read informational texts appropriately complex for grade 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§505. Reading Foundations

A. Demonstrate understanding of the organization and basic features of print.

1. Recognize the distinguishing features of a sentence (e.g., first word, capitalization, ending punctuation).

B. Demonstrate understanding of spoken words, syllables, and sounds (phonemes).

1. Distinguish long from short vowel sounds in spoken single-syllable words.

2. Orally produce single-syllable words by blending sounds (phonemes), including consonant blends.

3. Isolate and pronounce initial, medial vowel, and final sounds (phonemes) in spoken single-syllable words.

4. Segment spoken single-syllable words into their complete sequence of individual sounds (phonemes).

C. Know and apply grade-level phonics and word analysis skills in decoding words.

1. Know the spelling-sound correspondences for common consonant digraphs.

2. Decode regularly spelled one-syllable words.

3. Know final /-e/ and common vowel team conventions for representing long vowel sounds.

4. Use knowledge that every syllable must have a vowel sound to determine the number of syllables in a printed word.

5. Decode two-syllable words following basic patterns by breaking the words into syllables.

6. Read words with inflectional endings.

7. Recognize and read grade-appropriate irregularly spelled words.

D. Read with sufficient accuracy and fluency to support comprehension.

1. Read on-level text with purpose and understanding.

2. Read on-level text orally with accuracy, appropriate rate, and expression on successive readings.

3. Use context to confirm or self-correct word recognition and understanding, rereading as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§507. Writing

A. Write opinion pieces in which they introduce the topic or name the book they are writing about, state an opinion, supply a reason for the opinion, and provide some sense of closure.

B. Write informative/explanatory texts in which they name a topic, supply some facts about the topic, and provide some sense of closure.

C. Write narratives in which they recount two or more appropriately sequenced events, include some details regarding what happened, use temporal words to signal event order, and provide some sense of closure.

D. With guidance and support from adults, focus on a topic, respond to questions and suggestions from peers, and add details to strengthen writing as needed.

E. With guidance and support from adults, use a variety of digital tools to produce and publish writing, including in collaboration with peers.

F. Participate in shared research and writing projects (e.g., explore a number of how-to books on a given topic and use them to write a sequence of instructions).

G. With guidance and support from adults, recall information from experiences or gather information from provided sources to answer a question.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§509. Speaking and Listening

A. Participate in collaborative conversations with diverse partners about grade 1 topics and texts with peers and adults in small and larger groups.

1. Follow agreed-upon rules for discussions (e.g., listening to others with care, speaking one at a time about the topics and texts under discussion).

2. Build on others' talk in conversations by responding to the comments of others through multiple exchanges.

3. Ask questions to clear up any confusion about the topics and texts under discussion.

B. Ask and answer questions about key details in a text read aloud or information presented orally or through other media.

C. Ask and answer questions about what a speaker says in order to gather additional information or clarify something that is not understood.

D. Describe people, places, things, and events with relevant details, expressing ideas and feelings clearly.

E. Add drawings or other visual displays to descriptions when appropriate to clarify ideas, thoughts, and feelings.

F. Produce complete sentences when appropriate to task, audience, and situation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§511. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Legibly print all upper- and lowercase letters.

2. Use common, proper, and possessive nouns.

3. Use singular and plural nouns with matching verbs in basic sentences (e.g., He hops; We hop).

4. Use personal and possessive pronouns (e.g., I, me, my; they, them, their).

5. Use verbs to convey a sense of past, present, and future (e.g., Yesterday I walked home; Today I walk home; Tomorrow I will walk home).

6. Use frequently occurring adjectives.

7. Use frequently occurring conjunctions (e.g., and, but, or, so, because).

8. Use determiners (e.g., articles, demonstratives).

9. Use frequently occurring prepositions (e.g., during, beyond, toward).

10. Produce and expand complete simple and compound declarative, interrogative, imperative, and exclamatory sentences in response to prompts.

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Capitalize dates and names of people.

2. Use end punctuation for sentences.

3. Use commas in dates and to separate single words in a series.

4. Use conventional spelling for words with common spelling patterns and for frequently occurring irregular words.

5. Spell untaught words phonetically, drawing on phonemic awareness and spelling conventions.

C. Determine or clarify the meaning of unknown and multiple-meaning words and phrases based on grade 1 reading and content, choosing flexibly from an array of strategies.

1. Use sentence-level context as a clue to the meaning of a word or phrase.

2. Use knowledge of frequently occurring affixes (prefixes and suffixes) to interpret meaning of a word.

3. Identify frequently occurring root words (e.g., look) and their inflectional forms (e.g., looks, looked, looking).

D. With guidance and support from adults, demonstrate understanding of word relationships and nuances in word meanings.

1. Sort words into categories (e.g., colors, clothing) to gain a sense of the concepts the categories represent.

2. Define words by category and by one or more key attributes (e.g., a duck is a bird that swims; a tiger is a large cat with stripes).

3. Identify real-life connections between words and their use (e.g., note places at home that are cozy).

4. Distinguish shades of meaning among verbs differing in manner (e.g., look, peek, glance, stare, glare, scowl) and adjectives differing in intensity (e.g., large, gigantic) by defining or choosing them or by acting out the meanings.

E. Use words and phrases acquired through conversations, reading and being read to, and responding to texts, including using frequently occurring conjunctions to signal simple relationships (e.g., because).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 7. Grade 2

§701. Reading Literature

A. Ask and answer such questions as who, what, where, when, why, and how to demonstrate understanding of key details in a text.

B. Recount stories, including fables and folktales from diverse culture; determine their central message, lesson, or more.

C. Describe how characters in a story respond to major events and challenges.

D. Describe how words and phrases supply rhythm and rhyme in a poem or song; determine the meaning of words and phrases as they are used in text.

E. Describe the overall structure of a story, including describing how the beginning introduces the story and the ending concludes the action.

F. Acknowledge differences in the points of view of characters, including by speaking in a different voice for each character when reading dialogue aloud.

G. Use information gained from the illustrations and words in a print or digital text to demonstrate understanding of its characters, setting, or plot.

H. Compare and contrast two or more versions of the same story (e.g., Cinderella stories) by different authors or from different cultures.

I. By the end of the year, read and comprehend literature, including stories and poetry, in the grades 2-3 text complexity band proficiently, with scaffolding as needed at the high end of the range.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§703. Reading Informational Text

A. Ask and answer such questions as who, what, where, when, why, and how to demonstrate understanding of key details in a text.

B. Identify the main topic of a multi-paragraph text as well as the focus of specific paragraphs within the text.

C. Describe the connection between a series of historical events, scientific ideas or concepts, or steps in technical procedures in a text.

D. Determine the meaning of words and phrases in a text relevant to a grade 2 topic or subject area.

E. Know and use various text features (e.g., captions, bold print, subheadings, glossaries, indexes, electronic menus, icons) to locate key facts or information in a text efficiently.

F. Identify the main purpose of a text, including what the author wants to answer, explain, or describe.

G. Explain how specific images (e.g., a diagram showing how a machine works) contribute to and clarify a text.

H. Describe how reasons or evidence support specific points the author makes in a text.

I. Compare and contrast the most important points presented by two texts on the same topic.

J. By the end of year, read and comprehend informational texts, including history/social studies, science, and technical texts, in the grades 2-3 text complexity band proficiently, with scaffolding as needed at the high end of the range.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§705. Reading Foundations

A. Know and apply grade-level phonics and word analysis skills in decoding words.

1. Distinguish long and short vowels when reading regularly spelled one-syllable words.

2. Know spelling-sound correspondences for additional common vowel teams.

3. Decode regularly spelled two-syllable words with long vowels.

4. Decode words with common prefixes and suffixes.

5. Identify words with inconsistent but common spelling-sound correspondences.

6. Recognize and read grade-appropriate irregularly spelled words.

B. Read with sufficient accuracy and fluency to support comprehension.

1. Read on-level text with purpose and understanding.

2. Read on-level text orally with accuracy, appropriate rate, and expression on successive readings.

3. Use context to confirm or self-correct word recognition and understanding, rereading as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§707. Writing

A. Write opinion pieces in which they introduce the topic or book they are writing about, state an opinion, supply reasons that support the opinion, use linking words (e.g., because, and, also) to connect opinion and reasons, and provide a concluding statement or section.

B. Write informative/explanatory texts in which they introduce a topic, use facts and definitions to develop points, and provide a concluding statement or section.

C. Write narratives in which they recount a well-elaborated event or short sequence of events, include details to describe actions, thoughts, and feelings, use temporal words to signal event order, and provide a sense of closure.

D. With guidance and support from adults and peers, focus on a topic and strengthen writing as needed by revising and editing.

E. With guidance and support from adults, use a variety of digital tools to produce and publish writing, including in collaboration with peers.

F. Participate in shared research and writing projects (e.g., read a number of books on a single topic to produce a report; record science observations).

G. Recall information from experiences or gather information from provided sources to answer a question.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§709. Speaking and Listening

A. Participate in collaborative conversations with diverse partners about grade 2 topics and texts with peers and adults in small and larger groups.

1. Follow agreed-upon rules for discussions (e.g., gaining the floor in respectful ways, listening to others with care, speaking one at a time about the topics and texts under discussion).

2. Build on others' talk in conversations by linking their comments to the remarks of others.

3. Ask for clarification and further explanation as needed about the topics and texts under discussion.

B. Recount or describe key ideas or details from a text read aloud or information presented orally or through other media.

C. Ask and answer questions about what a speaker says in order to clarify comprehension, gather additional information, or deepen understanding of a topic or issue.

D. Tell a story or recount an experience with appropriate facts and relevant, descriptive details, speaking audibly in coherent sentences.

E. Create audio recordings of stories or poems with guidance and support from adults and/or peers; add drawings or other visual displays to stories or recounts of experiences when appropriate to clarify ideas, thoughts, and feelings.

F. Produce complete sentences when appropriate to task, audience, and situation in order to provide requested detail or clarification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§711. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Use collective nouns (e.g., group).

2. Form and use frequently occurring irregular plural nouns (e.g., feet, children, teeth, mice, fish).

3. Use reflexive pronouns (e.g., *myself, ourselves*) and indefinite pronouns (e.g., anyone, everything).

4. Form and use the past tense of frequently occurring irregular verbs (e.g., sat, hid, told).

5. Use adjectives and adverbs, and choose between them depending on what is to be modified.

6. Produce, expand, and rearrange complete simple and compound sentences (e.g., The boy watched the movie; The little boy watched the movie; The action movie was watched by the little boy).

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Capitalize holidays, product names, and geographic names.

2. Use commas in greetings and closings of letters.

3. Use an apostrophe to form contractions and frequently occurring possessives.

4. Generalize learned spelling patterns when writing words (e.g., cage → badge; boy → boil).

5. Consult reference materials, including beginning dictionaries, as needed to check and correct spellings.

C. Use knowledge of language and its conventions when writing, speaking, reading, or listening.

1. Compare formal and informal uses of English.

D. Determine or clarify the meaning of unknown and multiple-meaning words and phrases based on grade 2 reading and content, choosing flexibly from an array of strategies.

1. Use sentence-level context as a clue to the meaning of a word or phrase.

2. Determine the meaning of the new word formed when a known prefix is added to a known word (e.g., happy/unhappy, tell/retell).

3. Use a known root word as a clue to the meaning of an unknown word with the same root (e.g., addition, additional).

4. Use knowledge of the meaning of individual words to predict the meaning of compound words (e.g., birdhouse, lighthouse, housefly; bookshelf, notebook, bookmark).

5. Use glossaries and beginning dictionaries, both print and digital, to determine or clarify the meaning of words and phrases.

E. Demonstrate understanding of word relationships and nuances in word meanings.

1. Identify real-life connections between words and their use (e.g., describe foods that are spicy or juicy).

2. Distinguish shades of meaning among closely related verbs (e.g., toss, throw, hurl) and closely related adjectives (e.g., thin, slender, skinny, scrawny).

F. Use words and phrases acquired through conversations, reading and being read to, and responding to texts, including using adjectives and adverbs to describe (e.g., When other kids are happy that makes me happy).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 9. Grade 3

§901. Reading Literature

A. Ask and answer questions to demonstrate understanding of a text, referring explicitly to the text as the basis for the answers.

B. Recount stories, including fables, folktales, and myths from diverse cultures; determine the central message, lesson, or moral and explain how it is conveyed through key details in the text.

C. Describe characters in a story (e.g., their traits, motivations, or feelings) and explain how their actions contribute to the sequence of events.

D. Determine the meaning of words and phrases as they are used in a text, distinguishing literal from nonliteral language.

E. Refer to parts of stories, dramas, and poems when writing or speaking about a text, using terms such as chapter, scene, and stanza; describe how each successive part builds on earlier sections.

F. Distinguish the student's point of view from that of the narrator or those of the characters.

G. Explain how specific aspects of a text's illustrations contribute to what is conveyed by the words in a story (e.g., create mood, emphasize aspects of a character or setting).

H. Compare and contrast the themes, settings, and plots of stories written by the same author about the same or similar characters (e.g., in books from a series).

I. By the end of the year, read and comprehend literature, including stories, dramas, and poetry, at the high end of the grades 2-3 text complexity band independently and proficiently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§903. Reading Informational Text

A. Ask and answer questions to demonstrate understanding of a text, referring explicitly to the text as the basis for the answers.

B. Determine the main idea of a text; recount the key details and explain how they support the main idea.

C. Describe the relationship between a series of historical events, scientific ideas or concepts, or steps in technical procedures in a text, using language that pertains to time, sequence, and cause/effect.

D. Determine the meaning of general academic and domain-specific words and phrases in a text relevant to a grade 3 topic or subject area.

E. Use text features and search tools (e.g., key words, sidebars, hyperlinks) to efficiently locate information relevant to a given topic.

F. Distinguish the student's point of view from that of the author of a text.

G. Use information gained from illustrations (e.g., maps, photographs) and the words in a text to demonstrate understanding of the text (e.g., where, when, why, and how key events occur).

H. Describe the logical connection between particular sentences and paragraphs in a text (e.g., comparison, cause/effect, first/second/third in a sequence).

I. Compare and contrast the most important points and key details presented in two texts on the same topic.

J. By the end of the year, read and comprehend informational texts, including history/social studies, science, and technical texts, at the high end of the grades 2-3 text complexity band independently and proficiently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§905. Reading Foundations

A. Know and apply grade-level phonics and word analysis skills in decoding words.

1. Identify and know the meaning of the most common prefixes and derivational suffixes.

2. Decode words with common Latin suffixes.

3. Decode multisyllable words.

4. Read grade-appropriate irregularly spelled words.

B. Read with sufficient accuracy and fluency to support comprehension.

1. Read on-level text with purpose and understanding.

2. Decode words with common Latin suffixes.

3. Decode multisyllable words.

4. Read grade-appropriate irregularly spelled words.

C. Read with sufficient accuracy and fluency to support comprehension.

1. Read on-level text with purpose and understanding.

2. Read on-level prose and poetry orally with accuracy, appropriate rate, and expression on successive readings.

3. Use context to confirm or self-correct word recognition and understanding, rereading as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§907. Writing

A. Write opinion pieces on topics or texts, supporting a point of view with reasons.

1. Introduce the topic or text they are writing about, state an opinion, and create an organizational structure that lists reasons.

2. Provide reasons that support the opinion.

3. Use linking words and phrases (e.g., because, therefore, since, for example) to connect opinion and reasons.

4. Provide a concluding statement or section.

B. Write informative/explanatory texts to examine a topic and convey ideas and information clearly.

1. Introduce a topic and group related information together; include illustrations when useful to aiding comprehension.

2. Develop the topic with facts, definitions, and details.

3. Use linking words and phrases (e.g., also, another, and, more, but) to connect ideas within categories of information.

4. Provide a concluding statement or section.

C. Write narratives to develop real or imagined experiences or events using effective technique, descriptive details, and clear event sequences.

1. Establish a situation and introduce a narrator and/or characters; organize an event sequence that unfolds naturally.

2. Use dialogue and descriptions of actions, thoughts, and feelings to develop experiences and events or show the response of characters to situations.

3. Use temporal words and phrases to signal event order.

4. Provide a sense of closure.

D. With guidance and support from adults, produce writing in which the development and organization are appropriate to task and purpose.

E. With guidance and support from peers and adults, develop and strengthen writing as needed by planning, revising, and editing.

F. With guidance and support from adults, produce and publish grade-appropriate writing using technology, either independently or in collaboration with others.

G. Conduct short research projects that build knowledge about a topic.

H. Recall information from experiences or gather information from print and digital sources; take brief notes on sources and sort evidence into provided categories.

I. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§909. Speaking and Listening

A. Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grade 3 topics and texts, building on others' ideas and expressing their own clearly.

1. Come to discussions prepared, having read or studied required material; explicitly draw on that preparation and other information known about the topic to explore ideas under discussion.

2. Follow agreed-upon rules for discussions (e.g., gaining the floor in respectful ways, listening to others with care, speaking one at a time about the topics and texts under discussion).

3. Ask questions to check understanding of information presented, stay on topic, and link their comments to the remarks of others.

4. Explain their own ideas and understanding in light of the discussion.

B. Determine the main ideas and supporting details of a text read aloud or information presented in diverse media and formats, including visually, quantitatively, and orally.

C. Ask and answer questions about information from a speaker, offering appropriate elaboration and detail.

D. Report on a topic or text, tell a story, or recount an experience with appropriate facts and relevant, descriptive details, speaking clearly at an understandable pace.

E. Create engaging audio recordings of stories or poems that demonstrate fluid reading at an understandable pace; add visual displays when appropriate to emphasize or enhance certain facts or details.

F. Speak in complete sentences when appropriate to task, audience, and situation in order to provide requested detail or clarification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§911. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Explain the function of nouns, pronouns, verbs, adjectives, and adverbs in general and their functions in particular sentences.

2. Form and use regular and irregular plural nouns.

3. Use abstract nouns (e.g., childhood).

4. Form and use regular and irregular verbs.

5. Form and use the simple verb tenses (e.g., I walked; I walk; I will walk).

6. Ensure subject-verb and pronoun-antecedent agreement.

7. Form and use comparative and superlative adjectives and adverbs, and choose between them depending on what is to be modified.

8. Use coordinating and subordinating conjunctions.

9. Produce simple, compound, and complex sentences.

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Capitalize appropriate words in titles.

2. Use commas in addresses.

3. Use commas and quotation marks in dialogue.

4. Form and use possessives.

5. Use conventional spelling for high-frequency and other studied words and for adding suffixes to base words (e.g., sitting, smiled, cries, happiness).

6. Use spelling patterns and generalizations (e.g., word families, position-based spellings, syllable patterns, ending rules, meaningful word parts) in writing words.

7. Consult reference materials, including beginning dictionaries, as needed to check and correct spellings.

C. Use knowledge of language and its conventions when writing, speaking, reading, or listening.

1. Choose words and phrases for effect.

2. Recognize and observe differences between the conventions of spoken and written standard English.

D. Determine or clarify the meaning of unknown and multiple-meaning word and phrases based on grade 3 reading and content, choosing flexibly from a range of strategies.

1. Use sentence-level context as a clue to the meaning of a word or phrase.

2. Determine the meaning of the new word formed when a known affix is added to a known word (e.g., agreeable/disagreeable, comfortable/uncomfortable, care/careless, heat/preheat).

3. Use a known root word as a clue to the meaning of an unknown word with the same root (e.g., company, companion).

4. Use glossaries or beginning dictionaries, both print and digital, to determine or clarify the precise meaning of key words and phrases.

E. Demonstrate understanding of word relationships and nuances in word meanings.

1. Distinguish the literal and nonliteral meanings of words and phrases in context (e.g., take steps).

2. Identify real-life connections between words and their use (e.g., describe people who are friendly or helpful).

3. Distinguish shades of meaning among related words that describe states of mind or degrees of certainty (e.g., knew, believed, suspected, heard, wondered).

F. Acquire and use accurately grade-appropriate conversational, general academic, and domain-specific words and phrases, including those that signal spatial and temporal relationships (e.g., After dinner that night we went looking for them).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 11. Grade 4

§1101. Reading Literature

A. Refer to details and examples in a text when explaining what the text says explicitly and when drawing inferences from the text.

B. Determine a theme of a story, drama, or poem from details in the text; summarize the text.

C. Describe in-depth a character, setting, or event in a story or drama, drawing on specific details in the text (e.g., a character's thoughts, words, or actions).

D. Determine the meaning of words and phrases as they are used in a text, including figurative language such as metaphors and similes.

E. Explain major differences between poems, drama, and prose, and refer to the structural elements of poems (e.g., verse, rhythm, meter) and drama (e.g., casts of characters, settings, descriptions, dialogue, stage directions) when writing or speaking about a text.

F. Compare and contrast the point of view from which different stories are narrated, including the difference between first- and third-person narrations.

G. Make connections between the text of a story or drama and a visual or oral presentation of the text.

H. Compare and contrast the treatment of similar themes and topics (e.g., opposition of good and evil) and patterns of events (e.g., the quest) in stories, myths, and traditional literature from different cultures.

I. By the end of the year, read and comprehend literature, including stories, dramas, and poetry, in the grades 4-5 text complexity band proficiently, with scaffolding as needed at the high end of the range.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1103. Reading Informational Text

A. Refer to details and examples in a text when explaining what the text says explicitly and when drawing inferences from the text.

B. Determine the main idea of a text and explain how it is supported by key details; summarize the text.

C. Explain events, procedures, ideas, or concepts in a historical, scientific, or technical text, including what happened and why, based on specific information in the text.

D. Determine the meaning of general academic and domain-specific words or phrases in a text relevant to a grade 4 topic or subject area.

E. Describe the overall structure (e.g., chronology, comparison, cause/effect, problem/solution) of events, ideas, concepts, or information in a text or part of a text.

F. Compare and contrast a firsthand and secondhand account of the same event or topic; describe the differences in focus and the information provided.

G. Interpret information presented visually, orally, or quantitatively (e.g., in charts, graphs, diagrams, timelines, animations, or interactive elements on Web pages) and explain how the information contributes to an understanding of the text in which it appears.

H. Explain how an author uses reasons and evidence to support particular points in a text.

I. Integrate information from two texts on the same topic in order to write or speak about the subject knowledgeably.

J. By the end of year, read and comprehend informational texts, including history/social studies, science, and technical texts, in the grades 4-5 text complexity band proficiently, with scaffolding as needed at the high end of the range.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1105. Reading Foundations

A. Know and apply grade-level phonics and word analysis skills in decoding words.

1. Use combined knowledge of letter-sound correspondences, syllabication patterns, and morphology (e.g., roots and affixes) to read accurately unfamiliar multisyllabic words in context and out of context.

B. Read with sufficient accuracy and fluency to support comprehension.

1. Read on-level text with purpose and understanding.

2. Read on-level prose and poetry orally with accuracy, appropriate rate, and expression on successive readings.

3. Use context to confirm or self-correct word recognition and understanding, rereading as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1107. Writing

A. Write opinion pieces on topics or texts, supporting a point of view with reasons and information.

1. Introduce a topic or text clearly, state an opinion, and create an organizational structure in which related ideas are grouped to support the writer's purpose.

2. Provide reasons that are supported by facts and details.

3. Link opinion and reasons using words and phrases (e.g., for instance, in order to, in addition).

4. Provide a concluding statement or section related to the opinion presented.

B. Write informative/explanatory texts to examine a topic and convey ideas and information clearly.

1. Introduce a topic clearly and group related information in paragraphs and sections; include formatting (e.g., headings), illustrations, and multimedia when useful to aiding comprehension.

2. Develop the topic with facts, definitions, concrete details, quotations, or other information and examples related to the topic.

3. Link ideas within categories of information using words and phrases (e.g., another, for example, also, because).

4. Use precise language and domain-specific vocabulary to inform about or explain the topic.

5. Provide a concluding statement or section related to the information or explanation presented.

C. Write narratives to develop real or imagined experiences or events using effective technique, descriptive details, and clear event sequences.

1. Orient the reader by establishing a situation and introducing a narrator and/or characters; organize an event sequence that unfolds naturally.

2. Use dialogue and description to develop experiences and events or show the responses of characters to situations.

3. Use a variety of transitional words and phrases to manage the sequence of events.

4. Use concrete words and phrases and sensory details to convey experiences and events precisely.

5. Provide a conclusion that follows from the narrated experiences or events.

D. Produce clear and coherent writing in which the development and organization are appropriate to task, purpose, and audience.

E. With guidance and support from peers and adults, develop and strengthen writing as needed by planning, revising, and editing.

F. With guidance and support from adults, produce and publish grade-appropriate writing using technology, either independently or in collaboration with others.

G. Conduct short research projects that build knowledge through investigation of different aspects of a topic.

H. Recall relevant information from experiences or gather relevant information from print and digital sources; take notes and categorize information, and provide a list of sources.

I. Draw relevant evidence from grade-appropriate literary or informational texts to support analysis, reflection, and research.

1. Apply grade 4 reading standards to literature (e.g., "Describe in-depth a character, setting, or event in a story or drama, drawing on specific details in the text [e.g., a character's thoughts, words, or actions]").

2. Apply grade 4 reading standards to informational texts (e.g., "Explain how an author uses reasons and evidence to support particular points in a text").

J. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1109. Speaking and Listening

A. Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grade 4 topics and texts, building on others' ideas and expressing their own clearly.

1. Come to discussions prepared, having read or studied required material; explicitly draw on that preparation and other information known about the topic to explore ideas under discussion.

2. Follow agreed-upon rules for discussions and carry out assigned roles.

3. Pose and respond to specific questions to clarify or follow up on information, and make comments that contribute to the discussion and link to the remarks of others.

4. Review the key ideas expressed and explain their own ideas and understanding in light of the discussion.

B. Paraphrase portions of a text read aloud or information presented in diverse media and formats, including visually, quantitatively, and orally.

C. Identify the reasons and evidence a speaker provides to support particular points.

D. Report on a topic or text, tell a story, or recount an experience in an organized manner, using appropriate facts and relevant, descriptive details to support main ideas or themes; speak clearly at an understandable pace.

E. Add audio recordings and visual displays to presentations when appropriate to enhance the development of main ideas or themes.

F. Differentiate between contexts that call for formal English (e.g., presenting ideas) and situations where informal discourse is appropriate (e.g., small-group discussion); use formal English when appropriate to task, audience, and situation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1111. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Use relative pronouns (who, whose, whom, which, that) and relative adverbs (where, when, why).

2. Form and use the progressive verb tenses (e.g., I was walking; I am walking; I will be walking).

3. Use modal auxiliaries (e.g., can, may, must) to convey various conditions.

4. Order adjectives within sentences according to conventional patterns (e.g., a small red bag rather than a red small bag).

5. Form and use prepositional phrases.

6. Produce complete sentences, recognizing and correcting inappropriate fragments and run-ons.

7. Correctly use frequently confused words (e.g., to, too, two; there, their).

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Use correct capitalization.

2. Use commas and quotation marks to mark direct speech and quotations from a text.

3. Use a comma before a coordinating conjunction in a compound sentence.

4. Spell grade-appropriate words correctly, consulting references as needed.

C. Use knowledge of language and its conventions when writing, speaking, reading, or listening.

1. Choose words and phrases to convey ideas precisely.

2. Choose punctuation for effect.

3. Differentiate between contexts that call for formal English (e.g., presenting ideas) and situations where informal discourse is appropriate (e.g., small-group discussions).

D. Determine or clarify the meaning of unknown and multiple-meaning words and phrases based on grade 4 reading and content, choosing flexibly from a range of strategies.

1. Use context (e.g., definitions, examples, or restatements in text) as a clue to the meaning of a word or phrase.

2. Use common, grade-appropriate Greek and Latin affixes and roots as clues to the meaning of a word (e.g., telegraph, photograph, autograph).

3. Consult reference materials (e.g., dictionaries, glossaries, thesauruses), both print and digital, to find the pronunciation and determine or clarify the precise meaning of key words and phrases.

E. Demonstrate understanding of figurative language, word relationships, and nuances in word meanings.

1. Explain the meaning of simple similes and metaphors (e.g., as pretty as a picture) in context.

2. Recognize and explain the meaning of common idioms, adages, and proverbs.

3. Demonstrate understanding of words by relating them to their opposites (antonyms) and to words with similar but not identical meanings (synonyms).

F. Acquire and use accurately grade-appropriate general academic and domain-specific words and phrases, including those that signal precise actions, emotions, or states of being (e.g., quizzed, whined, stammered) and that are basic to a particular topic (e.g., wildlife, conservation, and endangered when discussing animal preservation).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 13. Grade 5

§1301. Reading Literature

A. Quote accurately from a text when explaining what the text says explicitly and when drawing inferences from the text.

B. Determine a theme of a story, drama, or poem from details in the text, including how characters in a story or drama respond to challenges or how the speaker in a poem reflects upon a topic; summarize the text.

C. Compare and contrast two or more characters, settings, or events in a story or drama, drawing on specific details in the text (e.g., how characters interact).

D. Determine the meaning of words and phrases as they are used in a text, including figurative and connotative meanings.

E. Explain how a series of chapters, scenes, or stanzas fits together to provide the overall structure of a particular story, drama, or poem.

F. Describe how a narrator's or speaker's point of view influences how events are described.

G. Analyze how visual and multimedia elements contribute to the meaning, tone, or aesthetics of a text (e.g., graphic novel, multimedia presentation of fiction, folktale, myth, poem).

H. Compare and contrast stories in the same genre (e.g., mysteries and adventure stories) on their approaches to similar themes and topics.

I. By the end of the year, read and comprehend literature, including stories, dramas, and poetry, at the high end of the grades 4-5 text complexity band independently and proficiently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1303. Reading Informational Text

A. Quote accurately from a text when explaining what the text says explicitly and when drawing inferences from the text.

B. Determine two or more main ideas of a text and explain how they are supported by key details; summarize the text.

C. Explain the relationships or interactions between two or more individuals, events, ideas, or concepts in a historical, scientific, or technical text based on specific information in the text.

D. Determine the meaning of general academic and domain-specific words and phrases in a text relevant to a grade 5 topic or subject area.

E. Compare and contrast the overall structure (e.g., chronology, comparison, cause/effect, problem/solution) of events, ideas, concepts, or information in two texts.

F. Analyze multiple accounts of the same event or topic, noting important similarities and differences in the point of view they represent.

G. Utilize information from multiple print or digital sources, demonstrating the ability to locate an answer to a question or to solve a problem efficiently.

H. Explain how an author uses reasons and evidence to support particular points in a text, identifying which reasons and evidence support which point(s).

I. Integrate information from several texts on the same topic in order to write or speak about the subject knowledgeably.

J. By the end of the year, read and comprehend informational texts, including history/social studies, science, and technical texts, at the high end of the grades 4-5 text complexity band independently and proficiently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1305. Reading Foundations

A. Know and apply grade-level phonics and word analysis skills in decoding words.

B. Use combined knowledge of letter-sound correspondences, syllabication patterns, and morphology (e.g., roots and affixes) to read accurately unfamiliar multisyllabic words in context and out of context.

C. Read with sufficient accuracy and fluency to support comprehension.

1. Read on-level text with purpose and understanding.

2. Read on-level prose and poetry orally with accuracy, appropriate rate, and expression on successive readings.

3. Use context to confirm or self-correct word recognition and understanding, rereading as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1307. Writing

A. Write opinion pieces on topics or texts, supporting a point of view with reasons and information.

1. Introduce a topic or text clearly, state an opinion, and create an organizational structure in which ideas are logically grouped to support the writer's purpose.

2. Provide logically ordered reasons that are supported by facts and details.

3. Link opinion and reasons using words, phrases, and clauses (e.g., consequently, specifically).

4. Provide a concluding statement or section related to the opinion presented.

B. Write informative/explanatory texts to examine a topic and convey ideas and information clearly.

1. Introduce a topic clearly, provide a general observation and focus, and group related information logically; include formatting (e.g., headings), illustrations, and multimedia when useful to aiding comprehension.

2. Develop the topic with facts, definitions, concrete details, quotations, or other information and examples related to the topic.

3. Link ideas within and across categories of information using words, phrases, and clauses (e.g., in contrast, especially).

4. Use precise language and domain-specific vocabulary to inform about or explain the topic.

5. Provide a concluding statement or section related to the information or explanation presented.

C. Write narratives to develop real or imagined experiences or events using effective technique, descriptive details, and clear event sequences.

1. Orient the reader by establishing a situation and introducing a narrator and/or characters; organize an event sequence that unfolds naturally.

2. Use narrative techniques, such as dialogue, description, and pacing, to develop experiences and events or show the responses of characters to situations.

3. Use a variety of transitional words, phrases, and clauses to manage the sequence of events.

4. Use concrete words and phrases and sensory details to convey experiences and events precisely.

5. Provide a conclusion that follows from the narrated experiences or events.

D. Produce clear and coherent writing in which the development and organization are appropriate to task, purpose, and audience.

E. With guidance and support from peers and adults, develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a different approach.

F. With guidance and support from adults, produce and publish grade-appropriate writing using technology, either independently or in collaboration with others.

G. Conduct short research projects that use several sources to build knowledge through investigation of different aspects of a topic.

H. Recall relevant information from experiences or gather relevant information from print and digital sources; summarize or paraphrase information in notes and finished work, and provide a list of sources.

I. Draw relevant evidence from grade-appropriate literary or informational texts to support analysis, reflection, and research.

1. Apply grade 5 reading standards to literature (e.g., "Compare and contrast two or more characters, settings, or events in a story or a drama, drawing on specific details in the text [e.g., how characters interact]").

2. Apply grade 5 reading standards to informational texts (e.g., "Explain how an author uses reasons and evidence to support particular points in a text, identifying which reasons and evidence support which point[s]").

J. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1309. Speaking and Listening

A. Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grade 5 topics and texts, building on others' ideas and expressing their own clearly.

1. Come to discussions prepared, having read or studied required material; explicitly draw on that preparation and other information known about the topic to explore ideas under discussion.

2. Follow agreed-upon rules for discussions and carry out assigned roles.

3. Pose and respond to specific questions by making comments that contribute to the discussion and elaborate on the remarks of others.

4. Review the key ideas expressed and draw conclusions in light of information and knowledge gained from the discussions.

B. Summarize a written text read aloud or information presented in diverse media and formats, including visually, quantitatively, and orally.

C. Summarize the points a speaker makes and explain how each claim is supported by reasons and evidence.

D. Report on a topic or text or present an opinion, sequencing ideas logically and using appropriate facts and relevant, descriptive details to support main ideas or themes; speak clearly at an understandable pace.

E. Include multimedia components (e.g., graphics, sound) and visual displays in presentations when appropriate to enhance the development of main ideas or themes.

F. Adapt speech to a variety of contexts and tasks, using formal English when appropriate to task, audience, and situation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1311. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Explain the function of conjunctions, prepositions, and interjections in general and their function in particular sentences.

2. Form and use the perfect verb tenses (e.g., I had walked; I have walked; I will have walked).

3. Use verb tense to convey various times, sequences, states, and conditions.

4. Recognize and correct inappropriate shifts in verb tense.

5. Use correlative conjunctions (e.g., either/or, neither/nor).

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Use punctuation to separate items in a series.

2. Use a comma to separate an introductory element from the rest of the sentence.

3. Use a comma to set off the words yes and no (e.g., Yes, thank you), to set off a tag question from the rest of the sentence (e.g., It's true, isn't it?), and to indicate direct address (e.g., Is that you, Steve?).

4. Use underlining, quotation marks, or italics to indicate titles of works.

5. Spell grade-appropriate words correctly, consulting references as needed.

C. Use knowledge of language and its conventions when writing, speaking, reading, or listening.

1. Expand, combine, and reduce sentences for meaning, reader/listener interest, and style.

2. Compare and contrast the varieties of English (e.g., dialects, registers) used in stories, dramas, or poems.

D. Determine or clarify the meaning of unknown and multiple-meaning words and phrases based on grade 5 reading and content, choosing flexibly from a range of strategies.

1. Use context (e.g., cause/effect relationships and comparisons in text) as a clue to the meaning of a word or phrase.

2. Use common, grade-appropriate Greek and Latin affixes and roots as clues to the meaning of a word (e.g., photograph, photosynthesis).

3. Consult reference materials (e.g., dictionaries, glossaries, thesauruses), both print and digital, to find the pronunciation and determine or clarify the precise meaning of key words and phrases.

E. Demonstrate understanding of figurative language, word relationships, and nuances in word meanings.

1. Interpret figurative language, including similes and metaphors, in context.

2. Recognize and explain the meaning of common idioms, adages, and proverbs.

3. Use the relationship between particular words (e.g., synonyms, antonyms, homographs) to better understand each of the words.

4. Acquire and use accurately grade-appropriate general academic and domain-specific words and phrases, including those that signal contrast, addition, and other logical relationships (e.g., however, although, nevertheless, similarly, moreover, in addition).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 15. Grade 6

§1501. Reading Literature

A. Cite relevant textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text.

B. Determine a theme or central idea of a text and how it is conveyed through particular details; provide a summary of the text distinct from personal opinions or judgments.

C. Describe how a particular story or drama's plot unfolds in a series of episodes as well as how the characters respond or change as the plot moves toward a resolution.

D. Determine the meaning of words and phrases as they are used in a text, including figurative and connotative meanings; analyze the impact of a specific word choice on meaning and tone.

E. Analyze how a particular sentence, chapter, scene, or stanza fits into the overall structure of a text and contributes to the development of the theme, setting, or plot.

F. Compare and contrast the experience of reading a story, drama, or poem to listening to or viewing an audio, video, or live version of the text, including contrasting what they "see" and "hear" when reading the text to what they perceive when they listen or watch.

G. Compare and contrast texts in different forms or genres (e.g., stories and poems; historical novels and fantasy stories) in terms of their approaches to similar themes and topics.

H. By the end of the year, read and comprehend literature, including stories, dramas, and poems, in the grades 6-8 text complexity band proficiently, with scaffolding as needed at the high end of the range.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1503. Reading Informational Text

A. Cite relevant textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text.

B. Determine a central idea of a text and how it is conveyed through particular details; provide a summary of the text distinct from personal opinions or judgments.

C. Analyze in detail how a key individual, event, or idea is introduced, illustrated, and elaborated in a text (e.g., through examples or anecdotes).

D. Determine the meaning of words and phrases as they are used in a text, including figurative, connotative, and technical meanings.

E. Analyze how a particular sentence, paragraph, chapter, or section fits into the overall structure of a text and contributes to the development of the ideas.

F. Determine an author's point of view or purpose in a text and explain how it is conveyed in the text.

G. Integrate information presented in different media or formats (e.g., visually, quantitatively) as well as in words to develop a coherent understanding of a topic or issue.

H. Trace and evaluate the argument and specific claims in a text, distinguishing claims that are supported by reasons and evidence from claims that are not.

I. Compare and contrast one author's presentation of events with that of another (e.g., a memoir written by and a biography on the same person).

J.By the end of the year, read and comprehend literary nonfiction in the grades 6-8 text complexity band proficiently, with scaffolding as needed at the high end of the range.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1505. Writing

A. Write arguments to support claims with clear reasons and relevant evidence.

1. Introduce claim(s) and organize the reasons and evidence clearly.

2. Support claim(s) with clear reasons and relevant evidence, using credible sources and demonstrating an understanding of the topic or text.

3. Use words, phrases, and clauses to clarify the relationships among claim(s) and reasons.

4. Establish and maintain a formal style.

5. Provide a concluding statement or section that follows from the argument presented.

B. Write informative/explanatory texts to examine a topic and convey ideas, concepts, and information through the selection, organization, and analysis of relevant content.

1. Introduce a topic; organize ideas, concepts, and information, using strategies such as definition, classification, comparison/contrast, and cause/effect; include formatting (e.g., headings), graphics (e.g., charts, tables), and multimedia when useful to aiding comprehension.

2. Develop the topic with relevant facts, definitions, concrete details, quotations, or other information and examples.

3. Use appropriate transitions to clarify the relationships among ideas and concepts.

4. Use precise language and domain-specific vocabulary to inform about or explain the topic.

5. Establish and maintain a formal style.

6. Provide a concluding statement or section that follows from the information or explanation presented.

C. Write narratives to develop real or imagined experiences or events using effective technique, relevant descriptive details, and well-structured event sequences.

1. Engage and orient the reader by establishing a context and introducing a narrator and/or characters; organize an event sequence that unfolds naturally and logically.

2. Use narrative techniques, such as dialogue, pacing, and description, to develop experiences, events, and/or characters.

3. Use a variety of transition words, phrases, and clauses to convey sequence and signal shifts from one time frame or setting to another.

4. Use precise words and phrases, relevant descriptive details, and sensory language to convey experiences and events.

5. Provide a conclusion that follows from the narrated experiences or events.

D. Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

E. With some guidance and support from peers and adults, develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a different approach.

F. Produce and publish grade-appropriate writing using technology, either independently or in collaboration with others.

G. Conduct short research projects to answer a question, drawing on several sources and refocusing the inquiry when appropriate.

H. Gather relevant information from multiple print and digital sources; assess the credibility of each source; and quote or paraphrase the data and conclusions of others while avoiding plagiarism and providing basic bibliographic information for sources.

I. Draw relevant evidence from grade-appropriate literary or informational texts to support analysis, reflection, and research.

1. Apply grade 6 reading standards to literature (e.g., "Compare and contrast texts in different forms or genres [e.g., stories and poems; historical novels and fantasy stories] in terms of their approaches to similar themes and topics").

2. Apply grade 6 reading standards to literary nonfiction (e.g., "Trace and evaluate the argument and specific claims in a text, distinguishing claims that are supported by reasons and evidence from claims that are not").

J. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1507. Speaking and Listening

A. Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grade 6 topics, texts, and issues, building on others' ideas and expressing their own clearly.

1. Come to discussions prepared, having read or studied required material; explicitly draw on that preparation by referring to evidence on the topic, text, or issue to probe and reflect on ideas under discussion.

2. Follow rules for collegial discussions, set specific goals and deadlines, and define individual roles as needed.

3. Pose and respond to specific questions with elaboration and detail by making comments that contribute to the topic, text, or issue under discussion.

4. Review the key ideas expressed and demonstrate understanding of multiple perspectives through reflection and paraphrasing.

B. Interpret information presented in diverse media and formats (e.g., visually, quantitatively, orally) and explain how it contributes to a topic, text, or issue under study.

C. Delineate a speaker's argument and specific claims, distinguishing claims that are supported by reasons and evidence from claims that are not.

D. Present claims and findings, sequencing ideas logically and using pertinent descriptions, facts, and details to accentuate

E. Include multimedia components (e.g., graphics, images, music, sound) and visual displays in presentations to clarify information.

F. Adapt speech to a variety of contexts, audiences, and tasks, demonstrating command of formal English when indicated or appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1509. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Ensure that pronouns are in the proper case (subjective, objective, possessive).

2. Use intensive pronouns (e.g., myself, ourselves).

3. Recognize and correct inappropriate shifts in pronoun number and person.

4. Recognize and correct vague pronouns (i.e., ones with unclear or ambiguous antecedents).

5. Recognize variations from standard English in their own and others' writing and speaking, and identify and use strategies to improve expression in conventional language.

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Use punctuation (commas, parentheses, dashes) to set off nonrestrictive/parenthetical elements.

2. Spell correctly.

C. Use knowledge of language and its conventions when writing, speaking, reading, or listening.

1. Vary sentence patterns for meaning, reader/listener interest, and style.

2. Maintain consistency in style and tone.

D. Determine or clarify the meaning of unknown and multiple-meaning words and phrases based on grade 6 reading and content, choosing flexibly from a range of strategies.

1. Use context (e.g., the overall meaning of a sentence or paragraph; a word's position or function in a sentence) as a clue to the meaning of a word or phrase.

2. Use common, grade-appropriate Greek or Latin affixes and roots as clues to the meaning of a word (e.g., audience, auditory, audible).

3. Consult reference materials (e.g., dictionaries, glossaries, thesauruses), both print and digital, to find the pronunciation of a word or determine or clarify its precise meaning or its part of speech.

4. Verify the preliminary determination of the meaning of a word or phrase (e.g., by checking the inferred meaning in context or in a dictionary).

E. Demonstrate understanding of figurative language, word relationships, and nuances in word meanings.

1. Interpret figures of speech (e.g., personification) in context.

2. Use the relationship between particular words (e.g., cause/effect, part/whole, item/category) to better understand each of the words.

3. Distinguish among the connotations (associations) of words with similar denotations (definitions) (e.g., stingy, scrimping, economical, unwasteful, thrifty).

F. Acquire and use accurately grade-appropriate general academic and domain-specific words and phrases; gather vocabulary knowledge when considering a word or phrase important to comprehension or expression.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 17. Grade 7

§1701. Reading Literature

A. Cite several pieces of relevant textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text.

B. Determine a theme or central idea of a text and analyze its development over the course of the text; provide an objective summary of the text.

C. Analyze how particular elements of a story or drama interact (e.g., how setting shapes the characters or plot).

D. Determine the meaning of words and phrases as they are used in a text, including figurative and connotative meanings; analyze the impact of rhymes and other repetitions of sounds (e.g., alliteration) on a specific verse or stanza of a poem or section of a story or drama.

E. Analyze how the overall form or structure of a text (e.g., drama, poetry, narrative, short story) contributes to its meaning.

F. Analyze how an author develops and contrasts the points of view of different characters or narrators in a text.

G. Compare and contrast a written story, drama, or poem to its audio, filmed, staged, or multimedia version, analyzing the effects of techniques unique to each medium (e.g., lighting, sound, color, or camera focus and angles in a film).

H. Compare and contrast a fictional portrayal of a time, place, or character and a historical account of the same period as a means of understanding how authors of fiction use or alter history.

I. By the end of the year, read and comprehend literature, including stories, dramas, and poems, in the grades 6-8 text complexity band proficiently, with scaffolding as needed at the high end of the range.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1703. Reading Informational Text

A. Cite several pieces of relevant textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text.

B. Determine two or more central ideas in a text and analyze their development over the course of the text; provide an objective summary of the text.

C. Analyze the interactions between individuals, events, and ideas in a text (e.g., how ideas influence individuals or events, or how individuals influence ideas or events).

D. Determine the meaning of words and phrases as they are used in a text, including figurative, connotative, and technical meanings; analyze the impact of a specific word choice on meaning and tone.

E. Analyze the structure an author uses to organize a text, including how the major sections contribute to the whole and to the development of the ideas.

F. Determine an author's point of view or purpose in a text and analyze how the author distinguishes his or her position from that of others.

G. Compare and contrast a text to an audio, video, or multimedia version of the text, analyzing each medium's portrayal of the subject (e.g., how the delivery of a speech affects the impact of the words).

H. Trace and evaluate the argument and specific claims in a text, assessing whether the reasoning is sound and the evidence is relevant and sufficient to support the claims.

I. Analyze how two or more authors writing about the same topic shape their presentations of key information by emphasizing different evidence or advancing different interpretations of facts.

J. By the end of the year, read and comprehend literary nonfiction in the grades 6-8 text complexity band proficiently, with scaffolding as needed at the high end of the range.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1705. Writing

A. Write arguments to support claims with clear reasons and relevant evidence.

1. Introduce claim(s), acknowledge alternate or opposing claims, and organize the reasons and evidence logically.

2. Support claim(s) with logical reasoning and relevant evidence, using accurate, credible sources and demonstrating an understanding of the topic or text.

3. Use words, phrases, and clauses to create cohesion and clarify the relationships among claim(s), reasons, and evidence.

4. Establish and maintain a formal style.

5. Provide a concluding statement or section that follows from and supports the argument presented.

B. Write informative/explanatory texts to examine a topic and convey ideas, concepts, and information through the selection, organization, and analysis of relevant content.

1. Introduce a topic clearly, previewing what is to follow; organize ideas, concepts, and information, using strategies such as definition, classification, comparison/contrast, and cause/effect; include formatting (e.g., headings), graphics (e.g., charts, tables), and multimedia when useful to aiding comprehension.

2. Develop the topic with relevant facts, definitions, concrete details, quotations, or other information and examples.

3. Use appropriate transitions to create cohesion and clarify the relationships among ideas and concepts.

4. Use precise language and domain-specific vocabulary to inform about or explain the topic.

5. Establish and maintain a formal style.

6. Provide a concluding statement or section that follows from and supports the information or explanation presented.

C. Write narratives to develop real or imagined experiences or events using effective technique, relevant descriptive details, and well-structured event sequences.

1. Engage and orient the reader by establishing a context and point of view and introducing a narrator and/or characters; organize an event sequence that unfolds naturally and logically.

2. Use narrative techniques, such as dialogue, pacing, and description, to develop experiences, events, and/or characters.

3. Use a variety of transition words, phrases, and clauses to convey sequence and signal shifts from one time frame or setting to another.

4. Use precise words and phrases, relevant descriptive details, and sensory language to capture the action and convey experiences and events.

5. Provide a conclusion that follows from and reflects on the narrated experiences or events.

D. Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

E. With some guidance and support from peers and adults, develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a different approach, focusing on how well purpose and audience have been addressed.

F. Use technology, including the Internet, to produce and publish writing and link to and cite sources as well as to interact and collaborate with others, including linking to and citing sources.

G. Conduct short research projects to answer a question, drawing on several sources and generating additional related, focused questions for further research and investigation.

H. Gather relevant information from multiple print and digital sources, using search terms effectively; assess the credibility and accuracy of each source; and quote or paraphrase the data and conclusions of others while avoiding plagiarism and following a standard format for citation.

I. Draw relevant evidence from grade-appropriate literary or informational texts to support analysis, reflection, and research.

1. Apply grade 7 reading standards to literature (e.g., "Compare and contrast a fictional portrayal of a time, place, or character and a historical account of the same period as a means of understanding how authors of fiction use or alter history").

2. Apply grade 7 reading standards to literary nonfiction (e.g., "Trace and evaluate the argument and specific claims in a text, assessing whether the reasoning is sound and the evidence is relevant and sufficient to support the claims").

3. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1707. Speaking and Listening

A. Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grade 7 topics, texts, and issues, building on others' ideas and expressing their own clearly.

1. Come to discussions prepared, having read or researched material under study; explicitly draw on that preparation by referring to evidence on the topic, text, or issue to probe and reflect on ideas under discussion.

2. Follow rules for collegial discussions, track progress toward specific goals and deadlines, and define individual roles as needed.

3. Pose questions that elicit elaboration, and respond to others' questions and comments with relevant observations and ideas that bring the discussion back on topic as needed.

4. Acknowledge new information expressed by others and, when warranted, modify their own views.

B. Analyze the main ideas and supporting details presented in diverse media and formats (e.g., visually, quantitatively, orally) and explain how the ideas clarify a topic, text, or issue under study.

C. Delineate a speaker's argument and specific claims, evaluating the soundness of the reasoning and the relevance and sufficiency of the evidence.

D. Present claims and findings, emphasizing salient points in a focused, coherent manner with pertinent descriptions, facts, details, and examples; use appropriate eye contact, adequate volume, and clear pronunciation.

E. Include multimedia components and visual displays in presentations to clarify claims and findings and emphasize salient points.

F. Adapt speech to a variety of contexts, audiences, and tasks, demonstrating command of formal English when indicated or appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1709. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Explain the function of phrases and clauses in general and their function in specific sentences.

2. Choose among simple, compound, complex, and compound-complex sentences to signal differing relationships among ideas.

3. Place phrases and clauses within a sentence, recognizing and correcting misplaced and dangling modifiers.

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Use a comma to separate coordinate adjectives (e.g., "It was a fascinating, enjoyable movie", but not "He wore an old[,] green shirt".).

2. Spell correctly.

C. Use knowledge of language and its conventions when writing, speaking, reading, or listening.

1. Choose language that expresses ideas precisely and concisely, recognizing and eliminating wordiness and redundancy.

D. Determine or clarify the meaning of unknown and multiple-meaning words and phrases based on grade 7 reading and content, choosing flexibly from a range of strategies.

1. Use context (e.g., the overall meaning of a sentence or paragraph; a word's position or function in a sentence) as a clue to the meaning of a word or phrase.

2. Use common, grade-appropriate Greek or Latin affixes and roots as clues to the meaning of a word (e.g., belligerent, bellicose, rebel).

3. Consult general and specialized reference materials (e.g., dictionaries, glossaries, thesauruses), both print and digital, to find the pronunciation of a word or determine or clarify its precise meaning or its part of speech.

4. Verify the preliminary determination of the meaning of a word or phrase (e.g., by checking the inferred meaning in context or in a dictionary).

E. Demonstrate understanding of figurative language, word relationships, and nuances in word meanings.

1. Interpret figures of speech (e.g., literary, biblical, and mythological allusions) in context.

2. Use the relationship between particular words (e.g., synonym/antonym, analogy) to better understand each of the words.

3. Distinguish among the connotations (associations) of words with similar denotations (definitions) (e.g., refined, respectful, polite, diplomatic, condescending).

F. Acquire and use accurately grade-appropriate general academic and domain-specific words and phrases; gather vocabulary knowledge when considering a word or phrase important to comprehension or expression.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 19. Grade 8

§1901. Reading Literature

A. Cite the relevant textual evidence that most strongly supports an analysis of what the text says explicitly as well as inferences drawn from the text.

B. Determine a theme or central idea of a text and analyze its development over the course of the text, including its relationship to the characters, setting, and plot; provide an objective summary of the text.

C. Analyze how particular lines of dialogue or incidents in a story or drama propel the action, reveal aspects of a character, or provoke a decision.

D. Determine the meaning of words and phrases as they are used in a text, including figurative and connotative meanings; analyze the impact of specific word choices on meaning and tone, including analogies or allusions to other texts.

E. Compare and contrast the structure of two or more texts and analyze how the differing structure of each text contributes to its meaning and style.

F. Analyze how differences in the points of view of the characters and the audience or reader (e.g., created through the use of dramatic irony) create such effects as suspense or humor.

G. Analyze the extent to which non-print media (e.g., film, drama, live production, art) connects to or departs from the text or script, evaluating artistic choices.

H. Analyze how a modern work of fiction draws on themes, patterns of events, or character types from myths, traditional stories, or foundational religious works; describe how the material is rendered new.

I. By the end of the year, read and comprehend literature, including stories, dramas, and poems, at the high end of grades 6-8 text complexity band independently and proficiently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1903. Reading Informational Text

A. Cite the relevant textual evidence that most strongly supports an analysis of what the text says explicitly as well as inferences drawn from the text.

B. Determine a central idea of a text and analyze its development over the course of the text, including its relationship to supporting ideas; provide an objective summary of the text.

C. Analyze how a text makes connections among and distinctions between individuals, ideas, or events (e.g., through comparisons, analogies, or categories).

D. Determine the meaning of words and phrases as they are used in a text, including figurative, connotative, and technical meanings; analyze the impact of specific word choices on meaning and tone, including analogies or allusions to other texts.

E. Analyze in detail the structure of a specific paragraph in a text, including the role of particular sentences in developing and refining a key concept.

F. Determine an author's point of view or purpose in a text and analyze how the author acknowledges and responds to conflicting evidence or viewpoints.

G. Evaluate the advantages and disadvantages of using different mediums (e.g., print or digital text, video, multimedia) to present a particular topic or idea.

H. Delineate and evaluate the argument and specific claims in a text, assessing whether the reasoning is sound and the evidence is relevant and sufficient; recognize when irrelevant evidence is introduced.

I. Analyze a case in which two or more texts provide conflicting information on the same topic, and identify where the texts disagree on matters of fact or interpretation.

J. By the end of the year, read and comprehend literary nonfiction at the high end of the grades 6-8 text complexity band independently and proficiently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1905. Writing

A. Write arguments to support claims with clear reasons and relevant evidence.

1. Introduce claim(s), acknowledge and distinguish the claim(s) from alternate or opposing claims, and organize the reasons and evidence logically.

2. Support claim(s) with logical reasoning and relevant evidence, using accurate, credible sources and demonstrating an understanding of the topic or text.

3. Use words, phrases, and clauses to create cohesion and clarify the relationships among claim(s), counterclaims, reasons, and evidence.

4. Establish and maintain a formal style.

5. Provide a concluding statement or section that follows from and supports the argument presented.

B. Write informative/explanatory texts to examine a topic and convey ideas, concepts, and information through the selection, organization, and analysis of relevant content.

1. Introduce a topic clearly, previewing what is to follow; organize ideas, concepts, and information into broader categories; include formatting (e.g., headings), graphics (e.g., charts, tables), and multimedia when useful to aiding comprehension.

2. Develop the topic with relevant, well-chosen facts, definitions, concrete details, quotations, or other information and examples.

3. Use appropriate and varied transitions to create cohesion and clarify the relationships among ideas and concepts.

4. Use precise language and domain-specific vocabulary to inform about or explain the topic.

5. Establish and maintain a formal style.

6. Provide a concluding statement or section that follows from and supports the information or explanation presented.

C. Write narratives to develop real or imagined experiences or events using effective technique, relevant descriptive details, and well-structured event sequences.

1. Engage and orient the reader by establishing a context and point of view and introducing a narrator and/or characters; organize an event sequence that unfolds naturally and logically.

2. Use narrative techniques, such as dialogue, pacing, description, and reflection, to develop experiences, events, and/or characters.

3. Use a variety of transition words, phrases, and clauses to convey sequence, signal shifts from one time frame or setting to another, and show the relationships among experiences and events.

4. Use precise words and phrases, relevant descriptive details, and sensory language to capture the action and convey experiences and events.

5. Provide a conclusion that follows from and reflects on the narrated experiences or events.

D. Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

E. With some guidance and support from peers and adults, develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a different approach, focusing on how well purpose and audience have been addressed.

F. Use technology, including the Internet, to produce and publish writing and present the relationships between information and ideas efficiently as well as to interact and collaborate with others.

G. Conduct short research projects to answer a question (including a self-generated question), drawing on several sources and generating additional related, focused questions that allow for multiple avenues of exploration.

H. Gather relevant information from multiple print and digital sources, using search terms effectively; assess the credibility and accuracy of each source; and quote or paraphrase the data and conclusions of others while avoiding plagiarism and following a standard format for citation.

I. Draw relevant evidence from grade-appropriate literary or informational texts to support analysis, reflection, and research.

1. Apply grade 8 reading standards to literature (e.g., "Analyze how a modern work of fiction draws on themes, patterns of events, or character types from myths, traditional stories, historical fiction, or foundational religious works, including describing how the material is rendered new").

2. Apply grade 8 reading standards to literary nonfiction (e.g., "Delineate and evaluate the argument and specific claims in a text, assessing whether the reasoning is sound and the evidence is relevant and sufficient; recognize when irrelevant evidence is introduced").

J. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1907. Speaking and Listening

A. Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grade 8 topics, texts, and issues, building on others' ideas and expressing their own clearly.

1. Come to discussions prepared, having read or researched material under study; explicitly draw on that preparation by referring to evidence on the topic, text, or issue to probe and reflect on ideas under discussion.

2. Follow rules for collegial discussions and decision-making, track progress toward specific goals and deadlines, and define individual roles as needed.

3. Pose questions that connect the ideas of several speakers and respond to others' questions and comments with relevant evidence, observations, and ideas.

4. Acknowledge new information expressed by others, and, when warranted, qualify or justify their own views in light of the evidence presented.

B. Analyze the purpose of information presented in diverse media and formats (e.g., visually, quantitatively, orally) and evaluate the motives (e.g., social, commercial, political) behind its presentation.

C. Delineate a speaker's argument and specific claims, evaluating the soundness of the reasoning and relevance and sufficiency of the evidence and identifying when irrelevant evidence is introduced.

D. Present claims and findings, emphasizing salient points in a focused, coherent manner with relevant evidence, sound valid reasoning, and well-chosen details; use appropriate eye contact, adequate volume, and clear pronunciation.

E. Integrate multimedia and visual displays into presentations to clarify information, strengthen claims and evidence, and add interest.

F. Adapt speech to a variety of contexts, audiences, and tasks, demonstrating command of formal English when indicated or appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1909. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Explain the function of verbals (gerunds, participles, infinitives) in general and their function in particular sentences.

2. Form and use verbs in the active and passive voice.

3. Form and use verbs in the indicative, imperative, interrogative, conditional, and subjunctive mood.

4. Recognize and correct inappropriate shifts in verb voice and mood.

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Use punctuation (comma, ellipsis, dash) to indicate a pause or break.

2. Use an ellipsis to indicate an omission.

3. Spell correctly.

C. Use knowledge of language and its conventions when writing, speaking, reading, or listening.

1. Use verbs in the active and passive voice and in the conditional and subjunctive mood to achieve particular effects (e.g., emphasizing the actor or the action; expressing uncertainty or describing a state contrary to fact).

D. Determine or clarify the meaning of unknown and multiple-meaning words or phrases based on grade 8 reading and content, choosing flexibly from a range of strategies.

1. Use context (e.g., the overall meaning of a sentence or paragraph; a word's position or function in a sentence) as a clue to the meaning of a word or phrase.

2. Use common, grade-appropriate Greek or Latin affixes and roots as clues to the meaning of a word (e.g., precede, recede, secede).

3. Consult general and specialized reference materials (e.g., dictionaries, glossaries, thesauruses), both print and digital, to find the pronunciation of a word or determine or clarify its precise meaning or its part of speech.

4. Verify the preliminary determination of the meaning of a word or phrase (e.g., by checking the inferred meaning in context or in a dictionary).

E. Demonstrate understanding of figurative language, word relationships, and nuances in word meanings.

1. Interpret figures of speech (e.g., verbal irony, puns) in context.

2. Use the relationship between particular words to better understand each of the words.

3. Distinguish among the connotations (associations) of words with similar denotations (definitions) (e.g., bullheaded, willful, firm, persistent, resolute).

F. Acquire and use accurately grade-appropriate general academic and domain-specific words and phrases; gather vocabulary knowledge when considering a word or phrase important to comprehension or expression.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 21. Grades 9 and 10

§2101. Reading Literature

A. Cite relevant and thorough textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text.

B. Determine a theme or central idea of a text and analyze in detail its development over the course of the text, including how it emerges and is shaped and refined by specific details; provide an objective summary of the text.

C. Analyze how complex characters (e.g., those with multiple or conflicting motivations) develop over the course of a text, interact with other characters, and advance the plot or develop the theme.

D. Determine the meaning of words and phrases as they are used in the text, including figurative and connotative meanings; analyze the cumulative impact of specific word choices on meaning and tone (e.g., how the language evokes a sense of time and place; how it sets a formal or informal tone).

E. Analyze how an author's choices concerning how to structure a text, order events within it (e.g., parallel plots), and manipulate time (e.g., pacing, flashbacks) create such effects as mystery, tension, or surprise.

F. Analyze a particular point of view or cultural experience reflected in works of literature, drawing on a wide reading of world literature.

G. Analyze the representation of a subject or a key scene in two different artistic mediums, including what is emphasized or absent in each treatment (e.g., Auden's poem "Musée des Beaux Arts" and Breughel's painting "Landscape with the Fall of Icarus").

H. Analyze how an author draws on and transforms source material in a specific work (e.g., how Shakespeare treats a theme or topic from Ovid or the Bible or how a later author draws on a play by Shakespeare).

I. By the end of grade 9, read and comprehend literature, including stories, dramas, and poems, in the grades 9-10 text complexity band proficiently, with scaffolding as needed at the high end of the range.

J. By the end of grade 10, read and comprehend literature, including stories, dramas, and poems, at the high end of the grades 9-10 text complexity band independently and proficiently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§2103. Reading Informational Text

A. Determine a central idea of a text and analyze its development over the course of the text, including how it emerges and is shaped and refined by specific details; provide an objective summary of the text.

B. Analyze how the author unfolds an analysis or series of ideas or events, including the order in which the points are made, how they are introduced and developed, and the connections that are drawn between them.

C. Determine the meaning of words and phrases as they are used in a text, including figurative, connotative, and technical meanings; analyze the cumulative impact of specific word choices on meaning and tone (e.g., how the language of a court opinion differs from that of a newspaper).

D. Analyze in detail how an author's ideas or claims are developed and refined by particular sentences, paragraphs, or larger portions of a text (e.g., a section or chapter).

E. Determine an author's point of view or purpose in a text and analyze how an author uses rhetoric to advance that point of view or purpose.

F. Analyze various accounts of a subject told in different mediums (e.g., a person's life story in both print and multimedia), determining which details are emphasized in each account.

G. Delineate and evaluate the argument and specific claims in a text, assessing whether the reasoning is valid and the evidence is relevant and sufficient; identify false statements and fallacious reasoning.

H. Analyze seminal U.S. documents of historical and literary significance (e.g., Washington's Farewell Address, the Gettysburg Address, Roosevelt's Four Freedoms speech, King's "Letter from Birmingham Jail"), including how they address related themes and concepts.

I. By the end of grade 9, read and comprehend literary nonfiction in the grades 9-10 text complexity band proficiently, with scaffolding as needed at the high end of the range.

J. By the end of grade 10, read and comprehend literary nonfiction at the high end of the grades 9-10 text complexity band independently and proficiently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§2105. Writing

A. Write arguments to support claims in an analysis of substantive topics or texts, using valid reasoning and relevant and sufficient evidence.

1. Introduce precise claim(s), distinguish the claim(s) from alternate or opposing claims, and create an organization that establishes clear relationships among claim(s), counterclaims, reasons, and evidence.

2. Develop claim(s) and counterclaims fairly, supplying evidence for each while pointing out the strengths and limitations of both in a manner that anticipates the audience's knowledge level and concerns.

3. Use words, phrases, and clauses to link the major sections of the text, create cohesion, and clarify the relationships between claim(s) and reasons, between reasons and evidence, and between claim(s) and counterclaims.

4. Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.

5. Provide a concluding statement or section that follows from and supports the argument presented.

B. Write informative/explanatory texts to examine and convey complex ideas, concepts, and information clearly and accurately through the effective selection, organization, and analysis of content.

1. Introduce a topic; organize complex ideas, concepts, and information to make important connections and distinctions; include formatting (e.g., headings), graphics (e.g., figures, tables), and multimedia when useful to aiding comprehension.

2. Develop the topic with well-chosen, relevant, and sufficient facts, extended definitions, concrete details, quotations, or other information and examples appropriate to the audience's knowledge of the topic.

3. Use appropriate and varied transitions to link the major sections of the text, create cohesion, and clarify the relationships among complex ideas and concepts.

4. Use precise language and domain-specific vocabulary to manage the complexity of the topic.

5. Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.

6. Provide a concluding statement or section that follows from and supports the information or explanation presented (e.g., articulating implications or the significance of the topic).

C. Write narratives to develop real or imagined experiences or events using effective technique, well-chosen details, and well-structured event sequences.

1. Engage and orient the reader by setting out a problem, situation, or observation, establishing one or multiple point(s) of view, and introducing a narrator and/or characters; create a smooth progression of experiences or events.

2. Use narrative techniques, such as dialogue, pacing, description, reflection, and multiple plot lines, to develop experiences, mood, tone, events, and/or characters.

3. Use a variety of techniques to sequence events so that they build on one another to create a coherent whole.

4. Use precise words and phrases, telling details, and sensory language to convey a vivid picture of the experiences, events, setting, and/or characters.

5. Provide a conclusion (when appropriate to the genre) that follows from and reflects on what is experienced, observed, or resolved over the course of the narrative.

D. Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

E. Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a different approach, focusing on addressing what is most significant for a specific purpose and audience.

F. Use technology, including the Internet, to produce, publish, and update individual or shared writing products, taking advantage of technology's capacity to link to other information and to display information flexibly and dynamically.

G. Conduct short as well as more sustained research projects to answer a question (including a self-generated question) or solve a problem; narrow or broaden the inquiry when appropriate; synthesize multiple sources on the subject, demonstrating understanding of the subject under investigation.

H. Gather relevant information from multiple authoritative sources, using advanced searches effectively; assess the strengths and limitations of each source in terms of the task, purpose, and audience; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and overreliance on any one source and following a standard format for citation.

I. Draw relevant evidence from grade-appropriate literary or informational texts to support analysis, reflection, and research.

1. Apply grades 9-10 reading standards to literature (e.g., "Analyze how an author draws on and transforms source material in a specific work [e.g., how Shakespeare treats a theme or topic from Ovid or the Bible or how a later author draws on a play by Shakespeare]").

2. Apply grades 9-10 reading standards to literary nonfiction (e.g., "Delineate and evaluate the argument and specific claims in a text, assessing whether the reasoning is

valid and the evidence is relevant and sufficient; identify false statements and fallacious reasoning").

J. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of tasks, purposes, and audiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§2107. Speaking and Listening

A. Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grades 9-10 topics, texts, and issues, building on others' ideas and expressing their own clearly and persuasively.

1. Come to discussions prepared, having read and researched material under study; explicitly draw on that preparation by referring to evidence from texts and other research on the topic or issue to stimulate a thoughtful, well-reasoned exchange of ideas.

2. Work with peers to set rules for collegial discussions and decision-making (e.g., informal consensus, taking votes on key issues, presentation of alternate views), clear goals and deadlines, and individual roles as needed.

3. Propel conversations by posing and responding to questions that relate the current discussion to broader themes or larger ideas; actively incorporate others into the discussion; and clarify, verify, or challenge ideas and conclusions.

4. Respond thoughtfully to diverse perspectives, summarize points of agreement and disagreement, and, when warranted, qualify or justify their own views and understanding and make new connections in light of the evidence and reasoning presented.

B. Integrate multiple sources of information presented in diverse media or formats (e.g., visually, quantitatively, orally) evaluating the credibility and accuracy of each source.

C. Evaluate a speaker's point of view, reasoning, and use of evidence and rhetoric, identifying any fallacious reasoning or exaggerated or distorted evidence.

D. Present information, findings, and supporting evidence clearly, concisely, and logically such that listeners can follow the line of reasoning, and the organization, development, substance, and style are appropriate to purpose, audience, and task.

E. Make strategic use of digital media (e.g., textual, graphical, audio, visual, and interactive elements) in presentations to enhance understanding of findings, reasoning, and evidence and to add interest.

F. Adapt speech to a variety of contexts, audiences, and tasks, demonstrating command of formal English when indicated or appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§2109. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Use parallel structure.

2. Use various types of phrases (noun, verb, adjectival, adverbial, participial, prepositional, absolute) and clauses (independent, dependent; noun, relative, adverbial) to convey specific meanings and add variety and interest to writing or presentations.

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Use a semicolon (and perhaps a conjunctive adverb) to link two or more closely related independent clauses.

2. Use a colon to introduce a list or quotation.

3. Spell correctly.

C. Apply knowledge of language to understand how language functions in different contexts, to make effective choices for meaning or style, and to comprehend more fully when reading or listening.

1. Write and edit work so that it conforms to the guidelines in a style manual (e.g., *MLA Handbook*, *Publication Manual of the American Psychological Association* (APA), Turabian's *A Manual for Writers*) appropriate for the discipline and writing type.

D. Determine or clarify the meaning of unknown and multiple-meaning words and phrases based on grades 9-10 reading and content, choosing flexibly from a range of strategies.

1. Use context (e.g., the overall meaning of a sentence, paragraph, or text; a word's position or function in a sentence) as a clue to the meaning of a word or phrase.

2. Identify and correctly use patterns of word changes that indicate different meanings or parts of speech (e.g., analyze, analysis, analytical; advocate, advocacy).

3. Consult general and specialized reference materials (e.g., dictionaries, glossaries, thesauruses), both print and digital, to find the pronunciation of a word or determine or clarify its precise meaning, its part of speech, or its etymology.

4. Verify the preliminary determination of the meaning of a word or phrase (e.g., by checking the inferred meaning in context or in a dictionary).

E. Demonstrate understanding of figurative language, word relationships, and nuances in word meanings.

1. Interpret figures of speech (e.g., euphemism, oxymoron) in context and analyze their role in the text.

2. Analyze nuances in the meaning of words with similar denotations.

F. Acquire and use accurately general academic and domain-specific words and phrases, sufficient for reading, writing, speaking, and listening at the college- and career-readiness (CCR) level; demonstrate independence in gathering vocabulary knowledge when considering a word or phrase important to comprehension or expression.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 23. Grades 11 and 12

§2301. Reading Literature

A. Cite strong, thorough, and relevant textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text, including determining where the text leaves matters uncertain.

B. Determine two or more themes or central ideas of a text and analyze their development over the course of the text, including how they interact and build on one another to produce a complex account; provide an objective summary of the text.

C. Analyze the impact of the author's choices regarding how to develop and relate elements of a story or drama, including how the author develops characters and setting, builds the plot and subplots, creates themes, and develops mood/atmosphere.

D. Determine the meaning of words and phrases as they are used in the text, including figurative and connotative meanings; analyze the impact of specific word choices on meaning and tone, including words with multiple meanings or language that could be considered particularly fresh, engaging, or beautiful.

E. Analyze how an author's choices concerning how to structure specific parts of a text (e.g., the choice of where to begin or end a story, the choice to provide a comedic or tragic resolution) contribute to its overall structure and meaning as well as its aesthetic impact.

F. Analyze a case in which grasping point of view requires distinguishing what is directly stated in a text from what is really meant (e.g., satire, sarcasm, irony, or understatement).

G. Analyze multiple interpretations of a story, drama, or poem (e.g., recorded or live production of a play or recorded novel or poetry), evaluating how each version interprets the source text.

H. Demonstrate knowledge of foundational works of U.S. and world literature, including how two or more texts from the same period treat similar themes or topics.

I. By the end of grade 11, read and comprehend literature, including stories, dramas, and poems, in the grades 11-CCR text complexity band proficiently, with scaffolding as needed at the high end of the range.

J. By the end of grade 12, read and comprehend literature, including stories, dramas, and poems, at the high end of the grades 11-CCR text complexity band independently and proficiently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§2303. Reading Informational Text

A. Cite strong, thorough, and relevant textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text, including determining where the text leaves matters uncertain.

B. Determine two or more central ideas of a text and analyze their development over the course of the text, including how they interact and build on one another to provide a complex analysis; provide an objective summary of the text.

C. Analyze a complex set of ideas or sequence of events and explain how specific individuals, ideas, or events interact and develop over the course of the text.

D. Determine the meaning of words and phrases as they are used in a text, including figurative, connotative, and technical meanings; analyze how an author uses and refines the meaning of a key term or terms over the course of a text (e.g., how Madison defines faction in "Federalist No. 10").

E. Analyze and evaluate the effectiveness of the structure an author uses in his or her exposition or argument, including whether the structure makes points clear, convincing, and engaging.

F. Determine an author's point of view or purpose in a text in which the rhetoric is considered particularly effective, analyzing how style and content contribute to the student interpretation of power, persuasiveness, or beauty of the text.

G. Integrate and evaluate multiple sources of information presented in different media or formats (e.g., visually, quantitatively) as well as in words in order to address a question or solve a problem.

H. Delineate and evaluate the reasoning in seminal U.S. texts, including the application of constitutional principles and use of legal reasoning (e.g., in U.S. Supreme Court majority opinions and dissents) and the premises, purposes, and arguments in works of public advocacy (e.g., *The Federalist*, presidential addresses).

I. Analyze foundational U.S. and world documents of historical and literary significance for their themes, purposes, and rhetorical features.

J. By the end of grade 11, read and comprehend literary nonfiction in the grades 11-CCR text complexity band proficiently, with scaffolding as needed at the high end of the range.

K. By the end of grade 12, read and comprehend literary nonfiction at the high end of the grades 11-CCR text complexity band independently and proficiently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§2305. Writing Standards

A. Write arguments to support claims in an analysis of substantive topics or texts, using valid reasoning and relevant and sufficient evidence.

1. Introduce precise, knowledgeable claim(s), establish the significance of the claim(s), distinguish the claim(s) from alternate or opposing claims, and create an organization that logically sequences claim(s), counterclaims, reasons, and evidence.

2. Develop claim(s) and counterclaims fairly and thoroughly, supplying the most relevant evidence for each while pointing out the strengths and limitations of both in a manner that anticipates the audience's knowledge level, concerns, values, and possible biases.

3. Use words, phrases, and clauses as well as varied syntax to link the major sections of the text, create cohesion, and clarify the relationships between claim(s) and reasons, between reasons and evidence, and between claim(s) and counterclaims.

4. Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.

5. Provide a concluding statement or section that follows from and supports the argument presented.

B. Write informative/explanatory texts to examine and convey complex ideas, concepts, and information clearly and accurately through the effective selection, organization, and analysis of content.

1. Introduce a topic; organize complex ideas, concepts, and information so that each new element builds

on that which precedes it to create a unified whole; include formatting (e.g., headings), graphics (e.g., figures, tables), and multimedia when useful to aiding comprehension.

2. Develop the topic thoroughly by selecting the most significant and relevant facts, extended definitions, concrete details, quotations, or other information and examples appropriate to the audience's knowledge of the topic.

3. Use appropriate and varied transitions and syntax to link the major sections of the text, create cohesion, and clarify the relationships among complex ideas and concepts.

4. Use precise language, domain-specific vocabulary, and techniques such as metaphor, simile, and analogy to manage the complexity of the topic.

5. Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.

6. Provide a concluding statement or section that follows from and supports the information or explanation presented (e.g., articulating implications or the significance of the topic).

C. Write narratives to develop real or imagined experiences or events using effective technique, well-chosen details, and well-structured event sequences.

1. Engage and orient the reader by setting out a problem, situation, or observation and its significance, establishing one or multiple point(s) of view, and introducing a narrator and/or characters; create a smooth progression of experiences or events.

2. Use narrative techniques, such as dialogue, pacing, description, reflection, and multiple plot lines, to develop experiences, mood, tone, events, and/or characters.

3. Use a variety of techniques to sequence events so that they build on one another to create a coherent whole and build toward a particular tone and outcome (e.g., a sense of mystery, suspense, growth, or resolution).

4. Use precise words and phrases, telling details, and figurative and sensory language to convey a vivid picture of the experiences, events, setting, mood, tone and/or characters.

5. Provide a conclusion (when appropriate to the genre) that follows from and reflects on what is experienced, observed, or resolved over the course of the narrative.

D. Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

E. Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, focusing on addressing what is most significant for a specific purpose and audience.

F. Use technology, including the Internet, to produce, publish, and update individual or shared writing products in response to ongoing feedback, including new arguments or information.

G. Conduct short as well as more sustained research projects to answer a question (including a self-generated question) or solve a problem; narrow or broaden the inquiry when appropriate; synthesize multiple sources on the subject, demonstrating understanding of the subject under investigation.

H. Gather relevant information from multiple authoritative sources, using advanced searches effectively; assess the strengths and limitations of each source in terms of the task, purpose, and audience; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and overreliance on any one source and following a standard format for citation (e.g., MLA, APA).

I. Draw relevant evidence from grade-appropriate literary or informational texts to support analysis, reflection, and research.

1. Apply grades 11-12 reading standards to literature (e.g., "Demonstrate knowledge of foundational works of literature, including how two or more texts from the same period treat similar themes or topics").

2. Apply grades 11-12 reading standards to literary nonfiction (e.g., "Delineate and evaluate the reasoning in seminal U.S. and world texts, including the application of constitutional principles and use of legal reasoning and the premises, purposes, and arguments in works of public advocacy").

J. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of tasks, purposes, and audiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§2307. Speaking and Listening

A. Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grades 11-12 topics, texts, and issues, building on others' ideas and expressing their own clearly and persuasively.

1. Come to discussions prepared, having read and researched material under study; explicitly draw on that preparation by referring to evidence from texts and other research on the topic or issue to stimulate a thoughtful, well-reasoned exchange of ideas.

2. Work with peers to promote civil, democratic discussions and decision-making, set clear goals and deadlines, and establish individual roles as needed.

3. Propel conversations by posing and responding to questions that probe reasoning and evidence; ensure a hearing for a full range of positions on a topic or issue; clarify, verify, or challenge ideas and conclusions; and promote divergent and creative perspectives.

4. Respond thoughtfully to diverse perspectives; synthesize comments, claims, and evidence made on all sides of an issue; resolve contradictions when possible; and determine what additional information or research is required to deepen the investigation or complete the task.

B. Integrate multiple sources of information presented in diverse formats and media (e.g., visually, quantitatively, orally) in order to make informed decisions and solve problems, evaluating the credibility and accuracy of each source and noting any discrepancies among the data.

C. Evaluate a speaker's point of view, reasoning, and use of evidence and rhetoric, assessing the stance, premises, links among ideas, word choice, points of emphasis, and tone used.

D. Present information, findings, and supporting evidence, while respecting intellectual property; convey a clear and distinct perspective, such that listeners can follow the line of reasoning; address alternative or opposing perspectives; and use organization, development, substance,

and style that are appropriate to purpose, audience, and a range of formal and informal tasks.

E. Make strategic use of digital media (e.g., textual, graphical, audio, visual, and interactive elements) in presentations to enhance understanding of findings, reasoning, and evidence and to add interest.

F. Adapt speech to a variety of contexts, audiences, and tasks, demonstrating a command of formal English when indicated or appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§2309. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Apply the understanding that usage is a matter of convention, can change over time, and is sometimes contested.

2. Resolve issues of complex or contested usage, consulting references (e.g., Merriam-Webster's Dictionary of English Usage, Garner's Modern American Usage) as needed.

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Observe hyphenation conventions.

2. Spell correctly.

C. Apply knowledge of language to understand how language functions in different contexts, to make effective choices for meaning or style, and to comprehend more fully when reading or listening.

1. Vary syntax for effect, consulting references (e.g., Tufte's Artful Sentences) for guidance as needed; apply an understanding of syntax to the study of complex texts when reading.

D. Determine or clarify the meaning of unknown and multiple-meaning words and phrases based on grades 11-12 reading and content, choosing flexibly from a range of strategies.

1. Use context (e.g., the overall meaning of a sentence, paragraph, or text; a word's position or function in a sentence) as a clue to the meaning of a word or phrase.

2. Identify and correctly use patterns of word changes that indicate different meanings or parts of speech (e.g., conceive, conception, conceivable).

3. Consult general and specialized reference materials (e.g., dictionaries, glossaries, thesauruses), both print and digital, to find the pronunciation of a word or determine or clarify its precise meaning, its part of speech, its etymology, or its standard usage.

4. Verify the preliminary determination of the meaning of a word or phrase (e.g., by checking the inferred meaning in context or in a dictionary).

E. Demonstrate understanding of figurative language, word relationships, and nuances in word meanings.

1. Interpret figures of speech (e.g., hyperbole, paradox) in context and analyze their role in the text.

2. Analyze nuances in the meaning of words with similar denotations.

F. Acquire and use accurately general academic and domain-specific words and phrases, sufficient for reading, writing, speaking, and listening at the college and career readiness level; demonstrate independence in gathering vocabulary knowledge when considering a word or phrase important to comprehension or expression.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 141—Louisiana Student Standards for English Language Arts

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

State content standards are statements that define what a student should know or be able to accomplish at the end of a specific time period or grade level or at the completion of a course. Act 329 of the 2015 Regular Session provided for the review and development of state content standards for English language arts (ELA) and mathematics. This bulletin contains the new proposed Louisiana Student Standards for English Language Arts that resulted from the required review and development process.

The proposed standards represent a change in 18 percent of standards as compared to current ELA standards. Out of the 18 percent of revised or new standards, some represent significant adjustments that will require educator training and instructional materials, while others are less significant and will require little if any training or new materials.

The Department of Education (DOE) will provide support for the implementation of these standards in the following areas: curriculum and resources, teacher training and professional development, and state and local assessments. These activities may require some adjustment in the use of existing state general funds and will likely result in an increase in funds spent on professional development, instructional resources and assessments. These activities, however, are funded in large part using federal and statutorily dedicated 8(g) funds. The Department will also work directly with publishers and other content providers whose products are most widely used by Louisiana school systems to update materials to reflect the new standards. Based on preliminary conversations with those publishers and providers, updates to their materials are expected to be made available to local school systems through supplemental materials or addenda, which can be made available at little or no cost.

The proposed action will also result in increased costs and workload adjustments to local school systems. While resources may be made available by the DOE and from some publishers at no or very low cost, not all local school systems use these vendors. Each LEA is required to provide instruction aligned to BESE-approved standards and has the autonomy and flexibility to develop, adopt, and utilize instructional materials that best support their students' achievement of the standards. Most districts utilize multiple vendors to develop instructional materials, supplements, and curricula guides, as well as benchmark assessments, including those tied to student learning targets for the school and teacher accountability programs, all of which vary across the districts. Some districts develop their own materials and/or assessments. Furthermore, districts may incur costs for teachers attending training provided by the Department and for providing additional training for all other teachers in order to implement the standards successfully.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux	Evan Brasseaux
Deputy Superintendent	Staff Director
1604#060	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 142—Louisiana Student Standards for Mathematics
(LAC 28:CLXXI.Chapters 1-25)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the adoption of *Bulletin 142—Louisiana Student Standards for Mathematics*. R.S. 17:24.4 requires BESE to develop state content standards for required subjects to be taught in the public elementary and secondary schools of this state. State content standards are statements that define what a student should know or be able to accomplish at the end of a specific time period or grade level or at the completion of a course. Act 329 of the 2015 Regular Session provided for the review and development of state content standards for English language arts (ELA) and mathematics. This bulletin contains the revised Louisiana student standards for mathematics.

Title 28
EDUCATION
Part CLXXI. Bulletin 142—Louisiana Student Standards for Mathematics

Chapter 1. General

§101. Introduction

A. The Louisiana student standards define what a public school student should know or be able to accomplish at the end of a specific time period or grade level or at the completion of a course. They represent the knowledge and skills needed for students to successfully transition from each grade and ultimately to postsecondary education and the workplace, as determined by content experts, elementary and secondary educators and school leaders, postsecondary education leaders, and business and industry leaders. The standards set forth what learning should be taught; local

education agencies, their school leaders and classroom educators should determine how the standards should be taught, including the curricula and instructional materials that should be used to meet students' individual needs in mastering the standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 3. Kindergarten

§301. Counting and Cardinality

A. Count to 100 by ones and by tens.

B. Count forward beginning from a given number within the known sequence (instead of having to begin at 1).

C. Write numbers from 0 to 20. Represent a number of objects with a written numeral 0 - 20 (with 0 representing a count of no objects).

D. Understand the relationship between numbers and quantities; connect counting to cardinality.

1. When counting objects in standard order, say the number names as they relate to each object in the group, demonstrating one-to-one correspondence.

2. Understand that the last number name said tells the number of objects counted. The number of objects is the same regardless of their arrangement or the order in which they were counted.

3. Understand that each successive number name refers to a quantity that is one larger.

E. Count to answer "How many?" questions.

1. Count objects up to 20, arranged in a line, a rectangular array, or a circle.

2. Count objects up to 10 in a scattered configuration.

3. When given a number from 1 - 20, count out that many objects.

F. Identify whether the number of objects in one group is greater than, less than, or equal to the number of objects in another group, e.g., by using matching and counting strategies.

G. Compare two numbers between 1 and 10 presented as written numerals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§303. Operations and Algebraic Thinking

A. Represent addition and subtraction with objects, fingers, mental images, drawings, sounds (e.g., claps), acting out situations, verbal explanations, expressions, or equations.

B. Solve addition and subtraction word problems, and add and subtract within 10 (e.g., by using objects or drawings to represent the problem).

C. Decompose numbers less than or equal to 10 into pairs in more than one way (e.g., by using objects or drawings), and record each decomposition by a drawing or equation (e.g., 5 = 2 + 3 and 5 = 4 + 1).

D. For any number from 1 to 9, find the number that makes 10 when added to the given number (e.g., by using objects or drawings), and record the answer with a drawing or equation.

E. Fluently add and subtract within 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§305. Number and Operations in Base Ten

A. Gain understanding of place value.

1. Understand that the numbers 11-19 are composed of 10 ones and 1, 2, 3, 4, 5, 6, 7, 8, or 9 ones.

2. Compose and decompose numbers 11 to 19 using place value (e.g., by using objects or drawings).

3. Record each composition or decomposition using a drawing or equation (e.g., 18 is 1 ten and 8 ones, 18 = 1 ten + 8 ones, 18 = 10 + 8).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§307. Measurement and Data

A. Describe measurable attributes of objects, such as length or weight. Describe several measurable attributes of a single object

B. Directly compare two objects with a measurable attribute in common to see which object has "more of"/"less of" the attribute, and describe the difference. (For example, directly compare the heights of two children and describe one child as taller/shorter.)

C. Classify objects into given categories based on their attributes; count the number of objects in each category; sort categories by quantity.

D. Recognize pennies, nickels, dimes, and quarters by name and value (e.g., This is a nickel and it is worth 5 cents.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§309. Geometry

A. Describe objects in the environment using names of shapes, and describe the relative positions of these objects using terms such as above, below, beside, in front of, behind, and next to.

B. Correctly name shapes regardless of their orientations or overall size.

C. Identify shapes as two-dimensional (lying in a plane, "flat") or three-dimensional ("solid").

D. Analyze and compare two- and three-dimensional shapes, in different sizes and orientations, using informal language to describe their similarities, differences, parts (e.g., number of sides and vertices/"corners"), and other attributes (e.g., having sides of equal length).

E. Model shapes in the world by building shapes from components (e.g., sticks and clay balls) and drawing shapes.

F. Compose simple shapes to form larger shapes. (For example, "Can you join these two triangles with full sides touching to make a rectangle?")

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 5. Grade 1

§501. Operations and Algebraic Thinking

A. Use addition and subtraction within 20 to solve word problems involving situations of adding to, taking from, putting together, taking apart, and comparing, with unknowns in all positions (e.g., by using objects, drawings,

and equations with a symbol for the unknown number to represent the problem).

B. Solve word problems that call for addition of three whole numbers whose sum is less than or equal to 20, e.g., by using objects, drawings, and equations with a symbol for the unknown number to represent the problem.

C. Apply properties of operations to add and subtract. Examples: If 8 + 3 = 11 is known, then 3 + 8 = 11 is also known (commutative property of addition). To add 2 + 6 + 4, the second two numbers can be added to make a 10, so 2 + 6 + 4 = 2 + 10 = 12 (associative property of addition).

D. Understand subtraction as an unknown-addend problem. (For example, subtract 10 - 8 by finding the number that makes 10 when added to 8.)

E. Relate counting to addition and subtraction (e.g., by counting on 2 to add 2).

F. Add and subtract within 20, demonstrating fluency for addition and subtraction within 10. Use mental strategies such as counting on; making ten (e.g., 8 + 6 = 8 + 2 + 4 = 10 + 4 = 14); decomposing a number leading to a ten (e.g., 13 - 4 = 13 - 3 - 1 = 10 - 1 = 9); using the relationship between addition and subtraction (e.g., knowing that 8 + 4 = 12, one knows 12 - 8 = 4); and creating equivalent but easier or known sums (e.g., adding 6 + 7 by creating the known equivalent 6 + 6 + 1 = 12 + 1 = 13).

G. Understand the meaning of the equal sign, and determine if equations involving addition and subtraction are true or false. (For example, which of the following equations are true and which are false? 6 = 6, 7 = 8 - 1, 5 + 2 = 2 + 5, 4 + 1 = 5 + 2.)

H. Determine the unknown whole number in an addition or subtraction equation relating three whole numbers. (For example, determine the unknown number that makes the equation true in each of the equations 8 + ? = 11, 5 = □ - 3, 6 + 6 = □)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§503. Number and Operations in Base Ten

A. Count to 120, starting at any number less than 120. In this range, read and write numerals and represent a number of objects with a written numeral.

B. Understand that the two digits of a two-digit number represent amounts of tens and ones. Understand the following as special cases.

1. Ten can be thought of as a bundle of 10 ones, called a "ten."

2. The numbers from 11 to 19 are composed of a 10 and 1, 2, 3, 4, 5, 6, 7, 8, or 9 ones.

3. The numbers 10, 20, 30, 40, 50, 60, 70, 80, 90 refer to 1, 2, 3, 4, 5, 6, 7, 8, or 9 tens (and 0 ones).

C. Compare two two-digit numbers based on meanings of the tens and ones digits, recording the results of comparisons with the symbols >, =, and <.

D. Add within 100, including adding a two-digit number and a one-digit number, and adding a two-digit number and a multiple of 10.

1. Use concrete models or drawings and strategies based on place value, properties of operations, and/or the relationship between addition and subtraction; relate the strategy to a number sentence; justify the reasoning used with a written explanation.

2. Understand that in adding two-digit numbers, one adds tens and tens, ones and ones; and sometimes it is necessary to compose a ten.

E. Given a two-digit number, mentally find 10 more or 10 less than the number, without having to count; explain the reasoning used.

F. Subtract multiples of 10 in the range 10-90 from multiples of 10 in the range 10-90 (positive or zero differences), using concrete models or drawings and strategies based on place value, properties of operations, and/or the relationship between addition and subtraction; relate the strategy to a written method and explain the reasoning used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§505. Measurement and Data

A. Order three objects by length; compare the lengths of two objects indirectly by using a third object.

B. Express the length of an object as a whole number of length units, by laying multiple copies of a shorter object (the length unit) end to end; understand that the length measurement of an object is the number of same-size length units that span it with no gaps or overlaps. (Limit to contexts where the object being measured is spanned by a whole number of length units with no gaps or overlaps.)

C. Tell and write time in hours and half-hours using analog and digital clocks.

D. Organize, represent, and interpret data with up to three categories; ask and answer questions about the total number of data points, how many in each category, and how many more or less are in one category than in another.

E. Determine the value of a collection of coins up to $.50 (pennies, nickels, dimes, and quarters in isolation; not to include a combination of different coins).

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§507. Geometry

A. Distinguish between defining attributes (e.g., triangles are closed and three-sided) versus non-defining attributes (e.g., color, orientation, overall size); build and draw shapes that possess defining attributes.

B. Compose two-dimensional shapes (rectangles, squares, trapezoids, triangles, half-circles, and quarter-circles) and three-dimensional shapes (cubes, right rectangular prisms, right circular cones, and right circular cylinders) to create a composite shape, and compose new shapes from the composite shape.

C. Partition circles and rectangles into two and four equal shares, describe the shares using the words halves, fourths, and quarters, and use the phrases half of, fourth of, and quarter of. Describe the whole as two of or four of the shares. Understand for these examples that decomposing into more equal shares creates smaller shares.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 7. Grade 2

§701. Operations and Algebraic Thinking

A. Use addition and subtraction within 100 to solve one- and two-step word problems involving situations of adding to, taking from, putting together, taking apart, and comparing, with unknowns in all positions, e.g., by using drawings and equations with a symbol for the unknown number to represent the problem

B. Fluently add and subtract within 20 using mental strategies. By end of grade 2, know from memory all sums of two one-digit numbers.

C. Determine whether a group of objects (up to 20) has an odd or even number of members, e.g., by pairing objects or counting them by twos; write an equation to express an even number as a sum of two equal addends.

D. Use addition to find the total number of objects arranged in rectangular arrays with up to five rows and up to five columns; write an equation to express the total as a sum of equal addends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§703. Numbers and Operations in Base Ten

A. Understand that the three digits of a three-digit number represent amounts of hundreds, tens, and ones; e.g., 706 equals 7 hundreds, 0 tens, and 6 ones. Understand the following as special cases.

1. 100 can be thought of as a bundle of 10 tens, called a "hundred."

2. The numbers 100, 200, 300, 400, 500, 600, 700, 800, 900 refer to 1, 2, 3, 4, 5, 6, 7, 8, or 9 hundreds (and 0 tens and 0 ones).

B. Count within 1000; skip-count by fives, tens, and hundreds.

C. Read and write numbers to 1000 using base-ten numerals, number names, and expanded form.

D. Compare two three-digit numbers based on meanings of the hundreds, tens, and ones digits, using >, =, and < symbols to record the results of comparisons.

E. Fluently add and subtract within 100 using strategies based on place value, properties of operations, and/or the relationship between addition and subtraction.

F. Add up to four two-digit numbers using strategies based on place value and properties of operations.

G. Add and subtract within 1000 using concrete models or drawings and strategies based on place value, properties of operations, and/or the relationship between addition and subtraction; justify the reasoning used with a written explanation. Understand that in adding or subtracting three-digit numbers, one adds or subtracts hundreds and hundreds, tens and tens, ones and ones; and sometimes it is necessary to compose or decompose tens or hundreds.

H. Mentally add 10 or 100 to a given number 100-900, and mentally subtract 10 or 100 from a given number 100-900.

I. Explain why addition and subtraction strategies work, using place value and the properties of operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§705. Measurement and Data

A. Measure the length of an object by selecting and using appropriate tools such as rulers, yardsticks, meter sticks, and measuring tapes.

B. Measure the length of an object twice, using length units of different lengths for the two measurements; describe how the two measurements relate to the size of the unit chosen.

C. Estimate lengths using units of inches, feet, centimeters, and meters.

D. Measure to determine how much longer one object is than another, expressing the length difference in terms of a standard length unit.

E. Use addition and subtraction within 100 to solve word problems involving lengths that are given in the same units, e.g., by using drawings (such as drawings of rulers) and equations with a symbol for the unknown number to represent the problem.

F. Represent whole numbers as lengths from 0 on a number line diagram with equally spaced points corresponding to the numbers 0, 1, 2…, and represent whole-number sums and differences within 100 on a number line diagram.

G. Tell and write time from analog and digital clocks to the nearest five minutes, using a.m. and p.m.

H. Solve word problems involving dollar bills, quarters, dimes, nickels, and pennies, using $ and ¢ symbols appropriately. (Example: If you have 2 dimes and 3 pennies, how many cents do you have?)

I. Generate measurement data by measuring lengths of several objects to the nearest whole unit, or by making repeated measurements of the same object. Show the measurements by making a line plot, where the horizontal scale is marked off in whole-number units.

J. Draw a picture graph and a bar graph (with single-unit scale) to represent a data set with up to four categories. Solve simple put-together, take-apart, and compare problems using information presented in a bar graph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§707. Geometry

A. Recognize and draw shapes having specified attributes, such as a given number of angles or a given number of equal faces. Identify triangles, quadrilaterals, pentagons, hexagons, and cubes.

B. Partition a rectangle into rows and columns of same-size squares, and count to find the total number of them.

C. Partition circles and rectangles into two, three, or four equal shares, describe the shares using the words halves, thirds, half of, a third of, etc., and describe the whole as two halves, three thirds, four fourths. Recognize that equal shares of identical wholes need not have the same shape.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 9. Grade 3

§901. Operations and Algebraic Thinking

A. Interpret products of whole numbers, e.g., interpret 5 × 7 as the total number of objects in 5 groups of 7 objects

each. (For example, describe a context in which a total number of objects can be expressed as 5 × 7.)

B. Interpret whole-number quotients of whole numbers, e.g., interpret 56 ÷ 8 as the number of objects in each share when 56 objects are partitioned equally into 8 shares, or as a number of shares when 56 objects are partitioned into equal shares of 8 objects each. (For example, describe a context in which a number of shares or a number of groups can be expressed as 56 ÷ 8.)

C. Use multiplication and division within 100 to solve word problems in situations involving equal groups, arrays, and measurement quantities, e.g., by using drawings and equations with a symbol for the unknown number to represent the problem.

D. Determine the unknown whole number in a multiplication or division equation relating three whole numbers. (For example, determine the unknown number that makes the equation true in each of the equations 8 × ? = 48, 5 = □ ÷ 3, 6 × 6 = ?.)

E. Apply properties of operations as strategies to multiply and divide. Examples: If 6 × 4 = 24 is known, then 4 × 6 = 24 is also known (commutative property of multiplication). 3 × 5 × 2 can be found by 3 × 5 = 15, then 15 × 2 = 30, or by 5 × 2 = 10, then 3 × 10 = 30 (associative property of multiplication). Knowing that 8 × 5 = 40 and 8 × 2 = 16, one can find 8 × 7 as 8 × (5 + 2) = (8 × 5) + (8 × 2) = 40 + 16 = 56 (distributive property).

F. Understand division as an unknown-factor problem. (For example, find 32 ÷ 8 by finding the number that makes 32 when multiplied by 8.)

G. Fluently multiply and divide within 100, using strategies such as the relationship between multiplication and division (e.g., knowing that 8 × 5 = 40, one knows 40 ÷ 5 = 8) or properties of operations. By the end of grade 3, know from memory all products of two one-digit numbers.

H. Solve two-step word problems using the four operations. Represent these problems using equations with a letter standing for the unknown quantity. Assess the reasonableness of answers using mental computation and estimation strategies, including rounding.

I. Identify arithmetic patterns (including patterns in the addition table or multiplication table), and explain them using properties of operations. (For example, observe that 4 times a number is always even, and explain why 4 times a number can be decomposed into two equal addends.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§903. Number and Operations in Base Ten

A. Use place value understanding to round whole numbers to the nearest 10 or 100.

B. Fluently add and subtract within 1000 using strategies and algorithms based on place value, properties of operations, and/or the relationship between addition and subtraction.

C. Multiply one-digit whole numbers by multiples of 10 in the range 10-90 (e.g., 9 × 80, 5 × 60) using strategies based on place value and properties of operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§905. Number and Operations—Fractions

A. Understand a fraction 1/*b*, with denominators 2, 3, 4, 6, and 8, as the quantity formed by 1 part when a whole is partitioned into *b* equal parts; understand a fraction *a/b* as the quantity formed by *a* parts of size 1/*b*.

B. Understand a fraction with denominators 2, 3, 4, 6, and 8 as a number on a number line diagram.

1. Represent a fraction 1/b on a number line diagram by defining the interval from 0 to 1 as the whole and partitioning it into *b* equal parts. Recognize that each part has size 1/*b* and that the endpoint of the part based at 0 locates the number 1/*b* on the number line.

2. Represent a fraction *a/b* on a number line diagram by marking off *a* lengths 1/*b* from 0. Recognize that the resulting interval has size *a/b* and that its endpoint locates the number *a/b* on the number line.

C. Explain equivalence of fractions with denominators 2, 3, 4, 6 and 8 in special cases, and compare fractions by reasoning about their size.

1. Understand two fractions as equivalent (equal) if they are the same size, or the same point on a number line.

2. Recognize and generate simple equivalent fractions, e.g., 1/2 = 2/4, 4/6 = 2/3. Explain why the fractions are equivalent, e.g., by using a visual fraction model.

3. Express whole numbers as fractions, and recognize fractions that are equivalent to whole numbers. (Examples: Express 3 in the form 3 = 3/1; recognize that 6/1 = 6; locate 4/4 and 1 at the same point of a number line diagram.)

4. Compare two fractions with the same numerator or the same denominator by reasoning about their size. Recognize that comparisons are valid only when the two fractions refer to the same whole. Record the results of comparisons with the symbols >, =, or <, and justify the conclusions, e.g., by using a visual fraction model.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§907. Measurement and Data

A. Understand time to the nearest minute.

1. Tell and write time to the nearest minute and measure time intervals in minutes, within 60 minutes, on an analog and digital clock.

2. Calculate elapsed time greater than 60 minutes to the nearest quarter and half hour on a number line diagram.

3. Solve word problems involving addition and subtraction of time intervals in minutes, e.g., by representing the problem on a number line diagram.

B. Measure and estimate liquid volumes and masses of objects using standard units of grams (g), kilograms (kg), and liters (l). Add, subtract, multiply, or divide to solve one-step word problems involving masses or volumes that are given in the same units, e.g., by using drawings (such as a beaker with a measurement scale) to represent the problem

C. Draw a scaled picture graph and a scaled bar graph to represent a data set with several categories. Solve one- and two-step "how many more" and "how many less" problems

using information presented in scaled bar graphs. (For example, draw a bar graph in which each square in the bar graph might represent 5 pets.)

D. Generate measurement data by measuring lengths using rulers marked with halves and fourths of an inch. Show the data by making a line plot, where the horizontal scale is marked off in appropriate units: whole numbers, halves, or quarters.

E. Recognize area as an attribute of plane figures and understand concepts of area measurement.

1. A square with side length 1 unit, called "a unit square," is said to have "1 square unit" of area, and can be used to measure area.

2. A plane figure that can be covered without gaps or overlaps by *n* unit squares is said to have an area of *n* square units.

F. Measure areas by counting unit squares (square cm, square m, square in, square ft, and improvised units).

G. Relate area to the operations of multiplication and addition.

1. Find the area of a rectangle with whole-number side lengths by tiling it, and show that the area is the same as would be found by multiplying the side lengths.

2. Multiply side lengths to find areas of rectangles with whole-number side lengths in the context of solving real-world and mathematical problems, and represent whole-number products as rectangular areas in mathematical reasoning.

3. Use tiling to show in a concrete case that the area of a rectangle with whole-number side lengths a and $b + c$ is the sum of $a \times b$ and $a \times c$. Use area models to represent the distributive property in mathematical reasoning.

H. Solve real-world and mathematical problems involving perimeters of polygons, including finding the perimeter given the side lengths, finding an unknown side length, and exhibiting rectangles with the same perimeter and different areas or with the same area and different perimeters.

I. Solve word problems involving pennies, nickels, dimes, quarters, and bills greater than one dollar, using the dollar and cent symbols appropriately.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§909. Geometry

A. Understand that shapes in different categories (e.g., rhombuses, rectangles, and others) may share attributes (e.g., having four sides), and that the shared attributes can define a larger category (e.g., quadrilaterals). Recognize rhombuses, rectangles, and squares as examples of quadrilaterals, and draw examples of quadrilaterals that do not belong to any of these subcategories.

B. Partition shapes into parts with equal areas. Express the area of each part as a unit fraction of the whole. (For example, partition a shape into 4 parts with equal area, and describe the area of each part as 1/4 of the area of the shape.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 11. Grade 4

§1101. Operations and Algebraic Thinking

A. Interpret a multiplication equation as a comparison and represent verbal statements of multiplicative comparisons as multiplication equations, e.g., interpret $35 = 5 \times 7$ as a statement that 35 is 5 times as many as 7, and 7 times as many as 5.

B. Multiply or divide to solve word problems involving multiplicative comparison, e.g., by using drawings and/or equations with a symbol for the unknown number to represent the problem, distinguishing multiplicative comparison from additive comparison (Example: 6 times as many vs. 6 more than).

C. Solve multistep word problems posed with whole numbers and having whole-number answers using the four operations, including problems in which remainders must be interpreted. Represent these problems using equations with a letter standing for the unknown quantity. Assess the reasonableness of answers using mental computation and estimation strategies including rounding. (Example: Twenty-five people are going to the movies. Four people fit in each car. How many cars are needed to get all 25 people to the theater at the same time?)

D. Using Whole Numbers in the Range 1-100

1. Find all factor pairs for a given whole number.

2. Recognize that a given whole number is a multiple of each of its factors.

3. Determine whether a given whole number is a multiple of a given one-digit number.

4. Determine whether a given whole number is prime or composite.

E. Generate a number or shape pattern that follows a given rule. Identify apparent features of the pattern that were not explicit in the rule itself. (For example, given the rule "Add 3" and the starting number 1, generate terms in the resulting sequence and observe that the terms appear to alternate between odd and even numbers. Explain informally why the numbers will continue to alternate in this way.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1103. Number and Operations in Base Ten

A. Recognize that in a multi-digit whole number less than or equal to 1,000,000, a digit in one place represents 10 times what it represents in the place to its right. (Examples: Recognize that $700 \div 70 = 10$; in the number 7,246, the 2 represents 200, but in the number 7,426 the 2 represents 20, recognizing that 200 is 10 times as large as 20, by applying concepts of place value and division.)

B. Read and write multi-digit whole numbers less than or equal to 1,000,000 using base-ten numerals, number names, and expanded form. Compare two multi-digit numbers less than 1,000,000 based on meanings of the digits in each place, using >, =, and < symbols to record the results of comparisons.

C. Use place value understanding to round multi-digit whole numbers, less than or equal to 1,000,000, to any place.

D. Fluently add and subtract multi-digit whole numbers with sums less than or equal to 1,000,000, using the standard algorithm.

E. Multiply a whole number of up to four digits by a one-digit whole number, and multiply two two-digit numbers. Illustrate and explain the calculation by using equations, rectangular arrays, and/or area models.

F. Find whole-number quotients and remainders with up to four-digit dividends and one-digit divisors, using strategies based on place value, the properties of operations, and/or the relationship between multiplication and division. Illustrate and explain the calculation by using equations, rectangular arrays, and/or area models.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1105. Number and Operations—Fractions

A. Explain why a fraction *a/b* is equivalent to a fraction $(n \times a)/(n \times b)$ by using visual fraction models, with attention to how the number and size of the parts differ even though the two fractions themselves are the same size. Use this principle to recognize and generate equivalent fractions. (Denominators are limited to 2, 3, 4, 5, 6, 8, 10, 12, and 100.)

B. Compare two fractions with different numerators and different denominators, e.g., by creating common denominators or numerators, or by comparing to a benchmark fraction such as 1/2. Recognize that comparisons are valid only when the two fractions refer to the same whole. Record the results of comparisons with symbols >, =, or <, and justify the conclusions, e.g., by using a visual fraction model. (Denominators are limited to 2, 3, 4, 5, 6, 8, 10, 12, and 100.)

C. Understand a fraction *a/b* with $a > 1$ as a sum of fractions $1/b$. (Denominators are limited to 2, 3, 4, 5, 6, 8, 10, 12, and 100.)

1. Understand addition and subtraction of fractions as joining and separating parts referring to the same whole (Example: 3/4 = 1/4 + 1/4 + 1/4).

2. Decompose a fraction into a sum of fractions with the same denominator in more than one way, recording each decomposition by an equation. Justify decompositions, e.g., by using a visual fraction model. (Examples: 3/8 = 1/8 + 1/8 + 1/8; 3/8 = 1/8 + 2/8; 2 1/8 = 1 + 1 + 1/8 = 8/8 + 8/8 + 1/8.)

3. Add and subtract mixed numbers with like denominators, e.g., by replacing each mixed number with an equivalent fraction, and/or by using properties of operations and the relationship between addition and subtraction.

4. Solve word problems involving addition and subtraction of fractions referring to the same whole and having like denominators, e.g., by using visual fraction models and equations to represent the problem.

D. Multiply a fraction by a whole number. (Denominators are limited to 2, 3, 4, 5, 6, 8, 10, 12, and 100.)

1. Understand a fraction *a/b* as a multiple of *1/b*. (For example, use a visual fraction model to represent 5/4 as the product $5 \times (1/4)$, recording the conclusion by the equation $5/4 = 5 \times (1/4)$.)

2. Understand a multiple of *a/b* as a multiple of $1/b$, and use this understanding to multiply a fraction by a whole number. (For example, use a visual fraction model to express $3 \times (2/5)$ as $6 \times (1/5)$, recognizing this product as 6/5. (In general, $n \times (a/b) = (n \times a)/b$.)

3. Solve word problems involving multiplication of a fraction by a whole number, e.g., by using visual fraction models and equations to represent the problem. (For example, if each person at a party will eat 3/8 of a pound of roast beef, and there will be 5 people at the party, how many pounds of roast beef will be needed? Between what two whole numbers does your answer lie?)

E. Express a fraction with denominator 10 as an equivalent fraction with denominator 100, and use this technique to add two fractions with respective denominators 10 and 100. (For example, express 3/10 as 30/100, and add 3/10 + 4/100 = 34/100.)

F. Use decimal notation for fractions with denominators 10 or 100. (For example, rewrite 0.62 as 62/100; describe a length as 0.62 meters; locate 0.62 on a number line diagram; represent 62/100 of a dollar as $0.62.)

G. Compare two decimals to hundredths by reasoning about their size. Recognize that comparisons are valid only when the two decimals refer to the same whole. Record the results of comparisons with the symbols >, =, or <, and justify the conclusions, e.g., by using a visual model.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1107. Measurement and Data

A. Know relative sizes of measurement units within one system of units, including: ft, in; km, m, cm; kg, g; lb, oz.; l, ml; hr, min, sec. Within a single system of measurement, express measurements in a larger unit in terms of a smaller unit. (Conversions are limited to one-step conversions.) (For example, know that 1 ft is 12 times as long as 1 in. Express the length of a 4 ft snake as 48 in. Generate a conversion table for feet and inches listing the number pairs (1, 12), (2, 24), (3, 36), …)

B. Use the four operations to solve word problems involving distances, intervals of time, liquid volumes, masses of objects, and money, including problems involving whole numbers and/or simple fractions (addition and subtraction of fractions with like denominators and multiplying a fraction times a fraction or a whole number), and problems that require expressing measurements given in a larger unit in terms of a smaller unit. Represent measurement quantities using diagrams such as number line diagrams that feature a measurement scale.

C. Apply the area and perimeter formulas for rectangles in real-world and mathematical problems. (For example, find the width of a rectangular room given the area of the flooring and the length, by viewing the area formula as a multiplication equation with an unknown factor.)

D. Make a line plot to display a data set of measurements in fractions of a unit (1/2, 1/4, 1/8). Solve problems involving addition and subtraction of fractions by using information presented in line plots. (For example, from a line plot find and interpret the difference in length between the longest and shortest specimens in an insect collection.)

E. Recognize angles as geometric shapes that are formed wherever two rays share a common endpoint, and understand concepts of angle measurement.

1. An angle is measured with reference to a circle with its center at the common endpoint of the rays, by considering the fraction of the circular arc between the points where two rays intersect the circle.

2. An angle that turns through 1/360 of a circle is called a "one-degree angle," and can be used to measure angles.

3. An angle that turns through *n* one-degree angles is said to have an angle measure of *n* degrees.

F. Measure angles in whole-number degrees using a protractor. Sketch angles of specified measure.

G. Recognize angle measure as additive. When an angle is decomposed into non-overlapping parts, the angle measure of the whole is the sum of the angle measures of the parts. Solve addition and subtraction problems to find unknown angles on a diagram in real-world and mathematical problems, e.g., by using an equation with a letter for the unknown angle measure.

H. Recognize area as additive. Find areas of rectilinear figures by decomposing them into non-overlapping rectangles and adding the areas of the non-overlapping parts, applying this technique to solve real-world problems.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1109. Geometry

A. Draw points, lines, line segments, rays, angles (right, acute, obtuse), and perpendicular and parallel lines. Identify these in two-dimensional figures.

B. Classify two-dimensional figures based on the presence or absence of parallel or perpendicular lines, or the presence or absence of angles of a specified size. Recognize right triangles as a category, and identify right triangles.

C. Recognize a line of symmetry for a two-dimensional figure as a line across the figure such that the figure can be folded along the line into matching parts. Identify line-symmetric figures and draw lines of symmetry.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 13. Grade 5

§1301. Operations and Algebraic Thinking

A. Use parentheses or brackets in numerical expressions, and evaluate expressions with these symbols.

B. Write simple expressions that record calculations with whole numbers, fractions, and decimals, and interpret numerical expressions without evaluating them. (For example, express the calculation "add 8 and 7, then multiply by 2" as 2 × (8 + 7). Recognize that 3 × (18,932 + 9.21) is three times as large as 18,932 + 9.21, without having to calculate the indicated sum or product.

C. Generate two numerical patterns using two given rules. Identify apparent relationships between corresponding terms. Form ordered pairs consisting of corresponding terms from the two patterns, and graph the ordered pairs on a coordinate plane. (For example, given the rule "Add 3" and the starting number 0, and given the rule "Add 6" and the starting number 0, generate terms in the resulting sequences, and observe that the terms in one sequence are twice the corresponding terms in the other sequence. Explain informally why this is so.)

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1303. Number and Operations in Base Ten

A. Recognize that in a multi-digit number, a digit in one place represents 10 times as much as it represents in the place to its right and 1/10 of what it represents in the place to its left.

B. Explain and apply patterns in the number of zeros of the product when multiplying a number by powers of 10. Explain and apply patterns in the values of the digits in the product or the quotient, when a decimal is multiplied or divided by a power of 10. Use whole-number exponents to denote powers of 10. (For example, $10^0 = 1$, $10^1 = 10$ ... and $2.1 \times 10^2 = 210$.)

C. Read, write, and compare decimals to thousandths.

1. Read and write decimals to thousandths using base-ten numerals, number names, and expanded form, e.g., 347.392 = 3 × 100 + 4 × 10 + 7 × 1 + 3 × (1/10) + 9 × (1/100) + 2 × (1/1000).

2. Compare two decimals to thousandths based on meanings of the digits in each place, using >, =, and < symbols to record the results of comparisons.

D. Use place value understanding to round decimals to any place.

E. Fluently multiply multi-digit whole numbers using the standard algorithm.

F. Find whole-number quotients of whole numbers with up to four-digit dividends and two-digit divisors, using strategies based on place value, the properties of operations, subtracting multiples of the divisor, and/or the relationship between multiplication and division. Illustrate and/or explain the calculation by using equations, rectangular arrays, area models, or other strategies based on place value.

G. Add, subtract, multiply, and divide decimals to hundredths, using concrete models or drawings and strategies based on place value, properties of operations, and/or the relationship between addition and subtraction; justify the reasoning used with a written explanation.

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§1305. Number and Operations—Fractions

A. Add and subtract fractions with unlike denominators (including mixed numbers) by replacing given fractions with equivalent fractions in such a way as to produce an equivalent sum or difference of fractions with like denominators. (For example, 2/3 + 5/4 = 8/12 + 15/12 = 23/12. In general, $a/b + c/d = (ad + bc)/bd$.)

B. Solve word problems involving addition and subtraction of fractions.

1. Solve word problems involving addition and subtraction of fractions referring to the same whole, including cases of unlike denominators, e.g., by using visual fraction models or equations to represent the problem.

2. Use benchmark fractions and number sense of fractions to estimate mentally and justify the reasonableness of answers. For example, recognize an incorrect result 2/5 + 1/2 = 3/7, by observing that 3/7 < 1/2.

C. Interpret a fraction as division of the numerator by the denominator (a/b = a ÷ b). Solve word problems involving division of whole numbers leading to answers in the form of fractions or mixed numbers, e.g., by using visual fraction models or equations to represent the problem. (For example,

interpret 3/4 as the result of dividing 3 by 4, noting that 3/4 multiplied by 4 equals 3, and that when 3 wholes are shared equally among 4 people each person has a share of size 3/4. If 9 people want to share a 50-pound sack of rice equally by weight, how many pounds of rice should each person get? Between what two whole numbers does your answer lie?)

D. Apply and extend previous understandings of multiplication to multiply a fraction or whole number by a fraction.

1. Interpret the product $(m/n) \times q$ as m parts of a partition of q into n equal parts; equivalently, as the result of a sequence of operations, $m \times q \div n$. (For example, use a visual fraction model to show understanding, and create a story context for $(m/n) \times q$.)

2. Construct a model to develop understanding of the concept of multiplying two fractions and create a story context for the equation. (In general, $(m/n) \times (c/d) = (mc)/(nd)$)

3. Find the area of a rectangle with fractional side lengths by tiling it with unit squares of the appropriate unit fraction side lengths, and show that the area is the same as would be found by multiplying the side lengths.

4. Multiply fractional side lengths to find areas of rectangles, and represent fraction products as rectangular areas.

E. Interpret multiplication as scaling (resizing), by:

1. comparing the size of a product to the size of one factor on the basis of the size of the other factor, without performing the indicated multiplication;

2. explaining why multiplying a given number by a fraction greater than 1 results in a product greater than the given number (recognizing multiplication by whole numbers greater than 1 as a familiar case);

3. explaining why multiplying a given number by a fraction less than 1 results in a product smaller than the given number; and

4. relating the principle of fraction equivalence $a/b = (n \times a)/(n \times b)$ to the effect of multiplying a/b by 1.

F. Solve real-world problems involving multiplication of fractions and mixed numbers, e.g., by using visual fraction models or equations to represent the problem.

G. Apply and extend previous understandings of division to divide unit fractions by whole numbers and whole numbers by unit fractions.

1. Interpret division of a unit fraction by a non-zero whole number, and compute such quotients. (For example, create a story context for $(1/3) \div 4$, and use a visual fraction model to show the quotient. Use the relationship between multiplication and division to explain that $(1/3) \div 4 = 1/12$ because $(1/12) \times 4 = 1/3$.)

2. Interpret division of a whole number by a unit fraction, and compute such quotients. (For example, create a story context for $4 \div (1/5)$, and use a visual fraction model to show the quotient. Use the relationship between multiplication and division to explain that $4 \div (1/5) = 20$ because $20 \times (1/5) = 4$.)

3. Solve real-world problems involving division of unit fractions by non-zero whole numbers and division of whole numbers by unit fractions, e.g., by using visual fraction models and equations to represent the problem. (For example, how much chocolate will each person get if 3 people share 1/2 lb of chocolate equally? How many 1/3-cup servings are in 2 cups of raisins?)

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§1307. Measurement and Data

A. Convert among different-sized standard measurement units within a given measurement system, and use these conversions in solving multi-step, real-world problems (e.g., convert 5 cm to 0.05 m; 9 ft to 108 in).

B. Make a line plot to display a data set of measurements in fractions of a unit (1/2, 1/4, 1/8). Use operations on fractions for this grade to solve problems involving information presented in line plots. (For example, given different measurements of liquid in identical beakers, find the amount of liquid each beaker would contain if the total amount in all the beakers were redistributed equally.)

C. Recognize volume as an attribute of solid figures and understand concepts of volume measurement.

1. A cube with side length 1 unit, called a "unit cube," is said to have "one cubic unit" of volume, and can be used to measure volume.

2. A solid figure which can be packed without gaps or overlaps using n unit cubes is said to have a volume of n cubic units.

D. Measure volumes by counting unit cubes, using cubic cm, cubic in, cubic ft, and improvised units.

E. Relate volume to the operations of multiplication and addition and solve real world and mathematical problems involving volume.

1. Find the volume of a right rectangular prism with whole-number side lengths by packing it with unit cubes, and show that the volume is the same as would be found by multiplying the edge lengths, equivalently by multiplying the height by the area of the base. Represent threefold whole-number products as volumes, e.g., to represent the associative property of multiplication.

2. Apply the formulas $V = l \times w \times h$ and $V = b \times h$ for rectangular prisms to find volumes of right rectangular prisms with whole-number edge lengths in the context of solving real world and mathematical problems.

3. Recognize volume as additive. Find volumes of solid figures composed of two non-overlapping right rectangular prisms by adding the volumes of the non-overlapping parts, applying this technique to solve real-world problems.

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§1309. Geometry

A. Use a pair of perpendicular number lines, called axes, to define a coordinate system, with the intersection of the lines (the origin) arranged to coincide with the 0 on each line and a given point in the plane located by using an ordered pair of numbers, called its coordinates. Understand that the first number in the ordered pair indicates how far to travel from the origin in the direction of one axis, and the second number in the ordered pair indicates how far to travel in the direction of the second axis, with the convention that the names of the two axes and the coordinates correspond (e.g., x-axis and x-coordinate, y-axis and y-coordinate).

B. Represent real world and mathematical problems by graphing points in the first quadrant of the coordinate plane, and interpret coordinate values of points in the context of the situation.

C. Understand that attributes belonging to a category of two-dimensional figures also belong to all subcategories of that category. (For example, all rectangles have four right angles and squares are rectangles, so all squares have four right angles.)

D. Classify two-dimensional figures in a hierarchy based on properties. (Students will define a trapezoid as a quadrilateral with at least one pair of parallel sides.)

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42

Chapter 15. Grade 6

§1501. Ratios and Proportional Relationships

A. Understand the concept of a ratio and use ratio language to describe a ratio relationship between two quantities. (For example, "The ratio of wings to beaks in the bird house at the zoo was 2:1, because for every 2 wings there was 1 beak." "For every vote candidate A received, candidate C received nearly three votes.")

B. Understand the concept of a unit rate a/b associated with a ratio $a:b$ with $b \neq 0$, and use rate language in the context of a ratio relationship. (For example: This recipe has a ratio of 3 cups of flour to 4 cups of sugar, so there is 3/4 cup of flour for each cup of sugar." "We paid $75 for 15 hamburgers, which is a rate of $5 per hamburger.)

C. Use ratio and rate reasoning to solve real-world and mathematical problems, e.g., by reasoning about tables of equivalent ratios, tape diagrams, double number line diagrams, or equations.

1. Make tables of equivalent ratios relating quantities with whole-number measurements, find missing values in the tables, and plot the pairs of values on the coordinate plane. Use tables to compare ratios.

2. Solve unit rate problems including those involving unit pricing and constant speed. (For example, if it took 7 hours to mow 4 lawns, then at that rate, how many lawns could be mowed in 35 hours? At what unit rate were lawns being mowed?)

3. Find a percent of a quantity as a rate per 100 (e.g., 30 percent of a quantity means 30/100 times the quantity); solve problems involving finding the whole, given a part and the percent.

4. Use ratio reasoning to convert measurement units; manipulate and transform units appropriately when multiplying or dividing quantities.

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§1503. The Number System

A. Interpret and compute quotients of fractions, and solve word problems involving division of fractions by fractions, e.g., by using visual fraction models and equations to represent the problem. (For example, create a story context for (2/3) ÷ (3/4) and use a visual fraction model to show the quotient; use the relationship between multiplication and division to explain that (2/3) ÷ (3/4) = 8/9 because 3/4 of 8/9 is 2/3. (In general, $(a/b) \div (c/d) = ad/bc$.) How much chocolate will each person get if 3 people share 1/2 lb of chocolate equally? How many 3/4-cup servings are in 2/3 of a cup of yogurt? How wide is a rectangular strip of land with length 3/4 mi and area 1/2 square mi?)

B. Fluently divide multi-digit numbers using the standard algorithm.

C. Fluently add, subtract, multiply, and divide multi-digit decimals using the standard algorithm for each operation.

D. Find the greatest common factor of two whole numbers less than or equal to 100 and the least common multiple of two whole numbers less than or equal to 12. Use the distributive property to express a sum of two whole numbers 1-100 with a common factor as a multiple of a sum of two whole numbers with no common factor. (For example, express 36 + 8 as 4 (9 + 2).)

E. Understand that positive and negative numbers are used together to describe quantities having opposite directions or values (e.g., temperature above/below zero, elevation above/below sea level, credits/debits, positive/negative electric charge); use positive and negative numbers to represent quantities in real-world contexts, explaining the meaning of zero in each situation.

F. Understand a rational number as a point on the number line. Extend number line diagrams and coordinate axes familiar from previous grades to represent points on the line and in the plane with negative number coordinates.

1. Recognize opposite signs of numbers as indicating locations on opposite sides of 0 on the number line; recognize that the opposite of the opposite of a number is the number itself, e.g., -(-3) = 3, and that 0 is its own opposite.

2. Understand signs of numbers in ordered pairs as indicating locations in quadrants of the coordinate plane; recognize that when two ordered pairs differ only by signs, the locations of the points are related by reflections across one or both axes.

3. Find and position integers and other rational numbers on a horizontal or vertical number line diagram; find and position pairs of integers and other rational numbers on a coordinate plane.

G. Understand ordering and absolute value of rational numbers.

1. Interpret statements of inequality as statements about the relative position of two numbers on a number line diagram. (For example, interpret -3 > -7 as a statement that -3 is located to the right of -7 on a number line oriented from left to right.)

2. Write, interpret, and explain statements of order for rational numbers in real-world contexts. (For example, write -3°C > -7°C to express the fact that -3°C is warmer than -7°C.)

3. Understand the absolute value of a rational number as its distance from 0 on the number line; interpret absolute value as magnitude for a positive or negative quantity in a real-world situation. (For example, for an account balance of -30 dollars, write |-30| = 30 to describe the size of the debt in dollars.)

4. Distinguish comparisons of absolute value from statements about order. (For example, recognize that an account balance less than -30 dollars represents a debt greater than 30 dollars.)

H. Solve real-world and mathematical problems by graphing points in all four quadrants of the coordinate plane.

Include use of coordinates and absolute value to find distances between points with the same first coordinate or the same second coordinate.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1505. Expressions and Equations

A. Write and evaluate numerical expressions involving whole-number exponents.

B. Write, read, and evaluate expressions in which letters stand for numbers.

1. Write expressions that record operations with numbers and with letters standing for numbers. (For example, express the calculation "Subtract y from 5" as $5 - y$.)

2. Identify parts of an expression using mathematical terms (sum, term, product, factor, quotient, coefficient); view one or more parts of an expression as a single entity. (For example, describe the expression 2 (8 + 7) as a product of two factors; view (8 + 7) as both a single entity and a sum of two terms.)

3. Evaluate expressions at specific values of their variables. Include expressions that arise from formulas used in real-world problems. Perform arithmetic operations, including those involving whole-number exponents, in the conventional order when there are no parentheses to specify a particular order (order of operations). (For example, use the formulas $V = s^3$ and $A = 6\ s^2$ to find the volume and surface area of a cube with sides of length $s = 1/2$.)

C. Apply the properties of operations to generate equivalent expressions. (For example, apply the distributive property to the expression $3\ (2 + x)$ to produce the equivalent expression $6 + 3x$; apply the distributive property to the expression $24x + 18y$ to produce the equivalent expression $6\ (4x + 3y)$; apply properties of operations to $y + y + y$ to produce the equivalent expression $3y$.)

D. Identify when two expressions are equivalent (i.e., when the two expressions name the same number regardless of which value is substituted into them). (For example, the expressions $y + y + y$ and $3y$ are equivalent because they name the same number regardless of which number y stands for.)

E. Understand solving an equation or inequality as a process of answering a question: which values from a specified set, if any, make the equation or inequality true? Use substitution to determine whether a given number in a specified set makes an equation or inequality true.

F. Use variables to represent numbers and write expressions when solving a real-world or mathematical problem; understand that a variable can represent an unknown number, or, depending on the purpose at hand, any number in a specified set.

G. Solve real-world and mathematical problems by writing and solving equations and inequalities of the form $x + p = q$ and $px = q$ for cases in which p, q, and x are all nonnegative rational numbers. Inequalities will include <, >, ≤, and ≥.

H. Write an inequality of the form $x > c$ or $x < c$ to represent a constraint or condition in a real-world or mathematical problem. Recognize that inequalities of the form $x >$ c or $x < c$ have infinitely many solutions; represent solutions of such inequalities on number line diagrams.

I. Use variables to represent two quantities in a real-world problem that change in relationship to one another; write an equation to express one quantity, thought of as the dependent variable, in terms of the other quantity, thought of as the independent variable. Analyze the relationship between the dependent and independent variables using graphs and tables, and relate these to the equation. (For example, in a problem involving motion at constant speed, list and graph ordered pairs of distances and times, and write the equation $d = 65t$ to represent the relationship between distance and time.)

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1507. Geometry

A. Find the area of right triangles, other triangles, special quadrilaterals, and polygons by composing into rectangles or decomposing into triangles and other shapes; apply these techniques in the context of solving real-world and mathematical problems.

B. Find the volume of a right rectangular prism with fractional edge lengths by packing it with unit cubes of the appropriate unit fraction edge lengths, and show that the volume is the same as would be found by multiplying the edge lengths of the prism. Apply the formulas $V = lwh$ and $V = bh$ to find volumes of right rectangular prisms with fractional edge lengths in the context of solving real-world and mathematical problems.

C. Draw polygons in the coordinate plane given coordinates for the vertices; use coordinates to find the length of a side joining points with the same first coordinate or the same second coordinate. Apply these techniques in the context of solving real-world and mathematical problems.

D. Represent three-dimensional figures using nets made up of rectangles and triangles, and use the nets to find the surface area of these figures. Apply these techniques in the context of solving real-world and mathematical problems.

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§1509. Statistics and Probability

A. Recognize a statistical question as one that anticipates variability in the data related to the question and accounts for it in the answers. (For example, "How old am I?" is not a statistical question, but "How old are the students in my school?" is a statistical question because one anticipates variability in students' ages.)

B. Understand that a set of data collected to answer a statistical question has a distribution that can be described by its center, spread, and overall shape.

C. Recognize that a measure of center for a numerical data set summarizes all of its values with a single number, while a measure of variation describes how its values vary with a single number.

D. Display numerical data in plots on a number line, including dot plots, histograms, and box plots.

E. Summarize numerical data sets in relation to their context, such as by:

1. reporting the number of observations;

2. describing the nature of the attribute under investigation, including how it was measured and its units of measurement;

3. giving quantitative measures of center (median and/or mean) and variability (interquartile range), as well as describing any overall pattern and any striking deviations from the overall pattern with reference to the context in which the data were gathered; and

4. relating the choice of measures of center and variability to the shape of the data distribution and the context in which the data were gathered.

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Chapter 17. Grade 7

§1701. Ratios and Proportional Relationships

A. Compute unit rates associated with ratios of fractions, including ratios of lengths, areas, and other quantities measured in like or different units. (For example, if a person walks 1/2 mile in each 1/4 hour, compute the unit rate as the complex fraction (1⁄2)/(1⁄4) miles per hour, equivalently 2 miles per hour.)

B. Recognize and represent proportional relationships between quantities.

1. Decide whether two quantities are in a proportional relationship, e.g., by testing for equivalent ratios in a table or graphing on a coordinate plane and observing whether the graph is a straight line through the origin.

2. Identify the constant of proportionality (unit rate) in tables, graphs, equations, diagrams, and verbal descriptions of proportional relationships.

3. Represent proportional relationships by equations. (For example, if total cost t is proportional to the number n of items purchased at a constant price p, the relationship between the total cost and the number of items can be expressed as $t = pn$.)

4. Explain what a point (x, y) on the graph of a proportional relationship means in terms of the situation, with special attention to the points (0, 0) and (1, r) where r is the unit rate.

C. Use proportional relationships to solve multistep ratio and percent problems of simple interest, tax, markups and markdowns, gratuities and commissions, fees, percent increase and decrease, and percent error.

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§1703. The Number System

A. Apply and extend previous understandings of addition and subtraction to add and subtract rational numbers; represent addition and subtraction on a horizontal or vertical number line diagram.

1. Describe situations in which opposite quantities combine to make 0. (For example, a hydrogen atom has 0 charge because its two constituents are oppositely charged.)

2. Understand $p + q$ as the number located a distance $|q|$ from p, in the positive or negative direction depending on whether q is positive or negative. Show that a number and its opposite have a sum of 0 (are additive inverses). Interpret sums of rational numbers by describing real-world contexts.

3. Understand subtraction of rational numbers as adding the additive inverse, $p - q = p + (-q)$. Show that the distance between two rational numbers on the number line is the absolute value of their difference, and apply this principle in real-world contexts.

4. Apply properties of operations as strategies to add and subtract rational numbers.

B. Apply and extend previous understandings of multiplication and division and of fractions to multiply and divide rational numbers.

1. Understand that multiplication is extended from fractions to rational numbers by requiring that operations continue to satisfy the properties of operations, particularly the distributive property, leading to products such as (-1)(-1) = 1 and the rules for multiplying signed numbers. Interpret products of rational numbers by describing real-world contexts.

2. Understand that integers can be divided, provided that the divisor is not zero, and every quotient of integers (with non-zero divisor) is a rational number. If p and q are integers, then $-(p/q) = (-p)/q = p/(-q)$. Interpret quotients of rational numbers by describing real-world contexts.

3. Apply properties of operations as strategies to multiply and divide rational numbers.

4. Convert a rational number to a decimal using long division; know that the decimal form of a rational number terminates in zeros or eventually repeats.

C. Solve real-world and mathematical problems involving the four operations with rational numbers.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1705. Expressions and Equations

A. Apply properties of operations as strategies to add, subtract, factor, and expand linear expressions with rational coefficients to include multiple grouping symbols (e.g., parentheses, brackets, and braces).

B. Understand that rewriting an expression in different forms in a problem context can shed light on the problem and how the quantities in it are related. (For example, $a + 0.05a = 1.05a$ means that "increase by 5 percent" is the same as "multiply by 1.05."

C. Solve multistep real-life and mathematical problems posed with positive and negative rational numbers in any form (whole numbers, fractions, and decimals), using tools strategically. Apply properties of operations to calculate with numbers in any form; convert between forms as appropriate; and assess the reasonableness of answers using mental computation and estimation strategies. (For example: If a woman making $25 an hour gets a 10 percent raise, she will make an additional 1/10 of her salary an hour, or $2.50, for a new salary of $27.50. If you want to place a towel bar 9 3/4 inches long in the center of a door that is 27 1/2 inches wide, you will need to place the bar about 9 inches from each edge; this estimate can be used as a check on the exact computation.)

D. Use variables to represent quantities in a real-world or mathematical problem, and construct simple equations and inequalities to solve problems by reasoning about the quantities.

1. Solve word problems leading to equations of the form $px + q = r$ and $p(x + q) = r$, where p, q, and r are specific rational numbers. Solve equations of these forms fluently. Compare an algebraic solution to an arithmetic solution, identifying the sequence of the operations used in each approach. (For example, the perimeter of a rectangle is 54 cm. Its length is 6 cm. What is its width?)

2. Solve word problems leading to inequalities of the form $px + q > r$, $px + q \geq r$, $px + q < r$, or $px + q \leq r$, where p, q, and r are specific rational numbers. Graph the solution set of the inequality and interpret it in the context of the problem. (For example: As a salesperson, you are paid $50 per week plus $3 per sale. This week you want your pay to be at least $100. Write an inequality for the number of sales you need to make, and describe the solutions.)

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1707. Geometry

A. Solve problems involving scale drawings of geometric figures, such as computing actual lengths and areas from a scale drawing and reproducing a scale drawing at a different scale.

B. Draw (freehand, with ruler and protractor, or with technology) geometric shapes with given conditions. (Focus is on triangles from three measures of angles or sides, noticing when the conditions determine one and only one triangle, more than one triangle, or no triangle.)

C. Describe the two-dimensional figures that result from slicing three-dimensional figures, as in plane sections of right rectangular prisms and right rectangular pyramids.

D. Know the formulas for the area and circumference of a circle and solve problems; give an informal derivation of the relationship between the circumference and area of a circle.

E. Use facts about supplementary, complementary, vertical, and adjacent angles in a multi-step problem to write and use them to solve simple equations for an unknown angle in a figure.

F. Solve real-world and mathematical problems involving area, volume, and surface area of two- and three-dimensional objects composed of triangles, quadrilaterals, polygons, cubes, and right prisms. (Pyramids limited to surface area only.)

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§1709. Statistics and Probability

A. Understand that statistics can be used to gain information about a population by examining a sample of the population; generalizations about a population from a sample are valid only if the sample is representative of that population. Understand that random sampling tends to produce representative samples and support valid inferences.

B. Use data from a random sample to draw inferences about a population with an unknown characteristic of interest. Generate multiple samples (or simulated samples) of the same size to gauge the variation in estimates or predictions. (For example, estimate the mean word length in a book by randomly sampling words from the book; predict the winner of a school election based on randomly sampled survey data. Gauge how far off the estimate or prediction might be.)

C. Informally assess the degree of visual overlap of two numerical data distributions with similar variabilities using quantitative measures of center (median and/or mean) and variability (interquartile range and/or mean absolute deviation), as well as describing any overall pattern and any striking deviations from the overall pattern with reference to the context in which the data were gathered.

D. Use measures of center and measures of variability for numerical data from random samples to draw informal comparative inferences about two populations. (For example, decide whether the words in a chapter of a seventh-grade science book are generally longer than the words in a chapter of a fourth-grade science book.)

E. Understand that the probability of a chance event is a number between 0 and 1 that expresses the likelihood of the event occurring. Larger numbers indicate greater likelihood. A probability near 0 indicates an unlikely event, a probability around 1/2 indicates an event that is neither unlikely nor likely, and a probability near 1 indicates a likely event.

F. Approximate the probability of a chance event by collecting data on the chance process that produces it and observing its long-run relative frequency, and predict the approximate relative frequency given the probability. (For example, when rolling a number cube 600 times, predict that a 3 or 6 would be rolled roughly 200 times, but probably not exactly 200 times.)

G. Develop a probability model and use it to find probabilities of events. Compare probabilities from a model to observed frequencies; if the agreement is not good, explain possible sources of the discrepancy.

1. Develop a uniform probability model by assigning equal probability to all outcomes, and use the model to determine probabilities of events. (For example, if a student is selected at random from a class, find the probability that Jane will be selected and the probability that a girl will be selected.)

2. Develop a probability model (which may not be uniform) by observing frequencies in data generated from a chance process. (For example, find the approximate probability that a spinning penny will land heads up or that a tossed paper cup will land open-end down. Do the outcomes for the spinning penny appear to be equally likely, based on the observed frequencies?)

H. Find probabilities of compound events using organized lists, tables, tree diagrams, and simulation.

1. Understand that, just as with simple events, the probability of a compound event is the fraction of outcomes in the sample space for which the compound event occurs.

2. Represent sample spaces for compound events using methods such as organized lists, tables, and tree diagrams. For an event described in everyday language (e.g., "rolling double sixes"), identify the outcomes in the sample space that compose the event.

3. Design and use a simulation to generate frequencies for compound events. (For example, use random digits as a simulation tool to approximate the answer to the question: If 40 percent of donors have type A blood, what is the probability that it will take at least 4 donors to find one with type A blood?)

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Chapter 19. Grade 8

§1901. The Number System

A. Know that numbers that are not rational are called irrational. Understand informally that every number has a decimal expansion; for rational numbers, show that the decimal expansion repeats eventually. Convert a decimal expansion that repeats eventually into a rational number by analyzing repeating patterns.

B. Use rational approximations of irrational numbers to compare the size of irrational numbers, locate them approximately on a number line diagram, and estimate the value of expressions (e.g., π^2). (For example, by truncating the decimal expansion of $\sqrt{2}$, show that $\sqrt{2}$ is between 1and 2, then between 1.4 and 1.5, and explain how to continue on to get better approximations.)

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§1903. Expressions and Equations

A. Know and apply the properties of integer exponents to generate equivalent numerical expressions. (For example, $3^2 \times 3^{-5} = 3^{-3} = 1/3^3 = 1/27$.)

B. Use square root and cube root symbols to represent solutions to equations of the form $x^2 = p$ and $x^3 = p$, where p is a positive rational number. Evaluate square roots of small perfect squares and cube roots of small perfect cubes. Know that $\sqrt{2}$ is irrational.

C. Use numbers expressed in the form of a single digit times an integer power of 10 to estimate very large or very small quantities, and to express how many times as much one is than the other. (For example, estimate the population of the United States as 3×10^8 and the population of the world as 7×10^9, and determine that the world population is more than 20 times larger.)

D. Perform operations with numbers expressed in scientific notation, including problems where both decimal and scientific notation are used. Use scientific notation and choose units of appropriate size for measurements of very large or very small quantities (e.g., use millimeters per year for seafloor spreading). Interpret scientific notation that has been generated by technology.

E. Graph proportional relationships, interpreting the unit rate as the slope of the graph. Compare two different proportional relationships represented in different ways. (For example, compare a distance-time graph to a distance-time equation to determine which of two moving objects has greater speed.)

F. Use similar triangles to explain why the slope m is the same between any two distinct points on a non-vertical line in the coordinate plane; derive the equation $y = mx$ for a line through the origin and the equation $y = mx + b$ for a line intercepting the vertical axis at b.

G. Solve linear equations in one variable.

1. Give examples of linear equations in one variable with one solution, infinitely many solutions, or no solutions. Show which of these possibilities is the case by successively transforming the given equation into simpler forms, until an equivalent equation of the form $x = a$, $a = a$, or $a = b$ results (where a and b are different numbers).

2. Solve systems of two linear equations in two variables algebraically, and estimate solutions by graphing the equations. Solve simple cases by inspection. (For example, $3x + 2y = 5$ and $3x + 2y = 6$ have no solution because $3x + 2y$ cannot simultaneously be 5 and 6.)

H. Analyze and solve pairs of simultaneous linear equations.

1. Understand that solutions to a system of two linear equations in two variables correspond to points of intersection of their graphs, because points of intersection satisfy both equations simultaneously.

2. Solve systems of two linear equations in two variables algebraically, and estimate solutions by graphing the equations. Solve simple cases by inspection. (For example, $3x + 2y = 5$ and $3x + 2y = 6$ have no solution because $3x + 2y$ cannot simultaneously be 5 and 6.

3. Solve real-world and mathematical problems leading to two linear equations in two variables. (For example, given coordinates for two pairs of points, determine whether the line through the first pair of points intersects the line through the second pair.)

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§1905. Functions

A. Understand that a function is a rule that assigns to each input exactly one output. The graph of a function is the set of ordered pairs consisting of an input and the corresponding output. (Function notation is not required in this grade level.)

B. Compare properties of two functions each represented in a different way (algebraically, graphically, numerically in tables, or by verbal descriptions). (For example, given a linear function represented by a table of values and a linear function represented by an algebraic expression, determine which function has the greater rate of change.)

C. Interpret the equation $y = mx + b$ as defining a linear function whose graph is a straight line; categorize functions as linear or nonlinear when given equations, graphs, or tables. (For example, the function $A = s^2$ giving the area of a square as a function of its side length is not linear, because its graph contains the points (1,1), (2,4), and (3,9), which are not on a straight line.)

D. Construct a function to model a linear relationship between two quantities. Determine the rate of change and initial value of the function from a description of a relationship or from two (x, y) values, including reading these from a table or from a graph. Interpret the rate of change and initial value of a linear function in terms of the situation it models, and in terms of its graph or a table of values.

E. Describe qualitatively the functional relationship between two quantities by analyzing a graph (e.g., where the function is increasing or decreasing, linear or nonlinear). Sketch a graph that exhibits the qualitative features of a function that has been described verbally.

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§1907. Geometry

A. Verify experimentally the properties of rotations, reflections, and translations.

1. Lines are taken to lines, and line segments to line segments of the same length.

2. Angles are taken to angles of the same measure.

3. Parallel lines are taken to parallel lines.

B. Explain that a two-dimensional figure is congruent to another if the second can be obtained from the first by a sequence of rotations, reflections, and translations; given two congruent figures, describe a sequence that exhibits the congruence between them. (Rotations are only about the origin and reflections are only over the y-axis and x-axis in grade 8.)

C. Describe the effect of dilations, translations, rotations, and reflections on two-dimensional figures using coordinates. (Rotations are only about the origin, dilations only use the origin as the center of dilation, and reflections are only over the y-axis and x-axis in grade 8.)

D. Explain that a two-dimensional figure is similar to another if the second can be obtained from the first by a sequence of rotations, reflections, translations, and dilations; given two similar two-dimensional figures, describe a sequence that exhibits the similarity between them. (Rotations are only about the origin, dilations only use the origin as the center of dilation, and reflections are only over the y-axis and x-axis in grade 8.)

E. Use informal arguments to establish facts about the angle sum and exterior angle of triangles, about the angles created when parallel lines are cut by a transversal, and the angle-angle criterion for similarity of triangles. (For example, arrange three copies of the same triangle so that the sum of the three angles appears to form a line, and give an argument in terms of transversals why this is so.)

F. Explain a proof of the Pythagorean Theorem and its converse using the area of squares.

G. Apply the Pythagorean Theorem to determine unknown side lengths in right triangles in real-world and mathematical problems in two and three dimensions.

H. Apply the Pythagorean Theorem to find the distance between two points in a coordinate system.

I. Know the formulas for the volumes of cones, cylinders, and spheres and use them to solve real-world and mathematical problems.

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§1909. Statistics and Probability

A. Construct and interpret scatter plots for bivariate measurement data to investigate patterns of association between two quantities. Describe patterns such as clustering, outliers, positive or negative association, linear association, and nonlinear association.

B. Know that straight lines are widely used to model relationships between two quantitative variables. For scatter plots that suggest a linear association, informally fit a straight line, and informally assess the model fit by judging the closeness of the data points to the line.

C. Use the equation of a linear model to solve problems in the context of bivariate measurement data, interpreting the slope and intercept. (For example, in a linear model for a biology experiment, interpret a slope of 1.5 cm/hr as meaning that an additional hour of sunlight each day is associated with an additional 1.5 cm in mature plant height.)

D. Understand that patterns of association can also be seen in bivariate categorical data by displaying frequencies and relative frequencies in a two-way table. Construct and interpret a two-way table summarizing data on two categorical variables collected from the same subjects. Use relative frequencies calculated for rows or columns to describe possible association between the two variables. (For example, collect data from students in your class on whether or not they have a curfew on school nights and whether or not they have assigned chores at home. Is there evidence that those who have a curfew also tend to have chores?)

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Chapter 21. Algebra I

§2101. Number and Quantity

A. Explain why the sum or product of two rational numbers is rational; that the sum of a rational number and an irrational number is irrational; and that the product of a nonzero rational number and an irrational number is irrational.

B. Use units as a way to understand problems and to guide the solution of multi-step problems; choose and interpret units consistently in formulas; choose and interpret the scale and the origin in graphs and data displays.

C. Define appropriate quantities for the purpose of descriptive modeling.

D. Choose a level of accuracy appropriate to limitations on measurement when reporting quantities.

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§2103. Algebra

A. Interpret expressions that represent a quantity in terms of its context.

1. Interpret parts of an expression, such as terms, factors, and coefficients.

2. Interpret complicated expressions by viewing one or more of their parts as a single entity. (For example, interpret $P(1+r)n$ as the product of P and a factor not depending on P.)

B. Use the structure of an expression to identify ways to rewrite it. (For example, $x^4 - y^4$ as $(x^2)^2 - (y^2)^2$, thus recognizing it as a difference of squares that can be factored as $(x^2 - y^2)(x^2 + y^2)$.or see $2x^2+8x$ as $(2x)(x)+(2x)(4)$, thus recognizing it as a polynomial whose terms are products of monomials and the polynomial can be factored as $2x(x+4)$.)

C. Choose and produce an equivalent form of an expression to reveal and explain properties of the quantity represented by the expression.

1. Factor a quadratic expression to reveal the zeros of the function it defines.

2. Complete the square in a quadratic expression to reveal the maximum or minimum value of the function it defines.

3. Use the properties of exponents to transform expressions for exponential functions emphasizing integer exponents. (For example, the growth of bacteria can be

modeled by either $f(t) = 3^{(t+2)}$ or $g(t) = 9(3^t)$ because the expression $3^{(t+2)}$ can be rewritten as $(3^t)(3^2) = 9(3^t)$.)

D. Understand that polynomials form a system analogous to the integers, namely, they are closed under the operations of addition, subtraction, and multiplication; add, subtract, and multiply polynomials.

E. Identify zeros of quadratic functions and use the zeros to sketch a graph of the function defined by the polynomial.

F. Create equations and inequalities in one variable and use them to solve problems. (Include equations arising from linear, quadratic, and exponential functions.)

G. Create equations in two or more variables to represent relationships between quantities; graph equations on coordinate axes with labels and scales.

H. Represent constraints by equations or inequalities, and by systems of equations and/or inequalities, and interpret solutions as viable or nonviable options in a modeling context. (For example, represent inequalities describing nutritional and cost constraints on combinations of different foods.)

I. Rearrange formulas to highlight a quantity of interest, using the same reasoning as in solving equations. (For example, rearrange Ohm's law $V = IR$ to highlight resistance R.)

J. Explain each step in solving a simple equation as following from the equality of numbers asserted at the previous step, starting from the assumption that the original equation has a solution. Construct a viable argument to justify a solution method.

K. Solve linear equations and inequalities in one variable, including equations with coefficients represented by letters.

L. Solve quadratic equations in one variable.

1. Use the method of completing the square to transform any quadratic equation in x into an equation of the form $(x - p)2 = q$ that has the same solutions. Derive the quadratic formula from this form.

2. Solve quadratic equations by inspection (e.g., for $x^2 = 49$), taking square roots, completing the square, the quadratic formula, and factoring, as appropriate to the initial form of the equation. Recognize when the quadratic formula gives complex solutions and write them as "no real solution."

M. Prove that, given a system of two equations in two variables, replacing one equation by the sum of that equation and a multiple of the other produces a system with the same solutions.

N. Solve systems of linear equations exactly and approximately (e.g., with graphs), focusing on pairs of linear equations in two variables.

O. Understand that the graph of an equation in two variables is the set of all its solutions plotted in the coordinate plane, often forming a curve (which could be a line).

P. Explain why the x-coordinates of the points where the graphs of the equations $y = f(x)$ and $y = g(x)$ intersect are the solutions of the equation $f(x) = g(x)$; find the solutions approximately, e.g., using technology to graph the functions, make tables of values, or find successive approximations. Include cases where $f(x)$ and/or $g(x)$ are linear, polynomial, rational, piecewise linear (to include absolute value), and exponential functions.

Q. Graph the solutions to a linear inequality in two variables as a half-plane (excluding the boundary in the case of a strict inequality), and graph the solution set to a system of linear inequalities in two variables as the intersection of the corresponding half-planes.

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§2105. Functions

A. Understand that a function from one set (called the domain) to another set (called the range) assigns to each element of the domain exactly one element of the range. If f is a function and x is an element of its domain, then $f(x)$ denotes the output of f corresponding to the input x. The graph of f is the graph of the equation $y = f(x)$.

B. Use function notation, evaluate functions for inputs in their domains, and interpret statements that use function notation in terms of a context.

C. Recognize that sequences are functions whose domain is a subset of the integers. Relate arithmetic sequences to linear functions and geometric sequences to exponential functions.

D. For linear, piecewise linear (to include absolute value), quadratic, and exponential functions that model a relationship between two quantities, interpret key features of graphs and tables in terms of the quantities, and sketch graphs showing key features given a verbal description of the relationship. (Key features include: intercepts; intervals where the function is increasing, decreasing, positive, or negative; relative maximums and minimums; symmetries; and end behavior.)

E. Relate the domain of a function to its graph and, where applicable, to the quantitative relationship it describes. (For example, if the function $h(n)$ gives the number of person-hours it takes to assemble n engines in a factory, then the positive integers would be an appropriate domain for the function.)

F. Calculate and interpret the average rate of change of a linear, quadratic, piecewise linear (to include absolute value), and exponential function (presented symbolically or as a table) over a specified interval. Estimate the rate of change from a graph.

G. Graph functions expressed symbolically, and show key features of the graph, by hand in simple cases and using technology for more complicated cases.

1. Graph linear and quadratic functions and show intercepts, maxima, and minima.

2. Graph piecewise linear (to include absolute value) and exponential functions.

H. Write a function defined by an expression in different but equivalent forms to reveal and explain different properties of the function.

1. Use the process of factoring and completing the square in a quadratic function to show zeros, extreme values, and symmetry of the graph, and interpret these in terms of a context.

I. Compare properties of two functions (linear, quadratic, piecewise linear [to include absolute value] or exponential) each represented in a different way (algebraically, graphically, numerically in tables, or by verbal descriptions). (For example, given a graph of one

quadratic function and an algebraic expression for another, determine which has the larger maximum.)

J. Write a linear, quadratic, or exponential function that describes a relationship between two quantities.

1. Determine an explicit expression, a recursive process, or steps for calculation from a context.

K. Identify the effect on the graph of replacing $f(x)$ by $f(x) + k$, $k\,f(x)$, $f(kx)$, and $f(x + k)$ for specific values of k (both positive and negative). Without technology, find the value of k given the graphs of linear and quadratic functions. With technology, experiment with cases and illustrate an explanation of the effects on the graphs that include cases where $f(x)$ is a linear, quadratic, piecewise linear (to include absolute value), or exponential function.

L. Distinguish between situations that can be modeled with linear functions and with exponential functions.

1. Prove that linear functions grow by equal differences over equal intervals, and that exponential functions grow by equal factors over equal intervals.

2. Recognize situations in which one quantity changes at a constant rate per unit interval relative to another.

3. Recognize situations in which a quantity grows or decays by a constant percent rate per unit interval relative to another.

M. Construct linear and exponential functions, including arithmetic and geometric sequences, given a graph, a description of a relationship, or two input-output pairs (include reading these from a table).

N. Observe, using graphs and tables, that a quantity increasing exponentially eventually exceeds a quantity increasing linearly, quadratically, or (more generally) as a polynomial function.

O. Interpret the parameters in a linear, quadratic, or exponential function in terms of a context.

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§2107. Statistics and Probability

A. Use statistics appropriate to the shape of the data distribution to compare center (median, mean) and spread (interquartile range, standard deviation) of two or more different data sets.

B. Interpret differences in shape, center, and spread in the context of the data sets, accounting for possible effects of extreme data points (outliers).

C. Summarize categorical data for two categories in two-way frequency tables. Interpret relative frequencies in the context of the data (including joint, marginal, and conditional relative frequencies). Recognize possible associations and trends in the data.

D. Represent data on two quantitative variables on a scatter plot, and describe how the variables are related.

1. Fit a function to the data; use functions fitted to data to solve problems in the context of the data. (Use given functions or choose a function suggested by the context. Emphasize linear and quadratic models.)

2. Informally assess the fit of a function by plotting and analyzing residuals.

3. Fit a linear function for a scatter plot that suggests a linear association.

E. Interpret the slope (rate of change) and the intercept (constant term) of a linear model in the context of the data.

F. Compute (using technology) and interpret the correlation coefficient of a linear fit.

G. Distinguish between correlation and causation.

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Chapter 23. Algebra II

§2301. Number and Quantity

A. Explain how the definition of the meaning of rational exponents follows from extending the properties of integer exponents to those values, allowing for a notation for radicals in terms of rational exponents. (For example, we define $5^{1/3}$ to be the cube root of 5 because we want $(5^{1/3})^3 = 5^{(1/3)3}$ to hold, so $(5^{1/3})^3$ must equal 5.)

B. Rewrite expressions involving radicals and rational exponents using the properties of exponents.

C. Define appropriate quantities for the purpose of descriptive modeling.

D. Know there is a complex number i such that $i^2 = -1$, and every complex number has the form a + bi with a and b real.

E. Use the relation $i^2 = -1$ and the commutative, associative, and distributive properties to add, subtract, and multiply complex numbers.

F. Solve quadratic equations with real coefficients that have complex solutions.

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§2303. Algebra

A. Use the structure of an expression to identify ways to rewrite it. (For example, see $x^4 - y^4$ as $(x^2)^2 - (y^2)^2$, thus recognizing it as a difference of squares that can be factored as $(x^2 - y^2)(x^2 + y^2)$.

B. Choose and produce an equivalent form of an expression to reveal and explain properties of the quantity represented by the expression.

1. Use the properties of exponents to transform expressions for exponential functions. (For example the expression 1.15^t can be rewritten as $(1.15^{1/12})^{12t} \approx 1.012^{12t}$ to reveal the approximate equivalent monthly interest rate if the annual rate is 15 percent.)

C. Apply the formula for the sum of a finite geometric series (when the common ratio is not 1) to solve problems. (For example, calculate mortgage payments.)

D. Know and apply the Remainder Theorem: For a polynomial $p(x)$ and a number a, the remainder on division by $x - a$ is $p(a)$, so $p(a) = 0$ if and only if $(x - a)$ is a factor of $p(x)$.

E. Identify zeros of polynomials when suitable factorizations are available, and use the zeros to construct a rough graph of the function defined by the polynomial.

F. Use polynomial identities to describe numerical relationships. (For example, the polynomial identity $(x^2 + y^2)^2 = (x^2 - y^2)^2 + (2xy)^2$ can be used to generate Pythagorean triples.)

G. Rewrite simple rational expressions in different forms; write $a(x)/b(x)$ in the form $q(x) + r(x)/b(x)$, where $a(x)$, $b(x)$, $q(x)$, and $r(x)$ are polynomials with the degree of $r(x)$ less than the degree of $b(x)$, using inspection, long

division, or, for the more complicated examples, a computer algebra system.

H. Create equations and inequalities in one variable and use them to solve problems. (Include equations arising from linear and quadratic functions, and simple rational and exponential functions.)

I. Explain each step in solving an equation as following from the equality of numbers asserted at the previous step, starting from the assumption that the original equation has a solution. Construct a viable argument to justify a solution method.

J. Solve simple rational and radical equations in one variable, and give examples showing how extraneous solutions may arise.

K. Solve quadratic equations in one variable.

1. Solve quadratic equations by inspection (e.g., for $x^2 = 49$), taking square roots, completing the square, the quadratic formula, and factoring, as appropriate to the initial form of the equation. Recognize when the quadratic formula gives complex solutions, and write them as $a \pm bi$ for real numbers a and b.

L. Solve systems of linear equations exactly and approximately (e.g., with graphs), limited to systems of at most three equations and three variables. With graphic solutions, systems are limited to two variables.

M. Solve a simple system consisting of a linear equation and a quadratic equation in two variables algebraically and graphically. (For example, find the points of intersection between the line $y = -3x$ and the circle $x^2 + y^2 = 3$.)

N. Explain why the x-coordinates of the points where the graphs of the equations $y = f(x)$ and $y = g(x)$ intersect are the solutions of the equation $f(x) = g(x)$; find the solutions approximately, e.g., using technology to graph the functions, make tables of values, or find successive approximations. Include cases where $f(x)$ and/or $g(x)$ are linear, polynomial, rational, absolute value, exponential, and logarithmic functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§2305. Functions

A. For a function that models a relationship between two quantities, interpret key features of graphs and tables in terms of the quantities, and sketch graphs showing key features given a verbal description of the relationship. (Key features include: intercepts; intervals where the function is increasing, decreasing, positive, or negative; relative maximums and minimums; symmetries; end behavior; and periodicity.)

B. Calculate and interpret the average rate of change of a function (presented symbolically or as a table) over a specified interval. Estimate the rate of change from a graph.

C. Graph functions expressed symbolically and show key features of the graph, by hand in simple cases and using technology for more complicated cases.

1. Graph square root, cube root, and piecewise-defined functions, including step functions and absolute value functions.

2. Graph polynomial functions, identifying zeros when suitable factorizations are available, and showing end behavior.

3. Graph exponential and logarithmic functions, showing intercepts and end behavior, and trigonometric functions, showing period, midline, and amplitude.

D. Write a function defined by an expression in different but equivalent forms to reveal and explain different properties of the function.

1. Use the properties of exponents to interpret expressions for exponential functions. For example, identify percent rate of change in functions such as $y = (1.02)^t$, $y = (0.97)^t$, $y = (1.01)^{12t}$, $y = (1.2)^{t/10}$ and classify them as representing exponential growth or decay.

E. Compare properties of two functions each represented in a different way (algebraically, graphically, numerically in tables, or by verbal descriptions). (For example, given a graph of one quadratic function and an algebraic expression for another, determine which has the larger maximum.)

F. Write a function that describes a relationship between two quantities.

1. Determine an explicit expression, a recursive process, or steps for calculation from a context.

2. Combine standard function types using arithmetic operations. (For example, build a function that models the temperature of a cooling body by adding a constant function to a decaying exponential, and relate these functions to the model.)

G. Write arithmetic and geometric sequences both recursively and with an explicit formula, use them to model situations, and translate between the two forms.

H. Identify the effect on the graph of replacing $f(x)$ by $f(x) + k$, $k\,f(x)$, $f(kx)$, and $f(x + k)$ for specific values of k (both positive and negative); find the value of k given the graphs. Experiment with cases and illustrate an explanation of the effects on the graph using technology. Include recognizing even and odd functions from their graphs and algebraic expressions for them.

I. Find inverse functions.

1. Solve an equation of the form $f(x) = c$ for a simple function f that has an inverse, and write an expression for the inverse. (For example, $f(x) = 2x^3$ or $f(x) = (x+1)/(x-1)$ for $x \neq 1$.)

J. Given a graph, a description of a relationship, or two input-output pairs (include reading these from a table), construct linear and exponential functions, including arithmetic and geometric sequences, to solve multistep problems.

K. For exponential models, express as a logarithm the solution to $ab^{(ct)} = d$ where a, c, and d are numbers and the base b is 2, 10, or e; evaluate the logarithm using technology.

L. Interpret the parameters in a linear, quadratic, or exponential function in terms of a context.

M. Understand radian measure of an angle as the length of the arc on the unit circle subtended by the angle.

N. Explain how the unit circle in the coordinate plane enables the extension of trigonometric functions to all real numbers, interpreted as radian measures of angles traversed counterclockwise around the unit circle.

O. Choose trigonometric functions to model periodic phenomena with specified amplitude, frequency, and midline.

P. Prove the Pythagorean identity $\sin^2(\theta) + \cos^2(\theta) = 1$ and use it find $\sin(\theta)$, $\cos(\theta)$, or $\tan(\theta)$ given $\sin(\theta)$, $\cos(\theta)$, or $\tan(\theta)$ and the quadrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§2307. Statistics and Probability

A. Use the mean and standard deviation of a data set to fit it to a normal distribution and to estimate population percentages. Recognize that there are data sets for which such a procedure is not appropriate. Use calculators, spreadsheets, and tables to estimate areas under the normal curve.

B. Represent data on two quantitative variables on a scatter plot, and describe how the variables are related.

1. Fit a function to the data; use functions fitted to data to solve problems in the context of the data. (Use given functions or choose a function suggested by the context. Emphasize exponential models.)

C. Understand statistics as a process for making inferences to be made about population parameters based on a random sample from that population.

D. Decide if a specified model is consistent with results from a given data-generating process, e.g., using simulation. (For example, a model says a spinning coin falls heads up with probability 0.5. Would a result of 5 tails in a row cause you to question the model?)

E. Recognize the purposes of and differences among sample surveys, experiments, and observational studies; explain how randomization relates to each.

F. Use data from a sample survey to estimate a population mean or proportion; develop a margin of error through the use of simulation models for random sampling.

G. Use data from a randomized experiment to compare two treatments; use simulations to decide if differences between parameters are significant.

H. Evaluate reports based on data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Chapter 25. Geometry

§2501. Geometry

A. Know precise definitions of angle, circle, perpendicular line, parallel line, and line segment, based on the undefined notions of point, line, distance along a line, and distance around a circular arc.

B. Represent transformations in the plane using, e.g., transparencies, tracing paper ,or geometry software; describe transformations as functions that take points in the plane as inputs and give other points as outputs. Compare transformations that preserve distance and angle to those that do not (e.g., translation versus horizontal stretch).

C. Given a rectangle, parallelogram, trapezoid, or regular polygon, describe the rotations and reflections that carry it onto itself.

D. Develop definitions of rotations, reflections, and translations in terms of angles, circles, perpendicular lines, parallel lines, and line segments.

E. Given a geometric figure and a rotation, reflection, or translation, draw the transformed figure using, e.g., graph paper, tracing paper, or geometry software. Specify a sequence of transformations that will carry a given figure onto another.

F. Use geometric descriptions of rigid motions to transform figures and to predict the effect of a given rigid motion on a given figure; given two figures, use the definition of congruence in terms of rigid motions to decide if they are congruent.

G. Use the definition of congruence in terms of rigid motions to show that two triangles are congruent if and only if corresponding pairs of sides and corresponding pairs of angles are congruent.

H. Explain how the criteria for triangle congruence (ASA, SAS, and SSS) follow from the definition of congruence in terms of rigid motions.

I. Prove and apply theorems about lines and angles. (Theorems include: vertical angles are congruent; when a transversal crosses parallel lines, alternate interior angles are congruent and corresponding angles are congruent; points on a perpendicular bisector of a line segment are exactly those equidistant from the segment's endpoints.)

J. Prove and apply theorems about triangles. (Theorems include: measures of interior angles of a triangle sum to 180 degrees; base angles of isosceles triangles are congruent; the segment joining midpoints of two sides of a triangle is parallel to the third side and half the length; the medians of a triangle meet at a point.)

K. Prove and apply theorems about parallelograms. (Theorems include: opposite sides are congruent, opposite angles are congruent, the diagonals of a parallelogram bisect each other, and conversely, rectangles are parallelograms with congruent diagonals.)

L. Make formal geometric constructions with a variety of tools and methods, e.g., compass and straightedge, string, reflective devices, paper folding, or dynamic geometric software. (Examples: Copying a segment; copying an angle; bisecting a segment; bisecting an angle; constructing perpendicular lines, including the perpendicular bisector of a line segment; and constructing a line parallel to a given line through a point not on the line.)

M. Construct an equilateral triangle, a square, and a regular hexagon inscribed in a circle.

N. Verify experimentally the properties of dilations given by a center and a scale factor.

1. A dilation takes a line not passing through the center of the dilation to a parallel line, and leaves a line passing through the center unchanged.

2. The dilation of a line segment is longer or shorter in the ratio given by the scale factor.

O. Given two figures, use the definition of similarity in terms of similarity transformations to decide if they are similar; explain using similarity transformations the meaning of similarity for triangles as the equality of all corresponding pairs of angles and the proportionality of all corresponding pairs of sides.

P. Use the properties of similarity transformations to establish the AA criterion for two triangles to be similar.

Q. Prove and apply theorems about triangles. (Theorems include: a line parallel to one side of a triangle divides the other two proportionally, and conversely; the Pythagorean Theorem proved using triangle similarity; SAS similarity criteria; SSS similarity criteria; ASA similarity.)

R. Use congruence and similarity criteria for triangles to solve problems and to prove relationships in geometric figures.

S. Understand that by similarity, side ratios in right triangles, including special right triangles (30-60-90 and 45-45-90), are properties of the angles in the triangle, leading to definitions of trigonometric ratios for acute angles.

T. Explain and use the relationship between the sine and cosine of complementary angles.

U. Use trigonometric ratios and the Pythagorean Theorem to solve right triangles in applied problems.

V. Prove that all circles are similar.

W. Identify and describe relationships among inscribed angles, radii, and chords, including the following: the relationship that exists between central, inscribed, and circumscribed angles; inscribed angles on a diameter are right angles; and a radius of a circle is perpendicular to the tangent where the radius intersects the circle.

X. Construct the inscribed and circumscribed circles of a triangle, and prove properties of angles for a quadrilateral inscribed in a circle.

Y. Use similarity to determine that the length of the arc intercepted by an angle is proportional to the radius, and define the radian measure of the angle as the constant of proportionality; derive the formula for the area of a sector.

Z. Derive the equation of a circle of given center and radius using the Pythagorean Theorem; complete the square to find the center and radius of a circle given by an equation.

AA. Use coordinates to prove simple geometric theorems algebraically. (For example, prove or disprove that a figure defined by four given points in the coordinate plane is a rectangle; prove or disprove that the point $(1, \sqrt{3})$ lies on the circle centered at the origin and containing the point (0, 2).)

BB. Prove the slope criteria for parallel and perpendicular lines, and use them to solve geometric problems (e.g., find the equation of a line parallel or perpendicular to a given line that passes through a given point).

CC. Find the point on a directed line segment between two given points that partitions the segment in a given ratio.

DD. Use coordinates to compute perimeters of polygons and areas of triangles and rectangles, e.g., using the distance formula.

EE. Give an informal argument, e.g., dissection arguments, Cavalieri's principle, or informal limit arguments, for the formulas for the circumference of a circle; area of a circle; volume of a cylinder, pyramid, and cone.

FF. Use volume formulas for cylinders, pyramids, cones, and spheres to solve problems.

GG. Identify the shapes of two-dimensional cross-sections of three-dimensional objects, and identify three-dimensional objects generated by rotations of two-dimensional objects.

HH. Use geometric shapes, their measures, and their properties to describe objects (e.g., modeling a tree trunk or a human torso as a cylinder).

II. Apply concepts of density based on area and volume in modeling situations (e.g., persons per square mile, BTUs per cubic foot).

JJ. Apply geometric methods to solve design problems (e.g., designing an object or structure to satisfy physical constraints or minimize cost; working with typographic grid systems based on ratios).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42;

§2503. Statistics and Probability

A. Describe events as subsets of a sample space (the set of outcomes) using characteristics (or categories) of the outcomes, or as unions, intersections, or complements of other events ("or," "and," "not").

B. Understand that two events A and B are independent if the probability of A and B occurring together is the product of their probabilities, and use this characterization to determine if they are independent.

C. Understand the conditional probability of A given B as $P(A \text{ and } B)/P(B)$, and interpret independence of A and B as saying that the conditional probability of A given B is the same as the probability of A, and the conditional probability of B given A is the same as the probability of B.

D. Construct and interpret two-way frequency tables of data when two categories are associated with each object being classified. Use the two-way table as a sample space to decide if events are independent and to approximate conditional probabilities. (For example, collect data from a random sample of students in your school on their favorite subject among math, science, and English. Estimate the probability that a randomly selected student from your school will favor science, given that the student is in grade 10. Do the same for other subjects, and compare the results.)

E. Recognize and explain the concepts of conditional probability and independence in everyday language and everyday situations. (For example, compare the chance of having lung cancer if you are a smoker with the chance of being a smoker if you have lung cancer.)

F. Find the conditional probability of A given B as the fraction of B's outcomes that also belong to A, and interpret the answer in terms of the model.

G. Apply the addition rule, $P(A \text{ or } B) = P(A) + P(B) - P(A \text{ and } B)$, and interpret the answer in terms of the model.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 142—Louisiana Student Standards for Mathematics

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

State content standards are statements that define what a student should know or be able to accomplish at the end of a specific time period or grade level or at the completion of a course. Act 329 of the 2015 Regular Session provided for the review and development of state content standards for English language arts (ELA) and mathematics. This bulletin contains the new proposed Louisiana Student Standards for Mathematics that resulted from the required review and development process.

The proposed standards represent a change in 26 percent of standards as compared to current mathematics standards. Out of the 26 percent of revised or new standards, some represent significant adjustments that will require educator training and instructional materials, while others are less significant and will require little if any training or new materials.

The Department of Education (DOE) will provide support for the implementation of these standards in the following areas: curriculum and resources, teacher training and professional development, and state and local assessments. These activities may require some adjustment in the use of existing state general funds and will likely result in an increase in funds spent on professional development, instructional resources and assessments. These activities, however, are funded in large part using federal and statutorily dedicated 8(g) funds. The Department will also work directly with publishers and other content providers whose products are most widely used by Louisiana school systems to update materials to reflect the new standards. Based on preliminary conversations with those publishers and providers, updates to their materials are expected to be made available to local school systems through supplemental materials or addenda, which can be made available at little or no cost.

The proposed action will also result in increased costs and workload adjustments to local school systems. While resources may be made available by the DOE and from some publishers at no or very low cost, not all local school systems use these vendors. Each LEA is required to provide instruction aligned to BESE-approved standards and has the autonomy and flexibility to develop, adopt, and utilize instructional materials that best support their students' achievement of the standards. Most districts utilize multiple vendors to develop instructional materials, supplements, and curricula guides, as well as benchmark assessments, including those tied to student learning targets for the school and teacher accountability programs, all of which vary across the districts. Some districts develop their own materials and/or assessments. Furthermore, districts may incur costs for teachers attending training provided by the Department and for providing additional training for all other teachers in order to implement the standards successfully.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent

Evan Brasseaux
Staff Director
Legislative Fiscal Office

1604#061

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28:CXV.2318 and 2353)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2318, The TOPS University Diploma; and §2353, Mathematics. The proposed policy revisions add AP computer science as an equivalent advanced mathematics course for the purposes of satisfying high school graduation requirements and for determining student eligibility to receive a Taylor Opportunity Program for Students (TOPS) award.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 23. Curriculum and Instruction
Subchapter A. Standards and Curricula
§2318. The TOPS University Diploma

A. - C. …

1. For incoming freshmen in 2008-2009 through 2013-2014 who are completing the Louisiana basic core curriculum, the minimum course requirements for graduation shall be the following.

* * *

a. - a.iv. …

b. Mathematics—4 units:

i. all students must complete one of the following:

(a). algebra I (1 unit);

(b). applied algebra I (1 unit); or

(c). algebra I-Pt. 1 and algebra I-Pt. 2 (2 units);

ii. geometry or applied geometry;

iii. the remaining unit(s) shall come from the following:

(a). algebra II;

(b). financial mathematics;

(c). math essentials;

(d). advanced math—pre-calculus;

(e). advanced math—functions and statistics;

(f). pre-calculus*;

(g). calculus*;

(h). probability and statistics*;

(i). discrete mathematics;

(j). AP computer science A; or

(k). a locally initiated elective approved by BESE as a math substitute.

c. - h. …

2. For incoming freshmen in 2008-2009 through 2013-2014 who are completing the Louisiana Core 4 curriculum, the minimum course requirements shall be the following.

* * *

a. - a.iv. …

b. Mathematics—4 units:

i. algebra I, applied algebra I, or algebra I-Pt. 2;

ii. geometry or applied geometry;

iii. algebra II;

iv. the remaining unit shall come from the following:

(a). financial mathematics;

(b). math essentials;

(c). advanced math—pre-calculus;

(d). advanced math—functions and statistics;

(e). pre-calculus*;

(f). calculus*;

(g). probability and statistics*;

(h). discrete mathematics;

(i). AP calculus BC;

(j). AP computer science A; or

(k). a locally initiated elective approved by BESE as a math substitute.

c. - j. …

3. For incoming freshmen in 2014-2015 and beyond who are completing the TOPS university diploma, the minimum course requirements shall be the following:

a. - a .iv.(e). …

b. mathematics—four units:

i. algebra I;

ii. geometry;

iii. algebra II;

NOTE: Integrated Mathematics I, II, and III may be substituted for the Algebra I, Geometry, and Algebra II sequence.

iv. one of the following:

(a). algebra III;

(b). advanced math—functions and statistics;

(c). advanced math—pre-calculus;

(d). pre-calculus;

(e). IB math studies (math methods);

(f). calculus;

(g). AP calculus AB;

(h). IB mathematics SL;

(i). AP calculus BC;

(j). AP statistics;

(k). IB further mathematics HL;

(l). IB mathematics HL;

(m). probability and statistics; or

(n). AP computer science A;

3.c. - 6.a.vi. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 2016), LR 42:

Subchapter B. Academic Programs of Study
§2353. Mathematics

A. The mathematics course offerings for the college diploma shall be as follows.

Course Title(s)	Units
Advanced Math—Pre-Calculus	1
Advanced Math—Functions and Statistics	1
Algebra I, II	1 each
Applied Algebra I	1
Algebra I—Part 1	1
Algebra I—Part 2	1
AP Computer Science A	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics (Literacy)	1
Geometry	1
Applied Geometry	1
Integrated Mathematics I, II, III	1 each
Pre-Calculus	1
Probability and Statistics	1
Math Essentials	1
AP Calculus BC	1
AP Calculus AB	1
AP Statistics	1
IB Math Studies (Math Methods)	1
IB Mathematics SL	1
IB Further Mathematics HL	1
IB Mathematics HL	1

B. - C. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:2605 (December 2007), LR 34:1609 (August 2008), LR 35:2322 (November 2009), LR 36:1493 (July 2010), LR 38:760 (March 2012), LR 40:999 (May 2014), LR 40:2527 (December 2014), LR 42:

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1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

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1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
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Small Business Analysis

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Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revision adds an additional course to the Mathematics options for students to earn a TOPS university diploma. There may be costs associated with specialized training for AP courses in public schools which may offer these courses but these are expected to be nominal and included in ongoing training which is funded in part with federal grant funds.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux	Evan Brasseaux
Deputy Superintendent	Staff Director
1604#021	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook
for Nonpublic School Administrators
(LAC 28:LXXIX.2109 and 2323)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*: §2109, High School Graduation Requirements; and §2323, Mathematics. The proposed policy revisions add AP computer science as an equivalent advanced mathematics course for the purposes of satisfying high school graduation requirements and for determining student eligibility to receive a Taylor Opportunity Program for Students (TOPS) award.

Title 28
EDUCATION
Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators
Chapter 21. Curriculum and Instruction
Subchapter C. Secondary Schools
§2109. High School Graduation Requirements

A. …

B. For incoming freshmen from 2009-2010 to 2013-2014 who are completing the Louisiana Core 4 Curriculum, the minimum course requirements shall be the following:

1. …
2. mathematics—4 units, shall be:
   a. algebra I (1 unit) or algebra I-Pt. 2;
   b. geometry;
   c. algebra II;
   d. the remaining unit shall come from the following: financial mathematics, math essentials, advanced mathematics-pre-calculus, advanced mathematics-functions and statistics, pre-calculus, calculus, probability and statistics, discrete mathematics, AP calculus BC, AP computer science A, or a locally-initiated elective as a math substitute;
3. - 9. …

C. For incoming freshmen in 2009-2010 through 2013-2014 who are completing the Louisiana Basic Core Curriculum, the minimum course requirements for graduation shall be the following.

1. …
2. Mathematics—4 units, shall be:
   a. algebra I (1 unit) or algebra I-pt. 1 and algebra I-pt. 2 (2 units);
   b. geometry;
   c. the remaining units shall come from the following:
      i. algebra II;
      ii. financial mathematics;
      iii. math essentials;
      iv. advanced mathematics-pre-calculus;
      v. advanced mathematics-functions and statistics;
      vi. pre-calculus;
      vii. calculus;
      viii. probability and statistics;
      ix. discrete mathematics;
      x. AP computer science A; or
      xi. a locally initiated elective approved by BESE as a math substitute.
3. - 7. …

D. For incoming freshmen in 2014-2015 and beyond who are completing the TOPS university diploma, the minimum course requirements shall be the following:

1. - 1.d.v. …
2. mathematics—four units:
   a. algebra I;
   b. geometry;
   c. algebra II;

   NOTE: Integrated Mathematics I, II, and III may be substituted for the Algebra I, Geometry, and Algebra II sequence.

   d. one of the following:
      i. algebra III;
      ii. advanced math—functions and statistics;
      iii. advanced math—pre-calculus;
      iv. pre-calculus;
      v. IB math studies (math methods);
      vi. calculus;
      vii. AP calculus AB;
      viii. IB mathematics SL;
      ix AP calculus BC;
      x. AP statistics;
      xi. IB further mathematics HL;
      xii. IB mathematics HL;
      xiii. probability and statistics; or
      xiv. AP computer science A

D.3. - F.3.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:3081 (December 2005), LR 34:2099 (October 2008), LR 36:2849 (December 2010), LR 37:2142, 2144 (July 2011), repromulgated LR 37:2390 (August 2011), amended LR 37:2597 (September 2011), LR 38:769 (March 2012), LR 38:1008 (April 2012), LR 39:1444 (June 2013), LR 40:1682 (September 2014), LR 40:2535 (December 2014), LR 41:915 (May 2015), LR 41:1485 (August 2015), LR 41:2127 (October 2015), LR 42:

Chapter 23. High School Program of Studies

§2323. Mathematics

A. The mathematics course offerings shall be as follows.

Course Title	Unit(s)
Advanced Mathematics I	1
Advanced Mathematics II	1
Algebra I	1
Algebra I-Part I	1
Algebra 1-Part II	1
Algebra II	1
AP Computer Science A	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics (Literacy)	1
Geometry	1
Integrated Mathematics I	1
Integrated Mathematics II	1
Integrated Mathematics III	1
Pre-Calculus	1
Probability and Statistics	1
Math Essentials	1
AP Calculus BC	1
AP Calculus AB	1
AP Statistics	1
IB Math Studies (Math Methods)	1
IB Mathematics SL	1
IB Further Mathematics HL	1
IB Mathematics HL	1

B. Financial mathematics may be taught by the business education department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.1, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 30:2776 (December 2004), LR 31:3086 (December 2005), LR 34:2101 (October 2008), LR 36:2849 (December 2010), LR 38:771 (March 2012), LR 39:1449 (June 2013), LR 40:1685 (September 2014), LR 40:2538 (December 2014), LR 42:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revision will have no effect on costs or savings to state or local governmental units as it merely adds an additional course option for students to earn a TOPS University diploma.

The proposed policy revisions add AP Computer Science as an optional equivalent advanced mathematics course for the

purposes of satisfying high school graduation requirements and for determining student eligibility to receive a Taylor Opportunity Program for Students (TOPS) award.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed revision may result in a cost for teacher training. It is highly recommended that teachers of Advanced Placement courses participate in special training. The cost of the training is $600.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux	Evan Brasseaux
Deputy Superintendent	Staff Director
1604#023	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1955—Louisiana Content Standards, Benchmarks, and Grade Expectations for Mathematics (LAC 28:CXIX.Chapters 1-17)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education (BESE) approved for advertisement the repeal of *Bulletin 1955—Louisiana Student Standards for Mathematics*. This action is required because these standards, initially approved by BESE in 2003, are obsolete having been replaced by standards approved by BESE in 2010.

Title 28
EDUCATION
Part CXIX. Bulletin 1955—Louisiana Content Standards, Benchmarks, and Grade Expectations for Mathematics

Chapter 1. General

§101. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2834 (November 2005), repealed LR 42:

§103. Information Literacy Model for Lifelong Learning

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2834 (November 2005), repealed LR 42:

§105. Philosophy

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2835 (November 2005), repealed LR 42:

§107. Educational Environment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2837 (November 2005), repealed LR 42:

§109. Assessment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2838 (November 2005), repealed LR 42:

§111. Content Strands

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2839 (November 2005), repealed LR 42:

Chapter 3. Strand One: Number and Number Relations

§301. Number and Number Relations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2839 (November 2005), repealed LR 42:

§303. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2839 (November 2005), repealed LR 42:

§305. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2840 (November 2005), repealed LR 42:

§307. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2840 (November 2005), repealed LR 42:

Chapter 5. Strand Two: Algebra

§501. Algebra

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2840 (November 2005), repealed LR 42:

§503. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2841 (November 2005), repealed LR 42:

§505. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2841 (November 2005), repealed LR 42:

§507. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2841 (November 2005), repealed LR 42:

Chapter 7. Strand Three: Measurement

§701. Measurement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2841 (November 2005), repealed LR 42:

§703. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2841 (November 2005), repealed LR 42:

§705. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2842 (November 2005), repealed LR 42:

§707. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2842 (November 2005), repealed LR 42:

Chapter 9. Strand Four: Geometry

§901. Geometry

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2842 (November 2005), repealed LR 42:

§903. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2843 (November 2005), repealed LR 42:

§905. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2843 (November 2005), repealed LR 42:

§907. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2843 (November 2005), repealed LR 42:

Chapter 11. Strand Five: Data Analysis, Probability, and Discrete Math

§1101. Data Analysis, Probability, and Discrete Math

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2843 (November 2005), repealed LR 42:

§1103. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2844 (November 2005), repealed LR 42:

§1105. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2844 (November 2005), repealed LR 42:

§1107. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2844 (November 2005), repealed LR 42:

Chapter 13. Strand Six: Patterns, Relations, and Functions

§1301. Patterns, Relations, and Functions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2844 (November 2005), repealed LR 42:

§1303. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2845 (November 2005), repealed LR 42:

§1305. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2845 (November 2005), repealed LR 42:

§1307. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2845 (November 2005), repealed LR 42:

Chapter 15. Grade Level Expectations

§1501. Prekindergarten

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2845 (November 2005), repealed LR 42:

§1503. Kindergarten

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2846 (November 2005), repealed LR 42:

§1505. First Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2846 (November 2005), repealed LR 42:

§1507. Second Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2847 (November 2005), repealed LR 42:

§1509. Third Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2848 (November 2005), repealed LR 42:

§1511. Fourth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2849 (November 2005), repealed LR 42:

§1513. Fifth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2850 (November 2005), repealed LR 42:

§1515. Sixth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2851 (November 2005), repealed LR 42:

§1517. Seventh Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2852 (November 2005), repealed LR 42:

§1519. Eighth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2853 (November 2005), repealed LR 42:

§1521. Ninth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2855 (November 2005), repealed LR 42:

§1523. Tenth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2856 (November 2005), repealed LR 42:

§1525. Eleventh and Twelfth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2856 (November 2005), repealed LR 42:

Chapter 17. Glossary and References

§1701. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2857 (November 2005), repealed LR 42:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and

kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1955—Louisiana Content Standards, Benchmarks, and Grade Expectations for Mathematics

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revision will have no effect on costs or savings to state or local governmental units.

This action is required because these standards initially approved in 2003, are obsolete, having been replaced by standards approved by BESE in 2010. Proposed rule changes to Bulletin 142 contain new standards replacing the 2010 standards.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1604#022

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1965—Louisiana Content Standards, Benchmarks, and Grade Expectations for English Language Arts (LAC 28:LXIII.Chapters 1-19)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the repeal of *Bulletin 1965—Louisiana Content Standards, Benchmarks, and Grade Expectations for English Language Arts*. This action is required because these standards, initially approved by BESE in 2003, are obsolete having been replaced by standards approved by BESE in 2010.

Title 28
EDUCATION
Part LXIII. Bulletin 1965—Louisiana Content Standards, Benchmarks, and Grade Expectations for English Language Arts

Chapter 1. General

§101. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2858 (November 2005), repealed LR 42:

§103. Louisiana Content Standards Foundation Skills

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2858 (November 2005), repealed LR 42:

§105. Information Literacy Model for Lifelong Learning

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2859 (November 2005), repealed LR 42:

§107. Louisiana English Language Arts Content Standards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2859 (November 2005), repealed LR 42:

Chapter 3. Standard One

§301. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2860 (November 2005), repealed LR 42:

§303. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2860 (November 2005), repealed LR 42:

§305. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2860 (November 2005), repealed LR 42:

§307. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2860 (November 2005), repealed LR 42:

Chapter 5. Standard Two

§501. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003), amended LR 31:2861 (November 2005), repealed LR 42:

§503. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003), amended LR 31:2861 (November 2005), repealed LR 42:

§505. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003), amended LR 31:2861 (November 2005), repealed LR 42:

§507. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2861 (November 2005), repealed LR 42:

Chapter 7. Standard Three

§701. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2861 (November 2005), repealed LR 42:

§703. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2862 (November 2005), repealed LR 42:

§705. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2862 (November 2005), repealed LR 42:

§707. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2862 (November 2005), repealed LR 42:

Chapter 9. Standard Four

§901. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2862 (November 2005), repealed LR 42:

§903. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003), amended LR 31:2862 (November 2005), repealed LR 42:

§905. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003), amended LR 31:2862 (November 2005), repealed LR 42:

§907. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003), amended LR 31:2863 (November 2005), repealed LR 42:

Chapter 11. Standard Five

§1101. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003), amended LR 31:2863 (November 2005), repealed LR 42:

§1103. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003), amended LR 31:2863 (November 2005), repealed LR 42:

§1105. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:310 (March 2003), amended LR 31:2863 (November 2005), repealed LR 42:

§1107. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:310 (March 2003), amended LR 31:2864 (November 2005), repealed LR 42:

Chapter 13. Standard Six

§1301. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:610 (March 2003), amended LR 31:2/864 (November 2005), repealed LR 42:

§1303. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:310 (March 2003), amended LR 31:2864 (November 2005), repealed LR 42:

§1305. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:310 (March 2003), amended LR 31:2864 (November 2005), repealed LR 42:

§1307. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2858 (November 2005), repealed LR 42:

Chapter 15. Standard Seven

§1501. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:311 (March 2003), amended LR 31:2865 (November 2005), repealed LR 42:

§1503. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:311 (March 2003), amended LR 31:2865 (November 2005), repealed LR 42:

§1505. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:311 (March 2003), amended LR 31:2865 (November 2005), repealed LR 42:

§1507. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2858 (November 2005), repealed LR 42:

Chapter 17. Grade Level Expectations

§1701. Prekindergarten

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2865 (November 2005), repealed LR 42:

§1703. Kindergarten

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2866 (November 2005), repealed LR 42:

§1705. First Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2868 (November 2005), repealed LR 42:

§1707. Second Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2870 (November 2005), repealed LR 42:

§1709. Third Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2871 (November 2005), repealed LR 42:

§1711. Fourth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2873 (November 2005), repealed LR 42:

§1713. Fifth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2875 (November 2005), repealed LR 42:

§1715. Sixth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2877 (November 2005), repealed LR 42:

§1717. Seventh Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2880 (November 2005), repealed LR 42:

§1719. Eighth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2882 (November 2005), repealed LR 42:

§1721. Ninth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2884 (November 2005), repealed LR 42:

§1723. Tenth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2886 (November 2005), repealed LR 42:

§1725. Eleventh and Twelfth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2889 (November 2005), repealed LR 42:

Chapter 19. Glossary and References

§1901. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2892 (November 2005), repealed LR 42:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1965—Louisiana Content Standards, Benchmarks, and Grade Expectations for English Language Arts

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions will have no effect on costs or savings to state or local governmental units.

This action is required because these standards initially approved in 2003, are obsolete, having been replaced by standards approved by BESE in 2010. Proposed rule changes to Bulletin 141 contain new standards replacing the 2010 standards.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1604#030

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Tuition Trust Authority
Office of Student Financial Assistance

START Saving Program and 2015 Interest Rate
(LAC 28:VI.305 and 315)

The Louisiana Tuition Trust Authority announces its intention to amend its START Saving Program rules (R.S. 17:3091 et seq.).

This rulemaking provides that an account owner may change his investment option twice during each calendar year and adds the applicable interest rates for the 2015 calendar year. (ST16170NI)

Title 28
EDUCATION
Part VI. Student Financial Assistance—Higher Education Savings
Chapter 3. Education Savings Account
§305. Deposits to Education Savings Accounts

A. - D.4.d. …

e. Beginning the 2015 calendar year and thereafter, the investment option may be changed two times each calendar year.

D.5. - E.4. …

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 35:236 (February 2009), LR 35:1234 (July 2009), LR 36:492 (March 2010), LR 36:2550 (November 2010), LR 42:

§315. Miscellaneous Provisions

A. - B.32. …

33. For the year ending December 31, 2015, the Louisiana Education Tuition and Savings Fund earned an interest rate of 1.67 percent.

34. For the year ending December 31, 2015, the Savings Enhancement Fund earned an interest rate of 1.15 percent.

C. - S.2. …

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1886 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 39:2238 (August 2013), LR 40:1926 (October 2014), LR 41:1487 (August 2015), LR 42:

Family Impact Statement

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

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (ST16170NI) until 4:30 p.m., May 10, 2016, to Sujuan Williams Boutté, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: START Saving Program and 2015 Interest Rate

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units. This proposed change places in rule the actual earnings realized on START accounts which are invested in the Louisiana Principal Protection investment option and the actual earnings realized on the investment of Earnings Enhancements. The increase earned on accounts invested in the Principal Protection investment option is the property of the account owners (it is not State General Fund), and the interest earned on Earning Enhancements is allocated to START accounts and is the property of the account owner upon payment of START account funds for the Qualified Higher Education Expenses (QHEE) of a beneficiary.

This rulemaking also provides that account owners may change their investment option twice each year. There is no cost or savings associated with the implementation of this change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

These changes adopt interest rates for deposits and earnings enhancements for the year ending December 31, 2015. START account holders earned slightly less than in the previous year. This rulemaking also provides that a START account owner may change his investment option twice each year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

Robyn Rhea Lively
Senior Attorney
1604#004

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Control of Emissions of Smoke
(LAC 33:III.1105 and 1107)(AQ361)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.1105.A and 1107.A (AQ361).

This Rule will repeal LAC 33:III.1107.A. The relevant part of LAC 33:III.1105 (Smoke from Flaring Shall Not Exceed 20 Percent Opacity) provides that the, "emission of smoke from a flare or other similar device used for burning in connection with pressure valve releases for control over process upsets shall be controlled so that the shade or appearance of the emission does not exceed 20 percent opacity … for a combined total of 6 hours in any 10 consecutive days."

LAC 33:III.1107.A allows LDEQ to grant an exemption from the provisions of LAC 33:III.1105 "during start-up and shutdown periods if the flaring was not the result of failure to maintain or repair equipment." This exemption was approved by EPA into Louisiana's state implementation plan (SIP) on July 5, 2011 (76 FR 38977).

However, on June 12, 2015, EPA promulgated a Rule* finding that several Louisiana air quality regulations, including LAC 33:III.1107.A, are "substantially inadequate to meet [Clean Air Act] requirements" because they provide "impermissible discretionary exemptions" from "otherwise applicable SIP emission limitations." Consequently, EPA issued a "SIP call" directing affected states to submit corrective SIP revisions by November 22, 2016.

In response to EPA's SIP call, LDEQ will repeal LAC 33:III.1107.A for two primary reasons. One, there is incongruity between the provisions of LAC 33:III.1105 and LAC 33:III.1107.A. LAC 33:III.1105 applies to flaring in connection with process upsets, whereas §1107.A addresses startup and shutdown periods (not malfunctions or upsets). Two, other standards for flares that are commonly applicable, such as 40 CFR 63.11(b)(4), require the control device to "be designed for and operated with no visible emissions, except for periods not to exceed a total of 5 minutes during any 2 consecutive hours."

* State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction [80 FR 33840]

The basis and rationale for this Rule are to repeal the exemption provided by LAC 33:III.1107.A in order to comply with EPA's SIP call. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 11. Control of Emissions of Smoke

§1105. Smoke from Flaring Shall Not Exceed 20 Percent Opacity

A. The emission of smoke from a flare or other similar device used for burning in connection with pressure valve releases for control over process upsets shall be controlled so that the shade or appearance of the emission does not exceed 20 percent opacity (LAC 33:III.1503.D.4, Table 4) for a combined total of 6 hours in any 10 consecutive days. If it appears the emergency cannot be controlled in six hours, SPOC shall be notified by the emitter in accordance with LAC 33:I.3923 as soon as possible after the start of the upset period.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 25:656 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000), LR 30:1671 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2084 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:

§1107. Exemptions

A. Reserved.

B. - B.6. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2084 (October 2007), LR 37:1144 (April 2011), amended by the Office of the Secretary, Legal Division, LR 42:

Family Impact Statement

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

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ361. Such comments must be received no later than June 1, 2016, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ361. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on May 25, 2016, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Control of Emissions of Smoke

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule. The proposed rule change repeals an exemption from the flare opacity standard "during start-up and shutdown periods if the flaring was not the result of failure to maintain or repair equipment." The flare opacity rule that mentions the exemption applies to process upsets, not start-ups and shutdowns. The proposed rule change also addresses the U.S. Environmental Protection Agency decision that declared this part of the rule to be an impermissible exemption.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Owners/operators of flares that smoke during flaring will no longer be able to apply for an exemption for opacity exceedances during start-up and shutdown periods. The violations of the opacity limit may result in enforcement action. However, the department is not aware of any groups that routinely apply for the exemption.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule.

Herman Robinson
General Counsel
1604#051

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Incorporation by Reference
Federal Air Quality Regulations—2015
(LAC 33:III.506, 507, 2160, 3003,
5116, 5311 and 5901)(AQ359ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.506, 507, 2160, 3003, 5116, 5311 and 5901 (Log #AQ359ft).

This Rule is identical to federal regulations found in 40 CFR part 51, appendix M; 40 CFR part 60; 40 CFR part 61; 40 CFR part 63; 40 CFR part 68; 40 CFR part 70.6(a); 40 CFR part 96, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule incorporates by reference (IBR) into the *Louisiana Administrative Code* (LAC), Title 33, Part III, Air the following federal regulations included in the July 1, 2015 edition of the *Code of Federal Regulations* (CFR); 40 CFR parts 51-appendix M, 60, 61, 63, 68 and 70.6(a). Any exception to the IBR is explicitly listed in the Rule. This updates the references to July 1, 2015, for standard of performance for new stationary sources, 40 CFR part 60. The Rule also updates the references to July 1, 2015, for the national emission standards for hazardous air pollutants (NESHAP) and for NESHAP for source categories, 40 CFR 61 and 63. In order for Louisiana to maintain equivalency with federal regulations, certain regulations in the most current *Code of Federal Regulations*, July 1, 2015, must be adoped into the *Louisiana Administrative Code* (LAC). This rulemaking is also necessary to maintain delegation authority granted to Louisiana by the Environmental Protection Agency. The basis and rationale for this Rule are to mirror the federal regulation as they apply to Louisiana's affected sources. This Rule meets an exception listed in R.S.

30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§506. Clean Air Interstate Rule Requirements

A. - B.4. …

C. Annual Sulfur Dioxide. Except as specified in this Section, the federal SO_2 model Rule, published in the *Code of Federal Regulation* at 40 CFR 96, July 1, 2015, is hereby incorporated by reference, except for subpart III-CAIR SO_2 opt-in units and all references to opt-in units.

D. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30.2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:1597 (September 2006), amended LR 33:1622 (August 2007), LR 33:2083 (October 2007), LR 34:978 (June 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), repromulgated LR 36:2551 (November 2010), amended LR 37:2989 (October 2011), LR 38:1229 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1276 (May 2013), LR 40:1334 (July 2014), LR 42:

§507. Part 70 Operating Permits Program

A. - B.1. …

2. No part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2015. Upon issuance of the permit, the part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007), LR 33:2083 (October 2007), LR 33:2630 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:1229 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1276 (May 2013), LR 40:1334 (July 2014), LR 41:1274 (July 2015), LR:42:

Chapter 21. Control of Emission of Organic Compounds

Subchapter N. Method 43—Capture Efficiency Test Procedures

[Editor's Note: This Subchapter was moved and renumbered from Chapter 61 (December 1996).]

§2160. Procedures

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR 51, appendix M, July 1, 2015, are hereby incorporated by reference.

B. - C.2.b.iv. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013), LR 40:1334 (July 2014), LR 41:1274 (July 2015), LR 42:

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 *Code of Federal Regulations* (CFR) Part 60

A. Except for 40 CFR 60, subpart AAA, and as modified in this Section, standards of performance for new stationary sources, published in the *Code of Federal Regulations* at 40 CFR 60, July 1, 2015, are hereby incorporated by reference as they apply to the state of Louisiana.

B. - C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2754 (November 2012), LR 39:1039 (April

2013), LR 39:1277 (May 2013), LR 40:1335 (July 2014), LR 40:2540 (December 2014), LR:41:1274 (July 2015), LR 42:

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants, published in the *Code of Federal Regulations* at 40 CFR 61, July 1, 2015, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR Part 61	Subpart/Appendix Heading
* * *	

B. - C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 33:2094 (October 2007), LR 34:1391 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013), LR 40:1335 (July 2014), LR 41:1274 (July 2015), LR 42:

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants for source categories, published in the *Code of Federal Regulations* at 40 CFR 63, July 1, 2015, are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

B. - C.3. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2095 (October 2007), LR 33:2627 (December 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013), LR 40:1335 (July 2014), LR:41:1275 (July 2015), LR 42:

Chapter 53. Area Sources of Toxic Air Pollutants

Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants for source categories, published in the *Code of Federal Regulations* at 40 CFR 63, July 1, 2015, are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

B. - C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2096 (October 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2756 (November 2012), LR 39:1278 (May 2013), LR 40:1336 (July 2014), LR 41:1275 (July 2015), LR 42:

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR 68, July 1, 2015.

B. - C.6. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR

29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007), LR 34:1392 (July 2008), LR 35:1109 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013), LR 40:1336 (July 2014), LR 41:1275 (July 2015), LR 42:

Family Impact Statement

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

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Providers Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ359ft. Such comments must be received no later than May 25, 2016, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ359ft. This regulation is available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on May 25, 2016, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

1604#047

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

VOC Emissions—Industrial Wastewater
(LAC 33:III.2153)(AQ362)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2153.B.1.i (AQ362).

This Rule will repeal LAC 33:III.2153.B.1.i. Due to LAC 33:III.2153 (Limiting VOC Emissions from Industrial Wastewater), "affected VOC wastewater streams" are required to be controlled. More specifically, LAC 33:III.2153.B.1.d.i requires vents on covers and certain junction box covers to be, "equipped with either a control device or a vapor recovery system that maintains a minimum control efficiency of 90 percent VOC removal or a VOC concentration of less than or equal to 50 parts per million by volume."

LAC 33:III.2153.B.1.i provides that the aforementioned control device or recovery device is, "not … required to meet the 90 percent removal efficiency or 50 ppmv concentration during periods of malfunction or maintenance on the devices for periods not to exceed 336 hours per year." This exemption was approved by EPA into Louisiana's state implementation plan (SIP) on July 5, 2011 (76 FR 38977).

However, on June 12, 2015, EPA promulgated a Rule* finding that several Louisiana air quality regulations, including LAC 33:III.2153.B.1.i, are "substantially inadequate to meet [Clean Air Act] requirements" because they provide "automatic exemptions for excess emissions from otherwise applicable SIP emission limitations." Consequently, EPA issued a "SIP call" directing affected states to submit corrective SIP revisions by November 22, 2016.

An LDEQ query of effective air permits returned no documents identifying LAC 33:III.2153.B.1.i as an applicable requirement. Moreover, LDEQ reached out to the regulated community, inquiring if any affected source relied upon this exemption as a means to comply with LAC 33:III.2153. No affirmative responses were received. Therefore, in response to EPA's SIP call, LDEQ will repeal LAC 33:III.2153.B.1.i.

* State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction [80 FR 33840]

The basis and rationale for this Rule are to repeal the exemption provided by LAC 33:III.2153.B.1.i in order to comply with EPA's SIP call. This Rule meets an exception

listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter M. Limiting Volatile Organic Compound (VOC) Emissions from Industrial Wastewater

§2153. Limiting VOC Emissions from Industrial Wastewater

A. - B. …

1. The wastewater component shall meet the following requirements:

a. - h.iii. …

i. Repealed.

B.2. - I. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:936 (September 1995), amended LR 22:1212 (December 1996), LR 24:26 (January 1998), LR 25:850 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 28:1765 (August 2002), LR 30:747 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2441 (October 2005), LR 33:2087 (October 2007), LR 37:3232 (November 2011), amended by the Office of the Secretary, Legal Division, LR 38:2752 (November 2012), LR 42:

Family Impact Statement

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

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ362. Such comments must be received no later than June 1, 2016, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ362. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on May 25, 2016, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: VOC Emissions—Industrial Wastewater

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule. The proposed rule change repeals the exemption for certain wastewater tanks during malfunction or maintenance periods. The rule was determined to be an impermissible exemption by the U.S. Environmental Protection Agency. The Department of Environmental Quality (DEQ) surveyed the regulated community and did not find any permits that mentioned the exemption as a means to comply to the rule limiting volatile organic compound emissions from industrial wastewater.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule. DEQ has not been able to identify any facility that relies upon this exemption as a means to comply with LAC 33:III.2153.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule.

Herman Robinson	Evan Brasseaux
General Counsel	Staff Director
1604#052	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Board of Pardons

Clemency Consideration Eligibility and Application Filing (LAC 22:V.Chapter 2)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons hereby gives notice of its intent to amend its rules in LAC 22:V.203, 205, and 211. These proposed rule changes revise application filing procedures and eligibility for clemency

reconsideration. Section 203 provides that an incarcerated applicant must be free of disciplinary reports for a period of 24 months prior to submitting an application for clemency and for the 24-month period prior to a clemency hearing. Section 205 establishes procedures for an applicant to request reconsideration when notified by the board that no action was taken by the governor on their initial application.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part V. Board of Pardons
Chapter 2. Clemency
§203. Eligibility for Clemency Consideration

A. - C.2.a. ...

b. must have been disciplinary report free for a period of at least 24 months prior to the date of the application or at the time of the hearing (if a hearing is granted); and

C.2.c. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2255 (August 2013), amended LR 42:

§205. Application Filing Procedures

A. - D.4. ...

5. Denial/No Action Taken by Governor after Favorable Recommendation. The board shall notify an applicant after its receipt of notification from the governor that the board's favorable recommendation was denied or no action was taken.

a. If the applicant is notified of denial by the governor, the applicant may not reapply for clemency for at least four years from the date of the denial. The application filing procedures in Subsections A-D.3 of this Section shall apply.

b. If the applicant is notified that no action was taken by the governor, the applicant may request reconsideration of the board's favorable recommendation. Applicant must submit a re-application within one year from the date on the board's notification to the applicant of no action taken by the governor.

i. Upon receipt of the re-application in accordance with this section, the board shall set the matter for an administrative review. At least 30 days prior to the scheduled docket date for administrative review, the board shall give written notice of the date, time, and place to the following:

(a). the district attorney and sheriff of the parish in which the applicant was convicted and, in Orleans Parish, the superintendent of police;

(b). the applicant;

(c). the victim who has been physically or psychologically injured by the applicant (if convicted of that offense), and the victim's spouse or next of kin, unless the injured victim 's spouse or next of kin advises the board, in writing, that such notification is not desired;

(d). the spouse or next of kin of a deceased victim when the offender responsible for the death is the applicant (if convicted of that offense), unless the spouse or next of kin advises the board in writing that such notification is not desired;

(e). the Crime Victim Services Bureau of the Department of Public Safety and Corrections; and

(f). any other interested person who has notified the board of pardons, in writing, requesting such notice providing their name and return address.

c. The board shall evaluate the record of the applicant. Action on the re-application may include setting the matter for a clemency hearing, affirming the board's previous favorable recommendation, or denying the re-application.

d. If the applicant does not apply for reconsideration within the one year period, the application filing procedures in Subsections A-D.3 of this Section shall apply.

E. Notice of Action Taken on Application. After review of application for clemency by the board, applicants shall be notified, in writing, of action taken by the board. Action can include granting a hearing before the board or denial of a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2255 (August 2013), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:42 (January 2015), amended by the Office of the Governor, Board of Pardons LR 42:

§211. Hearings before the Pardon Board

A. - F. ...

G. Applicant's failure to attend and/or notify the Board of Pardons office of his/her inability to attend the hearing will result in an automatic denial. The applicant may reapply two years from the date of scheduled hearing. Lifers who fail to attend and/or advise of inability to attend may reapply in five years, and every five years thereafter.

H. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2256 (August 2013), amended LR 42:

Family Impact Statement

Amendment to the rules has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relations to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Written comments may be addressed to Mona Wagner, Corrections Management Officer, Board of Pardons and

Parole, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on May 10, 2016.

Sheryl M. Ranatza
Board Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Clemency Consideration Eligibility and Application Filing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The purpose of this rule change is to promulgate LAC 22:V:203 and 205. These proposed rule changes revise application filing procedures and eligibility for clemency reconsideration. The proposed rule change establishes guidelines that may reduce the workload of the agency by providing applicants an opportunity to have their requests reconsidered without going through the entire application process again.

LAC 22:V:203 provides that an incarcerated applicant must be free of disciplinary reports for a period of twenty-four months prior to submitting an application for clemency and for the twenty-four month period prior to a clemency hearing.

LAC 22:V:205 establishes procedures for an applicant to request reconsideration when notified by the board that no action was taken by the Governor on their initial application.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

To the extent incarcerated individuals may realize a potential increase in opportunity for pardons, they may also realize an economic benefit in potentially entering or returning to the workforce.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III
Undersecretary
1604#044

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Office of Financial Institutions

Investment Adviser Registration Procedure
(LAC 10:XIII.Chapter 13)

In accordance with the Louisiana Securities Law, R.S. 51:701 et seq., and pursuant to the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the commissioner of financial institutions, in his capacity as the commissioner of securities (hereinafter "the commissioner") hereby gives notice of his intent to amend LAC 10:XIII.1301-1311, a Rule to place a requirement on registered investment adviser firms that in order for such firms to be registered with the commissioner, all of their investment adviser representatives must either satisfy the examination criteria set out in §1303 or qualify for one of the waivers set out in §1305. The Sections below have been amended and adopted to ensure that all investment adviser representatives are properly qualified to provide investment advice to Louisiana citizens.

Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC
Part XIII. Investment Securities
Subpart 1. Securities
Chapter 13. Investment Adviser Registration Procedure

§1301. Definitions

Third-Party Solicitor—an investment adviser representative who meets all of the following criteria:

1. investment advisory business consists solely of referring individuals to other investment adviser firm(s);
2. provides no advice to individuals regarding specific investments;
3. fees consist entirely of referral fees received from the investment adviser firms to whom the investment adviser representative makes referrals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:703(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 32:2055 (November 2006), effective January 1, 2007, amended LR 34:2125 (October 2008), LR 42:

§1303. Examination Requirements

A. Any investment adviser firm applying for registration under R.S. 51:703(D), or renewal of any such registration, shall provide the commissioner with proof that each of its investment adviser representatives has met one of the two following examination requirements:

1. successfully passed the uniform investment adviser law examination (series 65 examination) after January 1, 2000; or
2. …
3. successfully passed the general securities representative examination (series 7 examination) and uniform registered investment adviser examination (series 65 examination) prior to January 1, 2000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:703(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 32:2055 (November 2006), effective January 1, 2007, amended LR 42:

§1309. Grandfather Provision

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:703(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 32:2056 (November 2006), effective January 1, 2007, repealed LR 42:

§1311. Exemptions

A. The requirements of this Chapter shall not apply to third-party solicitors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:703(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 32:2056 (November 2006), effective January 1, 2007, amended LR 34:2126 (October 2008), LR 42:

Family Impact Statement

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

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

Other than as described in the Fiscal and Economic Impact Statement, this Rule has no known adverse economic impact on small business as described in R.S. 49:965.5.

Provider Impact Statement

This Rule has no known adverse economic impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments regarding this proposed Rule no later than 4:30 p.m., May 11, 2016, to Rhonda Reeves, Deputy Commissioner of Securities, P.O. Box 94095, Baton Rouge, LA, 70804-9095, or by hand delivery to the Office of Financial Institutions, 8660 United Plaza Boulevard, Second Floor, Baton Rouge, LA 70809-7024.

John Ducrest, CPA
Commissioner of Securities

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Investment Adviser Registration Procedure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will have no implementation costs or savings to the state of Louisiana or any other governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will require representatives of investment adviser firms to pass securities industry examination(s) or obtain an industry certification. The vast majority of current registrants already meet these requirements. Those registrants who do not will be required to pass an examination or obtain a certification. The examinations are administered by the Financial Industry Regulatory Authority (FINRA) and include fees ranging from $155 to $305. The certifications are awarded by various organizations and include fees ranging from approximately $500 to $1,000. Although the examination and certification requirements are only necessary at the time of initial application, each investment adviser representative must also meet the necessary continuing education or recertification requirements to maintain such examination or professional certification.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Some persons may be unable to pass the examination or obrain the certification required by the proposed rule; therefore, there may be some effect on employment and competition. However, this impact is expected to be minimal.

John Ducrest, CPA
Commissioner
1604#045

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Behavior Analyst Board

Supervision—State Certified Assistant Behavior Analysts and Registered Line Technicians (LAC 46:VIII.Chapter 5)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq, the Louisiana Behavior Analyst Board intends to repromulgate §501, §502, §503, and §504 and promulgate §509, §511, §513, §515, and §517 under Subchapter B.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part VIII. Behavior Analysts
Chapter 5. Supervision Requirements
Subchapter A. Supervision Requirements for State Certified Assistant Behavior Analysts (SCABA)

§501. Supervision—General

A. A state certified assistant behavior analyst (hereinafter referred to as SCABA) shall assist a licensed behavior analyst (hereinafter referred to as LBA) in the delivery of applied behavior analysis in compliance with all state and federal statutes, regulations, and rules.

B. The SCABA may only perform services under the direct supervision of a LBA as set forth in this Rule.

C. Supervision shall be an interactive process between the LBA and SCABA. It shall be more than peer review or co-signature.

D. There shall be a written supervisory agreement between the LBA and the SCABA that shall address:

1. the domains of competency within which services may be provided by the SCABA; and

2. the nature and frequency of the supervision of the practice of the SCABA by the LBA.

E. A copy of the written supervisory agreement must be maintained by the LBA and the SCABA and made available to the board upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:1933 (October 2014), amended LR 42:

§503. Supervision—Requirements [Formerly §502]

A. The manner of supervision shall depend on the treatment setting, patient/client caseload, and the competency of the SCABA. At a minimum, for full-time SCABAs, working at least 30 hours per week, a face-to-face supervisory meeting shall occur not less than once every

four weeks, with each supervisory session lasting no less than one hour for full-time SCABAs. The qualifying supervision activities may include:

1. direct, real-time observation of the SCABA implementing behavior analytic assessment and intervention procedures with clients in natural environments and/or training others to implement them, with feedback from the supervising LBA; and

2. one-to-one real-time interactions between the supervising LBA and the SCABA to review and discuss assessment procedures, assessment outcomes, possible intervention procedures and materials, data collection procedures, intervention outcome data, modifications of intervention procedures, published research, ethical and professional standards and guidelines, professional development needs and opportunities, and relevant laws, regulations, and policies.

B. More frequent supervisory activities may be necessary as determined by the LBA or SCABA dependent on the level of expertise displayed by the SCABA, the practice setting, and/or the complexity of the patient/client caseload. These additional supervisory activities, however, do not qualify towards the once per month requirements. The non-qualifying additional supervision activities may include, but are not limited to:

1. real-time interactions between a supervising LBA and a group of SCABAs to review and discuss assessment and treatment plans and procedures, client assessment and progress data and reports, published research, ethical and professional standards and guidelines, professional development needs and opportunities, and relevant laws, regulations, and policies; and

2. informal interactions between supervising LBAs and SCABAs via telephone, electronic mail, and other written communication.

C. Supervision requirements for part-time practice, less than 30 hours per week, may be modified at the discretion of the board upon approval of the submitted plan. Additional modifications of the format, frequency, or duration of supervision may be submitted for approval by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:1933 (October 2014), amended LR 42:

§505. Supervisor Responsibilities [Formerly §503]

A. Qualifying supervision shall ensure that the quality of the services provided by the SCABA to his employer and to consumers is in accordance with accepted standards, including the guidelines for responsible conduct for behavior analysts and professional disciplinary and ethical standards for the Behavior Analyst Certification Board or other nation credentialing bodies as approved by the board.

B. Qualifying supervision shall guide the professional development of the SCABA in ways that improve the practitioner's knowledge and skills.

C. The LBA or the supervisor's alternate LBA designee must be available for immediate consultation with the assistant behavior analyst. The supervisor need not be physically present or on the premises at all times.

D. The LBA is ultimately responsible and accountable for client care and outcomes under his clinical supervision. The supervising LBA shall:

1. be licensed by the board as a LBA;

2. not be under restriction or discipline from any licensing board or jurisdiction;

3. not have more than 10 full-time-equivalent SCABAs under his/her supervision at one time without prior approval by the board;

4. provide at least one hour of face-to-face, direct supervision per month per each SCABA.

5. be responsible for all referrals of the patient/client;

6. be responsible for completing the patient's evaluation/assessment. The SCABA may contribute to the screening and/or evaluation process by gathering data, administering standardized tests, and reporting observations. The SCABA may not evaluate independently or initiate treatment before the supervising LBA's evaluation/assessment; and

7. be responsible for developing and modifying the patient's treatment plan. The treatment plan must include goals, interventions, frequency, and duration of treatment. The SCABA may contribute to the preparation, implementation, and documentation of the treatment plan. The supervising behavior analyst shall be responsible for the outcome of the treatment plan and assigning of appropriate intervention plans to the SCABA within the competency level of the SCABA.

E. Be responsible for developing the patient's discharge plan. The SCABA may contribute to the preparation, implementation, and documentation of the discharge plan. The supervising LBA shall be responsible for the outcome of the discharge plan and assigning of appropriate tasks to the SCABA within the competency level of the SCABA.

F. Ensure that all patient/client documentation becomes a part of the permanent record.

G. Conduct at least one on-site observation per client per month.

H. The supervisor shall ensure that the SCABA provides applied behavior analysis as defined in R.S. 37:3702 appropriate to and consistent with his/her education, training, and experience.

I. Inform the board of the termination in a supervisory relationship within 10 calendar days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:1934 (October 2014), amended LR 42:

§507. SCABA Responsibilities [Formerly §504]

A. The supervising LBA has the overall responsibility for providing the necessary supervision to protect the health and welfare of the patient/client receiving treatment from an SCABA. However, this does not absolve the SCABA from his/her professional responsibilities. The SCABA shall exercise sound judgment and provide adequate care in the performance of duties. The SCABA shall:

1. not initiate any patient/client treatment program or modification of said program until the behavior analyst has evaluated, established a treatment plan, and consulted with the LBA;

2. not perform an evaluation/assessment, but may assist in the data gathering process and administer specific assessments where clinical competency has been demonstrated, under the direction of the LBA;

3. not analyze or interpret evaluation data;

4. monitor the need for reassessment and report changes in status that might warrant reassessment or referral;

5. immediately suspend any treatment intervention that appears harmful to the patient/client and immediately notify the supervising LBA; and

6. ensure that all patient/client documentation prepared by the SCABA becomes a part of the permanent record;

7. meet these supervision requirements, even if they are not currently providing behavior analysis services. If not currently providing behavior analysis services, supervision from the supervising LBA may focus on guiding the development and maintenance of the SCABA's professional knowledge and skills and remaining current with the professional literature in the field; and

8. inform the board of the termination in a supervisory relationship within 10 calendar days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:1934 (October 2014), amended LR 42:

Subchapter B. Supervision Requirements for Registered Line Technicians (RLT)

§509. Supervision—General

A. A registered line technician (hereinafter referred to as RLT) shall be responsible for implementing, not designing, the behavior plans designed by their supervising licensed behavior analyst.

B. The RLT may only perform behavior analytic services under the direct supervision of a LBA as set forth in this rule.

C. Supervision can be conducted by either the LBA or SCABA.

D. Supervision shall be an interactive process between the LBA or SCABA and RLT. It shall be more than peer review or co-signature. The supervisor and supervisee should maintain appropriate documentation on all supervision activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 42:

§511. Supervision Requirements

A. The manner of supervision shall depend on the treatment setting, client caseload, and the competency of the RLT. The qualifying supervision must include the following criteria.

1. The LBA must ensure ongoing supervision for a minimum of 5 percent of the hours the RLT spends providing applied behavior-analytic services per month for the clients under their jurisdiction.

2. Supervision must include:

a. at least two face-to-face contacts per month with at least one being real time 1:1 contact;

b. at least one on-site contact with each RLT/client dyad every two months.

3. The LBA may delegate supervisory responsibilities to a SCABA under their direct supervision.

4. Other supervisory activities may include real-time interactions between a supervising LBA or SCABA and a group of RLTs to review and discuss assessment and treatment plans and procedures, client assessment and progress data and reports, published research, ethical and professional standards and guidelines, professional development needs and opportunities, and relevant laws, regulations, and policies.

5. In the case of multiple supervisors, the RLT must be supervised by the LBA or SCABA for the clients assigned under each supervisor's jurisdiction.

6. RLT's who provide substitute services will not be subject to the twice-monthly on-site contact supervisory contact. Substitute services are defined as eight hours or less per client per month. However, it is expected that the RLT will be provided with essential information and assistance pertinent to the client's case. This does not exempt the RLT from the requirement in Paragraph A.1 of this Section for the 5 percent of monthly supervision time.

B. More frequent supervisory activities may be necessary as determined by the LBA, SCABA, or RLT dependent on the level of expertise displayed by the RLT, the practice setting, and/or the complexity of the client caseload. Supervision should occur at a schedule consistent with evidence-based practice and sufficient to ensure competence in the delivery of each of the client's current treatment programs. These additional supervisory activities, however, do not qualify towards minimum supervision requirements. The non-qualifying additional supervision activities may include, but are not limited to, informal interactions between supervising LBA or SCABA and RLT via telephone, electronic mail, and other written or electronic communications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 42:

§513. Supervision Documentation

A. All supervision should be documented and must contain a minimum of the client's name, RLT's name, date, time, brief description of supervision activities, and initials of both RLT and LBA.

B. All supervision documentation should be kept a minimum of six years.

C. Random audits will be conducted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 42:

§515. Supervisor Responsibilities

A. Supervision shall ensure that the quality of the services provided by the RLT to his employer and to consumers is in accordance with accepted standards, including the *Professional and Ethical Compliance Code for Behavior Analysts*, adopted by the Behavior Analyst Certification Board (BACB) board of directors on 08/07/14 and effective as of 01/01/16.

B. Supervision shall guide continuing professional development of the RLT in ways that improve the practitioner's knowledge and skills.

C. It is the responsibility of the designated supervisor to determine which tasks an RLT may perform as a function of his or her training, experience, and competence.

D. The LBA, SCABA, or the supervisor's alternate LBA or SCABA designee must be available for immediate consultation with the RLT. The supervisor need not be physically present or on the premises at all times.

E. The LBA is ultimately responsible and accountable for client care and outcomes under his clinical supervision. The supervising LBA shall:

1. be licensed by the board as a LBA;

2. not be under restriction or discipline from any licensing board or jurisdiction;

3. provide the minimum qualifying supervision requirements as stated in section, however more supervision may be necessary and should be conducted on a schedule consistent with evidence-based practice and sufficient to ensure competence in the delivery of each of the client's current treatment programs;

4. be responsible for all referrals of the client;

5. be responsible for completing the client's evaluation/assessment. The RLT may contribute to the screening and/or evaluation process by gathering data and reporting observations. The RLT may not evaluate independently or initiate treatment before the supervising LBA's evaluation/assessment;

6. be responsible for developing and modifying the client's treatment plan. The treatment plan must include goals, interventions, frequency, and duration of treatment. The RLT may contribute to the preparation, implementation, and documentation of the treatment plan. The supervising behavior analyst shall actively review all aspects of the RLTs contributions and be responsible for the outcome of the treatment plan and assigning of appropriate intervention plans to the RLT within the competency level of the RLT;

7. be responsible for developing the client's discharge plan. The RLT may contribute to the preparation, implementation, and documentation of the discharge plan. The supervising LBA shall be responsible for the outcome of the discharge plan and assigning of appropriate tasks to the RLT within the competency level of the RLT;

8. inform the board of the termination in a supervisory relationship within 10 calendar days;

9. ensure that all client documentation becomes a part of the permanent record; and

10. if a RLT is not currently providing behavior analysis services, proper documentation must be maintained on reasons for not meeting qualifying supervision requirements.

F. The LBA is ultimately responsible and accountable for client care and outcomes under his clinical supervision. The supervising LBA shall:

1. be licensed by the board as a LBA;

2. not be under restriction or discipline from any licensing board or jurisdiction;

3. provide the minimum qualifying supervision requirements as stated in section, however more supervision may be necessary and should be conducted on a schedule consistent with evidence-based practice and sufficient to ensure competence in the delivery of each of the client's current treatment programs;

4. ensure that all client documentation becomes a part of the permanent record; and

5. if a RLT is not currently providing behavior analysis services, proper documentation must be maintained on the reasoning for not meeting qualifying supervision requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 42:

§517. RLT Responsibilities

A. The supervising LBA has the overall responsibility for providing the necessary supervision to protect the health and welfare of the client receiving treatment from an RLT. However, this does not absolve the RLT from his/her professional responsibilities. The RLT shall exercise sound judgment and provide adequate care in the performance of duties. The RLT shall:

1. be primarily responsible for the direct implementation of skill acquisition and behavior-reduction plans developed by the supervisor;

2. not initiate any client treatment program or modification of said program until the behavior analyst has evaluated, established a treatment plan, and consulted with the LBA;

3. not perform an evaluation/assessment, but may assist in the data gathering process and administer specific assessments where clinical competency has been demonstrated, under the direction of the LBA;

4. not analyze or interpret evaluation data;

5. immediately contact the supervising LBA or SCABA if any treatment intervention that appears harmful to the client;

6. ensure that all client documentation completed by the RLT becomes a part of the permanent record;

7. if they are not currently providing behavior analysis services, proper documentation must be maintained; and

8. inform the board of the termination in a supervisory relationship within 10 calendar days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 42:

Family Impact Statement

The Behavior Analyst Board hereby issues this Family Impact Statement as set forth in R.S.49:972. The proposed Rule and adoption of the Rule related to supervision requirements is being implemented to guarantee the licensing authority can safeguard the public welfare of this state and will have no known foreseeable impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; family earnings and family budget; behavior and personality responsibility of children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed modifications regulate supervision of state certified assistant behavior analysts and Registered Line Technicians in the interest of health, safety, and the welfare of the public. This Rule does not have any known or foreseeable impact on any child, individual or family as

defined by R.S. 49:973(B). Specifically, there is no known or foreseeable effect on: household income, assets, and financial security; early childhood development and preschool through postsecondary education development; employment and workforce development; taxes and tax credits; or child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Specifically, there is no known or foreseeable effect on: the staffing level requirements or qualifications required to provide the same level of service; the total direct or indirect cost to the providers to provide the same level of service; or the overall ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Rhonda Boe, Executive Director, 8706 Jefferson Highway, Suite B, Baton Rouge, LA 70809. All comments must be submitted by 12 p.m. on May 10, 2016.

Rhonda Boe
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Supervision—State Certified Assistant Behavior Analysts and Registered Line Technicians

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Act 351 of the 2013 Legislative Session, effective August 1, 2013, created the Louisiana Behavior Analyst Board and allowed for the establishment of licensure, certification, registration, continuing education, and practice requirements of Behavior Analysts, Assistant Behavior Analysts, and Line Technicians. The proposed rule codifies and establishes requirements pertaining to the supervision of Registered Line Technicians by Licensed Behavior Analysts and/or State Certified Assistant Behavior Analysts. The estimated implementation for this rule is approximately $275 in FY 16. Those costs are related to publishing the proposed and final rule in the *Louisiana Register*.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated impact on revenue collections of state or local government units. This proposed rule does not impose a fee or financial obligations on Licensed Behavior Analysts or Registered Line Technicians.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are currently 143 Licensed Behavior Analysts supervising approximately 700 Registered Line Technicians. The proposed rule establishes the requirements for supervision of Registered Line Technicians. This proposed rule outlines the supervising Licensed Behavior Analyst's responsibilities and those of the Registered Line Technician. Supervision guidelines for Registered Line Technicians may provide economic benefit to individuals practicing in the field of behavior analysis to the degree that such guidelines bolsters public confidence in the area of practice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Individuals and business performing behavioral analysis services will be responsible for adhering to all supervision requirements, maintain proper documentation on all Registered Line Technicians, and be subjected to random audits. Individuals failing to meet proper requirements and/or provide necessary documentation may be unable to continue to work in the field of behavior analysis or may endanger their licensure status.

Rhonda Boe
Executive Director
1604#059

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Medical Examiners

Midwives—Licensure, Certification and Practice
(LAC 46:XLV Chapters 23 and 53)

Notice is hereby given in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., that pursuant to the authority vested in the Louisiana State Board of Medical Examiners (the "Board") by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and the Louisiana Midwife Practitioners Act, R.S. 37:3241 et seq., the Board intends to amend its Rules governing licensure, certification and practice of midwives, LAC 46:XLV Subpart 2, Chapter 23 and Subpart 3, Chapter 53. The proposed amendments conform the Board's rules to various amendments to the Louisiana Midwife Practitioners Act by Act No. 772 of the 2012 session of the Louisiana legislature, update the rules generally for consistency with current standards and make other substantive and technical modifications consistent with or made necessary by the passage of time and current practices.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 2. Licensure and Certification
Chapter 23. Licensed Midwives
Subchapter A. General Provisions
§2303. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

* * *

Application—a request directed to and received by the board, in a manner specified by the board, for a license or permit to practice midwifery in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board to be submitted with such request.

* * *

Certified Professional Midwife or (*CPM*)—an individual certified by the North American Registry of Midwives (NARM).

* * *

Licensed Midwife Practitioner—an individual who has completed all the requirements of R.S. 37:3247, 3253, and 3255, has successfully completed the examination process, is certified as a midwife by the North American Registry of Midwives (NARM), and is licensed by the board.

Louisiana Advisory Committee on Midwifery—Repealed.

Low Risk Patient—an individual who is at low or normal risk of developing complications during pregnancy and childbirth as evidenced by the absence of any preexisting maternal disease or disease arising during pregnancy or such other conditions as the board may identify in rules.

Midwife—an individual who gives care and advice to a woman during pregnancy, labor, and the postnatal period who is not a physician or a certified nurse midwife.

* * *

Midwife Practitioners Act or the *Act*—R.S. 37:3240-3259, as may from time to time be amended.

Physician—an individual licensed to practice medicine in this state who is actively engaged in a clinical obstetrical practice and has hospital privileges in obstetrics in a hospital accredited by the Joint Commission.

Physician Evaluation and Examination—physician evaluation and examination as provided in R.S. 37:3244 to determine whether, at the time of such evaluation and examination, the individual is at low or normal risk of developing complications during pregnancy and childbirth.

Practice of Midwifery—holding oneself out to the public as being engaged in the business of attending, assisting, or advising a woman during the various phases of the interconceptional and childbearing periods.

Supervision of a Physician—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:513 (August 1986), amended LR 17:779 (August 1991), LR 42:

Subchapter B. Qualifications for Licensure

§2305. Scope of Subchapter

A. The rules of this Subchapter govern the licensing of midwives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:513 (August 1986), amended LR 17:779 (August 1991), LR 42:

§2307. Qualifications for License

A. To be eligible for licensure as a licensed midwife, an applicant shall:

1. be at least 21 years of age and shall have graduated from high school or possess a graduate education diploma (GED);

2. …

3. be currently certified in cardiopulmonary resuscitation (CPR) of the adult and newborn;

4. - 5. …

6. have met, within four years prior to the date of application, the requirements for practical clinical experience prescribed by §2357 of this Chapter; provided, however, that exceptions to the four year limit may be made at the discretion of the board upon a request submitted in writing identifying a medical or other extenuating circumstance deemed acceptable to the board. The length of any such exception may be conditioned upon any terms that the board may deem appropriate.

7. have demonstrated professional competence in the practice of midwifery by passing an examination approved by the board; and

A.8. - B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:513 (August 1986), amended LR 17:779 (August 1991) LR 42:

§2309. Procedural Requirements

A. In addition to the substantive qualifications specified in §2307, to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided by §§2311 to 2315 of this Chapter and successfully complete the examination identified in §2317 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended LR 17:779 (August 1991), LR 42:

Subchapter C. Application

§2313. Application Procedure

A. Application for licensing shall be made in a format prescribed by the board. Applications and instructions may be obtained from the board's web page or by personal or written request to the board.

B. An application for licensing under this Chapter shall include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in this Chapter;

2. a recent photograph of the applicant; and

3. such other information and documentation as the board may require to evidence qualification for licensing.

C. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

D. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

E. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3240-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended 17:779 (August 1991), LR 30:236 (February 2004), LR 42:

§2315. Effect of Application

A. - B. …

C. The submission of an application for licensing to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the board

from other persons, firms, corporations, associations, or governmental entities pursuant to §2315.A or B to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefore, including, without limitation, the midwife licensing authority of any state; the Federal Drug Enforcement Agency; the Louisiana Board of Pharmacy, the North American Registry of Midwives, the Louisiana Department of Health and Hospitals; and Federal, state, county or parish, and municipal health and law enforcement agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended LR 17:779 (August 1991), LR 42:

Subchapter D. Examination

§2317. Designation of Examination

A. The CPM examination administered by NARM, or such other certifying examination as the board may subsequently approve, shall be accepted by the board as a qualifying examination for purposes of midwifery licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended LR 17:779 (August 1991), LR 42:

§2319. Eligibility for Examination

A. To be eligible for examination an applicant shall make application to NARM in accordance with its procedures and requirements including verification of the applicant's clinical experience and skills essential to the practice of midwifery. Information on the examination process, including fee schedules and application deadlines, must be obtained by each applicant from NARM.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended LR 17:779 (August 1991), LR 42:

§2321. Dates, Places of Examination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991) repealed, LR 42:

§2323. Administration of Examination

A. The dates and places where the examination for licensure as a midwife are given are scheduled by NARM.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991), LR 42:

§2325. Subversion of Examination Process

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991), repealed, LR 42:

§2327. Finding of Subversion

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991), repealed, LR 42:

§2329. Sanctions for Subversion of Examination

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991), repealed, LR 42:

§2331. Passing Score

A. The board shall use the criteria for satisfactory passage of the examination adopted by NARM.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991), LR 42:

§2333. Restriction, Limitation on Examinations

A. An applicant who fails the examination on two occasions shall not be considered for licensure until the applicant has completed not less than three months of additional educational or clinical instruction, courses, or programs as prescribed and approved by the board and thereafter successfully passed the examination. For failures beyond three attempts such education or instruction may include, without limitation, repeating all or a portion of any didactic and clinical training required for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991), LR 42:

§2335. Lost, Stolen, or Destroyed Examinations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), repealed, LR 42:

Subchapter E. Restricted Licensure, Apprentice Permits

§2339. Apprentice Permits

A. - D. …

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), LR 42:

Subchapter F. License Issuance, Termination, Renewal, Reinstatement

§2341. Issuance of License

A. …

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), LR 42:

§2343. Expiration of Licenses and Permits

A. …

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), LR 42:

§2345. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed biannually on or before its expiration by renewing on-line or by submitting to the board an application for renewal, together with the renewal fee prescribed in Chapter 1 of these rules.

B. The renewal application and instructions may be obtained from the board's web page or upon personal or written request to the board.

C. Any person who files for renewal of licensure shall present a current certification in cardiopulmonary resuscitation (CPR) of the adult and newborn and document or certify, in a manner prescribed by the board, the completion of 30 contact hours of continuing education as approved by the board, in accordance with §§2361-2364 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3240-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended 17:779 (August 1991), LR 30:236 (February 2004), LR 42:

§2347. License Non-Renewal

A. Any license not renewed on or before its expiration date shall be deemed expired for non-renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), LR 42:

§2349. Reinstatement of License

A. A license which has expired due to non-renewal may be reinstated by submitting an application for reinstatement in a manner prescribed by the board, together with the renewal fee prescribed by Chapter 1 of these rules.

B. Any person who applies for license reinstatement within 30 days of the date of expiration shall be required to pay a late fee of $50.

C. Any person who has not filed for renewal or applies for reinstatement more than 30 days but less than one year following the date of expiration shall be required to pay a late fee of $100 or a fee of $200 if application for reinstatement is made within two years of the date of expiration, provided that the applicant demonstrates satisfaction of the continuing education requirements prescribed by §§2361-2364 of these rules. A midwife whose license has lapsed and expired for a period in excess of two years may apply to the board for an initial original license pursuant to the applicable rules of this Chapter.

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), LR 42:

Subchapter G. Education

§2353. Basic Sciences

A. Every applicant seeking licensure must, as a condition of eligibility for licensure, demonstrate cognitive competence in the basic sciences of human anatomy, human physiology, biology, psychology, and nutrition by evidencing successful completion of:

1. …

2. such other educational instruction, courses, or programs in such subjects as may be approved by the board; or

3. satisfaction of the education requirements perquisite to CPM certification by NARM will be deemed to satisfy the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), LR 42:

§2355. Theory of Pregnancy and Childbirth

A. The board shall maintain and periodically revise a list of approved courses, texts, and trainers covering the subject matters which shall comprise a course of study in the theory of pregnancy and childbirth. The board may use the list as a guideline in determining the acceptability of a non-listed educational source which an applicant submits as complying with any required subject matter. All or part of the course may be obtained through self-study. Satisfaction of the education requirements perquisite to CPM certification by NARM will be deemed to satisfy the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), LR 42:

§2357. Clinical Experience

A. Clinical experience in midwifery is required of every applicant for licensure and may be obtained in a variety of settings, including medical offices, clinics, hospitals, maternity centers, and in the home. Clinical experience must include instruction in basic nursing skills, including vital signs, perineal preparation, enema, urethral catheterization, aseptic techniques, administration of medication orally and by injection, local infiltration for anesthesia, administration of intravenous fluids, venipuncture, infant and adult resuscitation, fetal heart tones, edema, routine urinalysis, and curetting and repair of episiotomy.

B. The clinical experience requisite to licensure shall include care of women in the antepartum, intrapartum, and postpartum periods. Clinical practice must include at least the following types of numbers of experiences (with out-of-hospital births making up at least one-half of the clinical experience):

1. 75 prenatal visits on at least 25 different women, including 20 initial examinations;

2. attendance at the labor and delivery of at least 10 live births as an observer *and* 20 births as an assistant attendant;

3. management of the labor and delivery of newborn and placenta for at least 25 births as the primary birth attendant;

4. …

5. 40 postpartum evaluations of mother and baby in home or hospital within 72 hours of delivery;

6. a minimum of five repairs of lacerations or such greater number as necessary to be deemed competent by the clinical supervisor, in addition to any practice on non-human subjects;

7. five observations of in-house hospitalized births involving high-risk obstetric care, provided, however, that this requirement may be waived by the board upon demonstration and documentation by the applicant that opportunity for such observations was not reasonably available to the applicant notwithstanding the applicant's diligent, good faith efforts to obtain opportunity for such observations;

8. observation of one complete series of at least 6 prepared childbirth classes offered by an approved provider; and

9. five continuity of care births, all as primary under supervision, which are to include:

a. five prenatal visits spanning at least 2 trimesters;

b. the birth (assumed delivery of placenta and immediate postpartum);

c. one newborn examination; and

d. two postpartum examinations (after 24 hours).

C. Satisfaction of the clinical experience requirements perquisite to CPM certification by NARM will be deemed to satisfy the requirements of §2357.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), LR 42:

§2359. Supervision of Clinical Experience

A. Apprentice midwife practitioners must obtain their clinical experience under the immediate personal supervision of a physician, certified nurse-midwife, or a licensed midwife.

B. Senior apprentice midwives may obtain the clinical experience requisite to licensure under the general direction, rather than direct supervision, of a physician, certified nurse-midwife, or licensed midwife.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), LR 42:

Subchapter H. Continuing Education

§2361. Scope of Subchapter; Continuing Education Requirement

A. The rules of this Subchapter provide standards for the continuing education requisite to renewal of any license or permit issued under this Chapter.

B. To be eligible for renewal of licensure or apprentice permit, a licensed midwife or apprentice midwife shall document, in a manner prescribed by the board, the successful completion of not less than 30 contact hours of continuing education obtained since such license or permit was last issued, reinstated, or renewed. As used in this Subchapter, "contact hour" means 60 minutes of participation in an organized learning experience under responsible sponsorship, capable direction, and qualified instruction, as approved by the board.

C. …

D. The following programs and activities are illustrative of the types of programs and activities which shall be deemed to be qualifying continuing education activities and programs for purposes of this Subchapter:

1. attendance at or participation in meetings, conferences, workshops, seminars, or courses, such as programs conducted, sponsored, or approved for continuing education credit by the American Medical Association, the American Congress of Obstetricians and Gynecologists, the American Nurse Association, the Association of Certified Nurse Midwives, the Midwives Alliance of North America and the North American Registry of Midwives;

2. - 6. …

E. - E.3. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), LR 42:

§2362. Documentation Procedure

A. Documentation and/or certification of satisfaction of the continuing professional education requirements prescribed by these rules shall be made in a manner prescribed by the board's renewal application.

B. Certification of continuing education activities that are not presumptively approved under §2361 of these rules shall be referred to the board. If the board determines that an activity certified by an applicant for renewal in satisfaction of continuing education requirements does not qualify for recognition or does not qualify for the number of continuing education contact hours claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may file a written appeal with the board within 10 days of such notice. The board's decision with respect to approval and recognition of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended, LR 42:

§2364. Waiver of Requirements

A. The board may, in its discretion, waive all or part of the continuing education required by these rules in favor of a licensed midwife or apprentice midwife who makes written request for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding satisfaction of the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended, LR 42:

§2365. Unlawful Practice

Repealed—redesignated as §5365.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), repealed LR43:

§2367. Revocation of License

Repealed—redesignated as §5369.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), repealed LR 42:

§2369. Penalties

Repealed—redesignated as §5373.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), repealed LR 42:

§2371. Hearing

Repealed—redesignated as §5371.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:518 (August 1986), amended LR 17:779 (August 1991), repealed LR 42:

§2373. Persons Not Affected

Repealed—redesignated as §5367.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:518 (August 1986), amended LR 17:779 (August 1991), repealed LR 42:

Subpart 3. Practice

Chapter 53. Licensed Midwives

Subchapter A. Standards of Practice

§5301. Scope of Practice

A. Licensed midwife practitioners may provide care only to low risk clients determined by physician evaluation and examination to be normal for pregnancy and childbirth, and at low risk for the development of medical complications. Such care includes prenatal supervision and counseling; preparation for childbirth; and supervision and care during labor and delivery and care of the mother and the newborn in the immediate postpartum period if progress meets criteria generally accepted as normal as defined by the board. Licensed midwifes shall refer or consult with a physician when a client's medical condition deviates from normal. Licensed midwifes may provide care in hospitals, birth centers, clinics, offices and home birth settings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5303. Definitions

A. The definitions set forth in Chapter 23 of these rules shall equally apply to this Chapter, unless the context clearly states otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 42:

§5305. Skills

[Formerly §5303]

A. All licensed midwives shall have the skills necessary for safe practice, including the ability to assess, monitor, and manage on an ongoing basis, normal antepartum, intrapartum, and postpartum situations; perform newborn evaluations; identify and assess maternal, fetal, and infant deviations from normal; provide effective lifesaving measures, including CPR; manage emergency situations appropriately; establish and maintain aseptic techniques and master basic observational skills and those special observational skills required for out-of-hospital deliveries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR43:

§5307. Screening

[Formerly §5309]

A. All midwives will use risk factor assessments of their clients as identified in §5315 in order to establish their initial and continuing eligibility for midwifery services. Clients will be informed of their risk status. All midwives have the right and responsibility to refuse and discontinue services to clients based on these risk factors and to make appropriate referrals when indicated for the protection of the mother and baby.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5309. Disclosures; Acceptance of Clients

[Formerly §5315]

A. Prior to the acceptance of a client for care, a licensed midwife practitioner shall inform the client orally and in writing of the following disclosures:

1. certain risks and benefits exist for home birth and certain risks and benefits exist for other childbirth alternatives, (including hospital, physician-assisted birth). The midwife is responsible for informing the client of the risks and benefits of all childbirth options to ensure informed consent;

2. regular documented antepartum care by the licensed midwife or another licensed health care provider is required if the midwife is to attend the birth;

3. certain medical conditions and/or client noncompliance with midwife or physician recommendations, as described in §§5315, 5339 and 5353 of this Chapter, may preclude midwife attendance at birth or continued midwife care during any phase of the pregnancy;

4. emergency transport may be required in certain situations; the midwife shall explain what situations warrant emergency transport and the hazards involved;

5. a specific written consent for out-of-hospital birth with the licensed midwife practitioner must be obtained prior to the onset of labor;

6. the client will be provided with a copy of the labor, birth, and newborn record by the midwife;

7. the midwife's agreement can be terminated at any time that the midwife deems it necessary for maintenance of the client's mental and physical safety or for compliance with these rules. When termination occurs, the reasons for termination will be given in writing and an alternative source of care recommended; and

8. the client may terminate the agreement at any time.

B. Prior to accepting care for a client, the midwife shall consult with the physician who performed the physician evaluation and examination to ensure that the client is at low or normal risk for pregnancy.

C. After accepting care, the midwife shall obtain a detailed obstetric and medical history of the client; including the results of all tests conducted during the physician evaluation and examination once available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5311. Advance Preparation for Need [Formerly §5321]

A. The licensed midwife shall, prior to the onset of labor, prepare a written plan or protocol for the transport of mother and infant to a hospital and know the client's contingency arrangements for hospitalization should these needs arise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5313. Informed Consent

A. Prior to providing any services, a licensed midwife shall obtain the written informed consent, in writing, of the client, which shall include but not be limited to the following:

1. the name and license number of the licensed midwife;

2. the client's name, address, telephone number, and the name of the client's primary care provider if the client has one;

3. a statement that the licensed midwife is not an advanced practice registered nurse midwife or physician;

4. a description of the education, training, continuing education, and experience of the licensed midwife;

5. a description of the licensed midwife's philosophy of practice;

6. a statement recognizing the obligation of the licensed midwife to provide the client, upon request, separate documents describing the law and regulations governing the practice of midwifery, including the requirement for an evaluation and examination by a physician, the protocol for transfer or mandatory transfer, and the licensed midwife's personal written practice guidelines;

7. a description of the plan or protocol for transfer to a hospital;

8. a complete and accurate description of the services to be provided to the client;

9. whether the licensed midwife maintains a professional liability policy and if insurance is maintained, a description of the liability conditions and limits of such insurance; and

10. any additional information or requirement which the board deems necessary to protect the health, safety, or welfare of the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 42:

§5315. Unapproved Practice [Formerly §5361]

A. The licensed midwife practitioner shall provide care only to clients determined by physician evaluation and examination to be at low or normal risk of developing complications during pregnancy and child birth.

B. The midwife shall not knowingly accept or thereafter maintain responsibility for the prenatal or intrapartum care of a woman who:

1. has had a previous cesarean section or other known uterine surgery such as hysterotomy or myomectomy. This prohibition shall not apply to a midwife's continued perinatal care of a woman who has had no more than one prior cesarean section, provided that arrangements have been made with a physician for a planned hospital delivery at the onset of labor. The midwife shall contact the physician and confirm and document the arrangements for a planned hospital delivery in the client's chart. Within ten days of delivery, a midwife shall report to the board in writing any instance where midwifery services were provided under Section 5315B.1 to a client who delivered outside of a planned hospital delivery;

2. has a history of difficult to control hemorrhage with previous deliveries;

3. has a history of thromboembolus, deep vein thromboembolus, or pulmonary embolism;

4. is prescribed medication for diabetes, or has hypertension, Rh disease isoimmunization with positive titer, active tuberculosis, active syphilis, active gonorrhea, HIV positive or is otherwise immunocompromised, epilepsy, hepatitis, heart disease, kidney disease, or blood dyscrasia;

5. contracts primary genital herpes simplex during the pregnancy or manifests active genital herpes during the last four weeks of pregnancy;

6. has a contracted pelvis;

7. has severe psychiatric illness or a history of severe psychiatric illness in the six month period prior to pregnancy;

8. has been prescribed narcotics in excess of three months or is addicted to narcotics or other drugs;

9. ingests more than 2 ounces of alcohol or 24 ounces of beer a day on a regular day or participates in binge drinking;

10. smokes 20 cigarettes or more per day, and is not likely to cease in pregnancy;

11. has a multiple gestation;

12. has a fetus of less than 37 weeks gestation at the onset of labor;

13. has a gestation beyond 42 weeks by dates and examination;

14. has a fetus in any presentation other than vertex at the onset of labor;

15. is a primigravida with an unengaged fetal head in active labor, or any woman who has rupture of membranes with unengaged fetal head, with or without labor;

16. has a fetus with suspected or diagnosed congenital anomalies that may require immediate medical intervention;

17. has preeclampsia;

18. has a parity greater than five with poor obstetrical history; or

19. is younger than 16 or a primipara older than 40.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:521 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5317. Initial Physician Evaluation and Examination [Formerly §5311]

A. The licensed midwife practitioner must require that the client have a physician evaluation and examination and be found to be essentially normal or at low risk of developing complications during pregnancy and childbirth before her care can be assumed. The initial physician evaluation and examination shall include the physical assessment procedures which meet current standards of care set forth by the American Congress of Obstetricians and Gynecologists (ACOG).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR

§5319. Required Components of Initial Physician Evaluation and Examination [Formerly §5313]

A. Laboratory and diagnostic testing and screening obtained in connection with the physician evaluation and examination shall include clinical pelvimetry, and any other laboratory and diagnostic testing and screening which the physician considers appropriate. Due consideration shall be given to the then-current recommendations of ACOG.

B. The midwife shall ensure that all women she plans to deliver have received required testing and screening and shall secure and review a copy of all such results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5321. Community Resources [Formerly §5305]

A. The licensed midwife practitioner must be familiar with community resources for pregnant women such as prenatal classes, the parish health unit and supplemental food programs. The client shall be referred to such resources as appropriate and encouraged to take a prepared childbirth class, preferably one oriented toward home birth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5323. Appropriate Equipment [Formerly §5307]

A. All licensed midwife practitioners shall have available, for their immediate use, appropriate birthing equipment, including equipment to assess maternal, fetal, and newborn well-being, maintain aseptic technique and to perform emergency adult and new born resuscitation, and accomplish all permitted emergency procedures. All equipment used in the practice of midwifery shall be maintained in an aseptic manner, and be in good working order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5325. Medications [Formerly §5333]

A. A licensed midwife may administer the following medications under the conditions indicated:

1. oxygen for fetal or maternal distress and infant resuscitation;

2. local anesthetic, by infiltration, only for the purpose of postpartum repair of tears, lacerations, or episiotomy (no controlled substances);

3. vitamin K, by injection, for control of bleeding in the newborn;

4. oxytocin (pitocin) by injection or methergine orally, only for postpartum control of non-emergent maternal hemorrhage;

5. intravenous fluids for maternal hydration with additional medications as provided by a physician's order or protocol for the purpose of controlling maternal hemorrhage or for prophylactic treatment where the client has tested positive for Group B. Strep;

6. prenatal Rh immunoglobulin (Rhlg) for Rh negative clients and post-partum for Rh positive newborns.

7. benadryl;

8. penicillin-G, unless patient is allergic, then consult with the physician.

B. A licensed midwife may lawfully obtain and have possession of small quantities of the above-named medications and the equipment normally required for administration. Each use of medication shall be recorded by the midwife in the client's chart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5327. Initiation of Physical Care
[Formerly §5353]

A. At the visit when physical care of the client is initiated, the licensed midwife practitioner shall review the results of the physician evaluation and examination to ensure that the client has received a general physical examination which included the taking of a comprehensive medical, obstetrical, and nutritional history sufficient to identify potentially dangerous conditions that might preclude midwife care. The midwife shall make an initial nutritional assessment, counsel the client as to the nutritional needs of mother and fetus during pregnancy and develop a comprehensive plan of care for the client which identifies all problems and need for consultation and establish realistic health care goals.

B. If the client's health status, as determined by medical history, physician evaluation and examination, and the laboratory results is determined not to be low risk as outlined in §5317 of these rules, the client shall be referred to a physician for management of the client's pregnancy, labor and delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR

§5329. Routine Antepartum Care
[Formerly §5355.A]

A. At each prenatal visit, the midwife will check the client's weight, blood pressure, fundal height, urinalysis (protein and glucose), and general health, including checking for pain, bleeding, headaches, edema, dizziness, and other symptoms of preeclampsia. The midwife shall monitor uterine measurements, fetal heart tones, and fetal activity and shall obtain a medical and nutritional history since the last visit. The midwife shall provide or arrange for the administration of prenatal Rh immunoglobulin (Rhlg) for Rh negative clients in compliance with current practice standards and for additional laboratory tests as indicated, including but not limited to serum antibody screening, blood sugar screening, genital cultures, and periodic hematocrit or hemoglobin screening. Additionally, the midwife shall assure that:

1. a quad screen test or maternal serum alpha fetal protein ("MSAFP") shall be offered at the appropriate gestational age between 15-20 weeks gestation;

2. at 28 weeks gestation hematocrit or hemoglobin shall be rechecked and a glucose tolerance test and a repeat antibody screen shall be performed;

3. at 36 weeks gestation a group B beta hemolytic streptococci ("GBBS") culture and repeat hemoglobin or hematocrit shall be performed, along with HIV and RPR testing.

B. The midwife shall ensure that all women she plans to deliver have received the state required tests and have obtained copies of all laboratory results.

C. A midwife may order laboratory testing as required for maternal care and newborn care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5331. Prenatal Visits
[Formerly §5317 and §5323.B]

A. Prenatal visits should be every four weeks until 28 weeks gestation, every two weeks from 28 until 35 weeks gestation, and weekly from 36 weeks until delivery.

B. For home birth, the licensed midwife practitioner will make a home visit three to five weeks prior to the Estimated Date of Confinement (EDC) to assess the physical environment, including the availability of telephone and transportation, and to ascertain whether the client has all the necessary supplies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5319. Physician Visit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), repealed, LR 42:

§5333. Examination and Labor
[Formerly §5329 and §5355.B - C]

A. The licensed midwife practitioner will not perform any vaginal examinations on a woman with ruptured membranes and no labor, other than an initial examination to be certain that there is no prolapsed cord. Once active labor is assured and in progress, exams may be made as necessary.

B. A record of maternal vital signs shall be recorded at the initial evaluation of labor. Maternal vital signs shall be recorded every 3-4 hours unless otherwise indicated by maternal instability or increased maternal risk factors. Maternal stability is defined as a firmly contracted uterus without excessive vaginal bleeding and stable blood pressure. Risk factors are identified in §§5315, 5339 and 5353 of this Chapter.

C. A record of fetal heart rate tones shall be made and recorded at least every 30 minutes in the first stage and every 15 minutes in the second stage of labor. Fetal heart tones shall also be recorded immediately after rupture of membranes.

D. During labor and delivery, the licensed midwife practitioner is responsible for monitoring the condition of mother and fetus; assisting with the delivery; coaching labor; repairing minor tears as necessary, however, any third degree tear or greater should be referred to a physician; examining and assessing the newborn; inspecting the placenta, membranes, and cord vessels; inspecting the cervix and upper vaginal vault, if indicated; and managing any third-stage maternal bleeding.

E. Water births. A licensed midwife practitioner shall adhere to the then-current recommendations of ACOG for emersion in water during labor and delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519, 520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5335. Correction of Presentation
[Formerly §5335]

A. The licensed midwife practitioner will not attempt to correct fetal presentations by external or internal version nor will the midwife use any artificial, forcible, or mechanical means to assist the birth, e.g. no forceps or vacuum extractors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5337. Operative Procedures
[Formerly §5331]

A. The licensed midwife practitioner will not perform, routinely, an operative procedure other than artificial rupture of membranes when the head is well engaged or at zero station, clamping and cutting the umbilical cord, repair of first or second degree perineal lacerations, or repair of episiotomy, if done.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5339. Required Physician Consultation, Antepartum and Intrapartum Periods
[Formerly §5363.A - B]

A. The midwife shall obtain medical consultation or refer for medical care any woman who during the antepartum period:

1. develops edema of the face and hands;
2. develops severe, persistent headaches, epigastric pain, or visual disturbances;
3. develops a blood pressure of 140/90 or greater;
4. does not gain 14 pounds by 30 weeks gestation or at least 4 pounds a month in the last trimester or gains more than 6 pounds in two weeks in any trimester;
5. develops greater than trace glucosuria or greater than trace proteinuria on two consecutive separate visits;
6. has abnormal vaginal discharge with no signs of improvement with medication;
7. has symptoms of urinary tract infection;
8. has vaginal bleeding before onset of labor;
9. has rupture of membranes prior to 37 weeks gestation;
10. has marked decrease in or cessation of fetal movement;
11. has inappropriate gestational size;
12. has demonstrated anemia by blood test (hematocrit less than 30 percent);
13. has a fever of equal or greater than 100.4°F or 38°C for 24 hours;
14. has polyhydramnios or oligohydramnios;
15. has excessive vomiting or continued vomiting after 24 weeks gestation;
16. has severe, protruding varicose veins of extremities or vulva;
17. has known structural abnormalities of the reproductive tract;
18. has a history of stillbirth from any cause;
19. has an abnormal Pap smear;
20. reaches a gestation of 41 weeks, 3 days by dates and examination.

B. The midwife shall obtain medical consultation or refer for medical care any woman who during the intrapartum period:

1. develops a blood pressure of 140/90 or greater;
2. develops severe headache, epigastric pain, or visual disturbance;
3. develops proteinuria;
4. develops a fever over 100.4°F or 38°C;
5. develops respiratory distress;
6. has persistent or recurrent fetal heart tones below 100 or above 160 beats per minute between or during contractions, or a fetal heart rate that is irregular;
7. has ruptured membranes without onset of labor after 12 hours;
8. has bleeding prior to delivery (other than bloody show);
9. has meconium or blood stained amniotic fluid with abnormal fetal heart tones;
10. has an abnormal presentation other than vertex;
11. does not progress in effacement, dilation, or station in accordance with practice standards ;
12. does not show continued progress to deliver in second stage labor in accordance with practice standards;
13. does not deliver the placenta within one hour if there is no bleeding and the fundus is firm;
14. has a partially separated placenta during the third stage of labor with bleeding;
15. has a blood pressure below 100 systolic if the pulse rate exceeds 100 beats per minute or who is weak and dizzy;
16. bleeds more than 500 cc with or after the delivery of the placenta;
17. has retained placental fragment or membranes; or
18. desires medical consultation or transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:521 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5341. Emergency Measures
[Formerly §5337]

A. The following measures are permissible in an emergency situation:

1. cardiopulmonary-resuscitation;
2. episiotomy;

3. intramuscular or intravenous administration of pitocin or intramuscular administration of methergine for the control of postpartum hemorrhage;

4. intravenous (IV) fluids and medications

B. When any of the above measures is utilized, it will be charted on the birth record with detail describing the emergency situation, the measure taken, and the outcome.

C. When an emergency measure is taken the physician (or hospital) with whom the client has made contingency arrangements for care and delivery shall be contacted by the midwife immediately upon control of the emergency situation, and the midwife shall then transfer care of the client to such physician (or hospital) as he may direct or request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5343. Transfer of Care
[Formerly §5323.A]

A. The licensed midwife practitioner shall accompany to the hospital any mother or infant requiring hospitalization, giving any pertinent written records and verbal report to the physician assuming care. If possible, she should remain with the mother and/or infant to ascertain outcome. In those instances where it is necessary to continue providing necessary care to the party remaining in the home, the midwife may turn over the care of the transport of mother or child to qualified emergency or hospital personnel. All necessary written records shall be forwarded with such personnel and a verbal report must be given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), repromulgated, LR 42:

§5345. Postpartum Care
[Formerly §5327 and §5357]

A. The licensed midwife practitioner shall remain with the mother and infant for at least two hours postpartum, or until the mother's condition is stable and the infant's condition is stable, whichever is longer. Maternal stability is evidenced by normal blood pressure, normal pulse, normal respirations, firm fundus, and normal lochia. Infant stability is evidenced by established respirations, normal temperature, strong sucking and normal heart rate.

B. Immediately following delivery of the placenta, the midwife must determine that the uterus is firmly contracted without excessive bleeding. The uterus should be massaged firmly to stimulate contraction if relaxation is noted.

C. In case of an unsensitized Rh negative mother, the midwife shall obtain a sample of cord blood from the placenta and arrange for testing within 24 hours of the birth and ensure referral to a physician so that the mother receives Rh immunoglobulin (Rhlg) as indicated within 72 hours of delivery.

D. The midwife shall provide the client with information concerning routine postpartum care of the mother and infant, including information on breast-feeding, care of the infant's umbilical cord, and perinatal care.

E. The midwife shall recommend that the parents immediately contact the pediatrician or primary care physician who will be assuming care for the infant to arrange for a neonatal examination within 72 hours or sooner if it becomes apparent that the newborn requires medical attention for problems associated with, but not limited, to congenital or other anomalies. The midwife shall provide the doctor with her written summary of labor, delivery, and assessment of the newborn and shall be available to consult with the doctor concerning the infant's condition.

F. The midwife shall make a postpartum visit within 36 hours of birth, with further visits as necessary. The purpose of these contacts is to ascertain that the infant is alert, has good color, is breathing well, and is establishing a healthy pattern of waking, feeding, and sleeping and that the mother is not bleeding excessively, has a firm fundus, does not have a fever or other signs of infection, is voiding properly, and is establishing successful breastfeeding. In the event that any complications arise, the midwife shall consult with a physician or other appropriate health care provider or shall ensure that the client contacts her own physician.

G. The midwife may conduct a postpartum office visit not later than six weeks postpartum, to include a recommendation for rubella vaccine if indicated, counseling concerning contraception and answering any other questions that have arisen. Alternatively, the client may be referred back to her primary care physician or other health care provider for this care.

H. The midwife shall encourage the mother to have a postpartum evaluation conducted by a physician within two to six weeks after delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519, 520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5345. Postpartum Visits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), repealed, LR 42:

§5347. Required Newborn Care
[Formerly §5359]

A. The licensed midwife practitioner shall be responsible for care immediately following the delivery only. Subsequent infant care should be managed by a pediatrician or primary care physician. This does not preclude the midwife from providing counseling regarding routine newborn care and breastfeeding and arranging for the neonatal tests required by state law. If any abnormality is suspected, the newborn must be sent for medical evaluation as soon as possible.

B. Immediately following delivery the midwife shall:

1. wipe face, then suction (with bulb syringe) mouth and nose if necessary;

2. prevent heat loss by the neonate;

3. determine Apgar scores at one and five minutes after delivery;

4. observe and record: skin color and tone, heart rate and rhythm, respiration rate and character, estimated gestational age (premature, term, or post-mature), weight, length, and head circumference.

C. The midwife shall insure that Vitamin K is available at the time of delivery and take appropriate measures designed to prevent neonatal hemorrhage.

D. The midwife is responsible for obtaining a PKU test and all other neonatal tests required by state law, including all required metabolic newborn screens, between 24 hours and no later than 14 days after birth. If the parents object to such tests being performed on the infant, the midwife shall document this objection and notify and refer the newborn to the infant's pediatrician or primary care physician and notify appropriate authorities.

E. The midwife shall leave clear instructions for follow-up care including signs and symptoms of conditions that require medical evaluation, especially fever, irritability, generalized rash and lethargy.

F. The midwife is responsible for performing a glucose check for a newborn if weight is greater than 9 pounds, 4 ounces.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5349. Prevention of Infant Blindness
[Formerly §5339]

A. Within one hour of birth, the licensed midwife practitioner shall administer two drops of 1.0 percent solution of silver nitrate or other agent of equal effectiveness and harmlessness into the eyes of the infant in accordance with applicable state laws and regulations governing the prevention of infant blindness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5351. Physician Evaluation of Newborn
[Formerly §5343]

A. The licensed midwife practitioner shall recommend that any infant delivered by the midwife be evaluated by a pediatrician or primary care physician within three days of age or sooner if it becomes apparent that the newborn needs medical attention for problems associated with, but not limited to, congenital or other anomalies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5353. Required Physician Consultation, Postpartum Period
[Formerly §5363.C - D]

A. The midwife shall obtain medical consultation or refer for medical care any woman who, during the postpartum period:

1. has a third or fourth degree laceration;

2. has uterine atony;

3. bleeds in an amount greater than normal lochial flow;

4. does not void within 2 hours of birth;

5. develops a fever greater than 100.4□F or 38□C on any two of the first 10 days postpartum excluding the first 24 hours;

6. develops foul smelling lochia;

7. develops blood pressure below 100/50 if pulse exceeds 100, pallor, cold clammy skin, and/or weak pulse.

B. The midwife shall obtain medical consultation or refer for medical care any infant who:

1. has an Apgar score of 7 or less at 5 minutes;

2. has any obvious anomaly;

3. develops grunting respirations, retractions, or cyanosis;

4. has cardiac irregularities;

5. has a pale, cyanotic, or grey color;

6. develops jaundice within 48 hours of birth;

7. has an abnormal cry;

8. weighs less than 5 pounds or weighs more than 10 pounds;

9. shows signs of prematurity, dysmaturity, or postmaturity;

10. has meconium staining of the placenta, cord, and/or infant with signs or symptoms of aspiration pneumonia;

11. does not urinate or pass meconium in the first 24 hours after birth;

12. is lethargic or does not feed well;

13. has edema;

14. appears weak or flaccid, has abnormal feces, or appears not to be normal in any other respect;

15. has persistent temperature below 97□F;

16. has jitteriness not resolved after feeding; or

17. has a blood glucose level of less than 30mg/dL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:521 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5355. Record Keeping
[Formerly §5347]

A. All midwives shall keep accurate and complete records of all care provided and data gathered for each client.

B. The midwife shall maintain an individual client chart for each woman under her care. The chart shall include results of laboratory tests, observations from each prenatal visit, records of consultations with physicians or other health care providers, and a postpartum report concerning labor, delivery, and condition of the newborn child. The chart shall be made available to the client upon request, and with the

client's consent, to any physician or health care provider who is called in as a consultant or to assist in the client's care. This chart shall be kept on standard obstetric forms, or other forms approved by the board. Inactive records shall be maintained no less than 6 years. All records are subject to review by the board.

C. Evidence of the required physician evaluation and examination shall be maintained in the client's records.

D. The attending midwife shall prepare a summary of labor, delivery, and assessment of the newborn, using the Hollister form, or an alternate form containing substantially similar information. One copy of each summary shall be retained with the client's chart and one copy transmitted to the pediatrician or primary care physician.

E. Copies of the disclosure and consent forms required by this Chapter shall be maintained in the client's record.

F.-G. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR

§5357. Birth Registration [Formerly §5341]

A. All licensed midwife practitioners shall request copies of printed instructions relating to completion of birth certificates from the Louisiana State Registrar of Vital Records. The licensed midwife practitioner must complete a birth certificate in accordance with these instructions and file it with the registrar within five days of the birth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), repromulgated, LR 42:

§5359. Notification of Maternal or Fetal Demise [Formerly §5347.G]

A. A licensed midwife shall immediately report to the parish coroner any maternal mortality or morbidity or the demise of a fetus in excess of 350 grams or as applicable with state law, in clients for whom care has been given.

B. A licensed midwife shall report within 48 hours to the board any maternal, fetal, or neonatal mortality or morbidity in clients for who care has been given. The report shall include the sex, weight, date and place of delivery, method of delivery, congenital anomalies of the fetus, and if maternal, fetal, or neonatal death occurred, cause of death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), LR 42:

§5361. Annual Reporting

A. Every licensed midwife shall report to the board annually in a manner and form prescribed by the board. The report shall be submitted by January thirty-first of each year and shall include all of the following:

1. the licensed midwife's name and license number;
2. the calendar year being reported;
3. the total number of clients served;
4. the total number and parish of live births attended as a primary caregiver;
5. the total number and parish of stillbirths attended as a primary caregiver;
6. the number of patients whose primary care was transferred to another health care provider during the antepartum period and the reason for each transfer;
7. the number, reason, and outcome for each elective hospital transfer;
8. the number, reason, and outcome for each emergency transport of an expectant mother prior to labor;
9. a brief description of any complications resulting in the mortality of a mother or an infant;
10. any other information prescribed by the board through rule or regulation.

B. Any licensed midwife who fails to timely comply with the reporting requirements of this Section shall be subject to a fine, as provided in Section 5373 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, L 43:

§5363. Statistics [Formerly §5349]

A. The board shall review all reports from licensed midwife practitioners, complete annual midwifery statistics, and make them available to all interested groups or persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), repromulgated, LR 42:

Subchapter B. Unauthorized Practice, Exemptions

§5351. Scope of Subchapter

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), repealed, LR

§5365. Unlawful Practice [Formerly §2365]

A. No individual shall engage or attempt to engage in the practice of midwifery in this state, unless he or she holds a current license or a permit to practice as a licensed midwife or apprentice midwife issued by the board under Chapter 23 of these rules.

B. No person shall use in connection with his or her name or place of business the words "licensed midwife," "licensed midwife practitioner," the initials "LM," "LMP" or any other words, letters, or insignia indicating or implying that he or she is a licensed midwife practitioner or represent himself or herself as such in any way orally, in writing, in print, or by sign directly or by implication unless he or she has been licensed as such under the provisions of these regulations.

C. A licensed midwife who is currently certified by and in good standing with NARM may identify such credentials with the licensee's name or title "Licensed Midwife-

Certified" or "Licensed Certified Professional Midwife" or the letters "LM-C" or "LCPM," respectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), LR 42:

§5367. Persons Not Affected
[Formerly §2373]

A. Any person authorized by the Louisiana State Board of Nursing to practice as a certified nurse-midwife in the state shall not be affected by the provisions of these regulations.

B. Any student pursuing a course of study in an accredited midwifery education program that is approved by NARM or by the board who provides midwifery services, provided that such services are an integral part of the student's course of study and are performed under the direct supervision of a physician, certified nurse midwife, or a licensed midwife, and the student is designated by a title which clearly indicates the status as a student or trainee, shall not be affected by the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:518 (August 1986), amended LR 17:779 (August 1991), LR 42:

Subchapter C. Grounds for Administrative Action

§5369. Causes for Administrative Action
[Formerly §2367]

A. The board may refuse to issue, suspend for a definite period, revoke or impose probationary terms, conditions and restrictions on a license or permit for any of the following causes:

1. dereliction of any duty imposed by law;
2. incompetence as determined by standards of care for obstetrical providers;
3. conviction of a felony;
4. inability to practice with reasonable skill or safety to clients because of mental illness or deficiency; physical illness, including but not limited to deterioration through the aging process or loss of motor skills; and/or, excessive use or abuse of drugs, including alcohol;
5. practicing under a false name or alias;
6. violation of any of the standards of practice set forth herein;
7. obtaining any fee by fraud or misrepresentation;
8. knowingly employing, supervising, or permitting, directly or indirectly, any person or persons not an apprentice or licensed midwife to perform any work covered by these regulations;
9. using or causing or promoting the use of any advertising matter, promotional literature, testimonial, or any other representation, however disseminated or published, which is misleading or untruthful;
10. representing that the service or advice of a person licensed to practice medicine will be used or made available when that is not true or using the words "doctor," or similar words, abbreviations, or symbols so as to connote the medical profession, when such is not the case;
11. permitting another to use the license;
12. delinquency in submission of application and supporting documents for license renewal of 30 days or more;
13. obtaining licensure by means of fraud, misrepresentation, or concealment of material facts;
14. fraud or deceit in connection with services rendered;
15. violating any lawful order, rule, or regulation rendered or adopted by the board; or
16. unprofessional conduct, which has endangered or is likely to endanger the health, welfare or safety of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), LR 42:

§5371. Hearing
[Formerly §2371]

A. Any person who is disciplined or denied a license or permit or has a license or permit suspended or revoked or is otherwise penalized under these regulations will be notified in writing and afforded the opportunity of a hearing conducted pursuant to the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:518 (August 1986), amended LR 17:779 (August 1991), repromulgated, LR 42:

§5373. Penalties
[Formerly §2369]

A. If a person licensed to practice midwifery under the provisions of these regulations is found guilty of violating any provisions of the Act or these regulations, the board may fine the midwife a sum of not more than $1,000 and may suspend or revoke the license of the licensed midwife practitioner.

B. The board may cause an injunction to be issued in any court of competent jurisdiction enjoining any person from violating the provisions of the Act or of these regulations. In a suit for injunction, the court may issue a fine of not less than $100 against any person found in violation of the provisions of these regulations plus court costs and attorney's fees.

C. A licensed midwife who fails to timely file the annual report required by §5361 of this Chapter shall be subject to a fine not to exceed one hundred dollars each day the report is filed late. In no case shall the fine exceed five hundred dollars.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), LR 42:

Subchapter D. Professional Liability

§5375. Professional liability

A. Physician evaluation and examination as provided in R.S. 37:3244 shall be deemed to constitute a risk assessment. A physician performing a risk assessment is responsible only for determining that at the time of the risk assessment the individual is at low or normal risk of

developing complications during pregnancy and childbirth. For any physician performing a physician risk assessment, the physician-patient relationship shall only exist for the purposes of the risk assessment and shall not continue after the conclusion of the physician risk assessment.

B. Physician risk assessment as defined in this Section shall not create either of the following:

1. any legal duty, responsibility, or obligation by the physician to provide continuing care after the conclusion of the physician risk assessment; or

2. a legal relationship between the physician and the licensed midwife or any duty, responsibility, or obligation by the physician to supervise, collaborate, back-up, or oversee the licensed midwife's care of the patient.

C. No physician or other health care provider as defined in R.S. 40:1299.41, no hospital as defined in R.S. 40:2102, or no institution, facility, or clinic licensed by the department shall be:

1. deemed to have established a legal relationship with a licensed midwife solely by providing a risk assessment as defined in this Section or accepting a transfer of a patient from a licensed midwife; or

2. liable for civil damages arising out of the negligent, grossly negligent, or wanton or willful acts or omissions of the licensed midwife solely for providing a risk assessment as defined in this Section or accepting a transfer of a patient from a licensed midwife.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 42:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with development disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4:00 p.m., May 20, 2016.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on May 25, 2016 at 9:30 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Eric D. Torres
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Midwives—Licensure, Certification and Practice

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than the rule publication costs during FY 16, it is not anticipated that the proposed rule changes will impact costs or savings to the Board of Medical Examiners or any state or local governmental unit. Publication costs associated with such notice ($2,982) and promulgation ($2,769) are estimated at a combined total of $5,751 in FY 16. The Board of Medical Examiners proposes to amend its rules governing the licensing, certification, and practice of midwives (LAC 46:XLV.Chapters 23 and 53) to conform them to Act No. 772 of the 2012 legislative session, which amended the Louisiana Midwife Practitioners Act, R.S. 37:3241 et seq.; update the rules generally as made necessary by the passage of time; and reform them to policies and practices currently administered by the Board. The proposed amendments update nearly all section of its existing rules, incorporate certain revised modification consistent with the controlling law, R.S. 37:3241-3259.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the revenue collections of the Board of Medical Examiners or any state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes increase the continuing professional education requirement from twenty to thirty hours for biannual license or permit renewal and reinstatement (2345, 2349, 2361), for consistency with the law. Due to the varying costs for obtaining continuing education program credits, the Board is not in a position to estimate the cost attributable to the proposed changes. The proposed rule changes also incorporate changes in the law that require licensed midwives to report annually to the Board (5361) and a fine of up to $500 for failure to do so (5373). It is not anticipated that the proposed rule changes will affect the paperwork or workload of applicants for midwife licensure and/or income of applicants, licensees or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed changes will have any impact on competition or employment in either the public or private sector.

Eric D. Torres Executive Director 1604#054	Evan Brasseaux Staff Director Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Controlled Substance Prescriptions
(LAC 46:LIII.2525 and 2745)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend Chapter 25, Prescriptions, Drugs, and Devices as well as Chapter 27, Controlled Dangerous Substances, of its rules. In particular, the board intends to amend §2525, relative to the expiration date of prescriptions for controlled substances, in compliance with Act 865 of the 2014 Legislature, as well as §2745 to amend the list of practitioners authorized to prescribe controlled substances, in compliance with Act 453 of the 2015 Legislature.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices
Subchapter B. Prescriptions
§2525. Prescription Expiration

A. …

B. A prescription for a controlled dangerous substance shall expire:

1. 90 days after the date of issue if the drug is listed in schedule II; or

2. six months after the date of issue if the drug is listed in schedule III, IV, or V.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, LR 42:

Chapter 27. Controlled Dangerous Substances
Subchapter F. Production, Distribution, and Utilization
§2745. Prescriptions

A. - A.1.c. …

d. a physician assistant;

e. an advanced practice registered nurse;

f. an optometrist; or

A.1.g. - C.7.a.ii. …

iii. The prescription form shall contain no more than four prescription drug or device orders. While nothing in these rules shall prohibit the pre-printing of any number of prescription drugs or devices on the prescription form, no prescription form issued by a prescriber shall identify more than four prescription drugs or devices to be dispensed.

iv. For each prescription drug or device ordered on a prescription form, there shall be a pre-printed check box labeled "Dispense as Written", or "DAW", or both.

v. For each prescription drug or device ordered on a prescription form, there shall be a refill instruction, if any.

vi. The prescription form shall bear a single printed signature line, and the prescriber shall manually sign the prescription.

C.7.b. - G.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2149 (October 2008), amended LR 41:685 (April 2015), LR 42:

Family Impact Statement

In accordance with section 953 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal, or amendment. The following statements are published in the *Louisiana Register* with the proposed agency Rule.

1. The effect on the stability of the family. We anticipate no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. We anticipate no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. We anticipate no effect on the functioning of the family.

4. The effect on family earnings and family budget. We anticipate no effect on family earnings and the family budget.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. We anticipate no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, repeal, or amendment.

1. The effect on household income, assets, and financial security. We anticipate no impact on household income, assets, and financial security.

2. The effect on early childhood development and preschool through postsecondary education development. We anticipate no impact early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. We anticipate no positive impact on employment and workforce development.

4. The effect on taxes and tax credits. We anticipate no impact on taxes or tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. We anticipate no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with section 965 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses.

1. The establishment of less stringent compliance or reporting requirements for small businesses. The proposed Rule does not exempt small businesses from compliance with any of the requirements.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no reporting deadlines in the proposed Rule.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no reporting requirements in the proposed Rule.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed Rule. The proposed Rule sets expiration dates for certain prescriptions, and further, identifies those practitioners eligible to prescribe certain prescriptions. The law did not provide for alternative options for small businesses.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a Provider Impact Statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate minimal costs to the provider to implement the requirements of the proposed Rule.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, May 25, 2016 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 p.m. that same day.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Controlled Substance Prescriptions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will amend the expiration dates for certain prescriptions, and further, identify the practitioners eligible to prescribe controlled substances. The proposed rule change will result in a cost of approximately $2,000 for printing costs. This includes $1,000 for the proposed rule change in FY 16 and $1,000 for the final rule in FY 17.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections of state or local governmental units from the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The first section of the proposed rule change will shorten the existing expiration date for prescriptions written for controlled substances listed in Schedule II, from six months to three months. We anticipate no cost or benefit to individuals from that portion of the proposed rule change. The second section of the proposed rule change will remove existing limitations on prescriptions for controlled substances listed in Schedule II written by physician assistants and optometrists. To the extent those practitioners will now be able to write such prescriptions, there may be a positive economic benefit to those practitioners.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no impact on competition or employment.

Malcolm J. Broussard	Evan Brasseaux
Executive Director	Staff Director
1604#056	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Medication Synchronization (LAC 46:LIII.2519)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend §2519 of its rules. In particular, the board proposes to allow pharmacists to perform medication synchronization services for their patients.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 25. Prescriptions, Drugs, and Devices
Subchapter B. Prescriptions
§2519. Prescription Refills; Medication Synchronization

A. - B.2. …

C. Medication Synchronization. This term refers to a service which a pharmacist may perform for his patient, at the request of the patient, wherein he may proactively adjust the medication dispensing quantity and/or the refill schedule of a prescription in order to manage the patient's medication therapy, with the goal of improved medication adherence by the patient.

1. For the performance of this service, the pharmacist may adjust the dispensing quantity and/or refill schedule originally ordered by the prescriber; however, the pharmacist shall not exceed the total quantity prescribed [dispensing quantity multiplied by the total number of fills authorized (original plus refills)], or what is otherwise allowed by law.

2. With respect to prescriptions for controlled substances where refills have been authorized, pharmacists may utilize partial fills, as described in §2747.C.5 of the board's rules, but may not exceed the dispensing quantity noted on the original prescription.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, LR 33:1133 (June 2007), LR 42:

Family Impact Statement

In accordance with section 953 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal, or amendment. The following statements are published in the *Louisiana Register* with the proposed agency Rule.

1. The effect on the stability of the family. We anticipate no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. We anticipate no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. We anticipate no effect on the functioning of the family.

4. The effect on family earnings and family budget. We anticipate no effect on family earnings and the family budget.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. We anticipate no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with section 973 of Title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, repeal, or amendment.

1. The effect on household income, assets, and financial security. We anticipate no impact on household income, assets, and financial security.

2. The effect on early childhood development and preschool through postsecondary education development. We anticipate no impact early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. We anticipate no impact on employment and workforce development.

4. The effect on taxes and tax credits. We anticipate no impact on taxes or tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. To the extent a child or other dependent requires multiple prescription medications supplied several times per month at a pharmacy, then medication synchronization services may reduce the number of trips to the pharmacy each month, reducing their transportation costs and possibly improving the benefit received from the medication.

Small Business Analysis

In accordance with section 965 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses.

1. The establishment of less stringent compliance or reporting requirements for small businesses. The proposed Rule does not exempt small businesses from compliance with any of the requirements.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no reporting deadlines in the proposed Rule.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no reporting requirements in the proposed Rule.

4. The establishment of performance standards for small businesses to replace design There are no design or operational standards required in the propose Rule.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a Provider Impact Statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. To the extent that providers incur costs for multiple trips to a pharmacy each month to obtain multiple prescriptions for the same

patient, then medication synchronization services may result in a reduction in the number of trips to a pharmacy, thereby reducing their operational costs.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, May 25, 2016 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 p.m. that same day.

Malcolm J. Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Medication Synchronization

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will allow pharmacists to perform medication synchronization services for their patients. The proposed rule change will result in a cost of approximately $2,000 for printing costs. This includes $1,000 for the proposed rule change in FY 16 and $1,000 for the final rule in FY 17.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections of state or local governmental units from the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The persons directly affected by the proposed rule change are those pharmacists who wish to perform medication synchronization services for their patients. The patients who will best benefit from such services are those taking multiple prescription medications from multiple prescribers requiring multiple visits to the pharmacy each month. The pharmacist will be able to adjust the dispensing quantity and refill schedules for the different prescriptions so that all of the prescriptions can be placed on the same schedule, requiring only one visit to the pharmacy each month. There is evidence that patients with simplified schedules are more likely to adhere to such schedules and derive more benefit from their medications. There is no cost to the pharmacist performing such services. Patients may realize some cost savings to the extent this limits their transportation costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no impact on competition or employment.

Malcolm J. Broussard
Executive Director
1604#058

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Pharmacist-in-Charge of Nonresident Pharmacy
(LAC 46:LIII.2307)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend Chapter 23, Out-of-State Pharmacy, of its rules. In particular, the board proposes to amend §2307 relative to the requirements for the pharmacist-in-charge of a nonresident pharmacy. In addition, the board intends to make technical changes in the Chapter title and Section headings to change "out-of-state" to "nonresident."

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 23. Nonresident Pharmacy
§2307. Pharmacist-in-Charge

A. The opportunity to accept an appointment as the pharmacist-in-charge (PIC) of a pharmacy is a professional privilege. The following requirements are attached to a PIC privilege.

1. The acquisition of the PIC privilege shall require:

a. possession of an active Louisiana pharmacist license;

b. possession of an active license in the state in which the pharmacy is located, and further, said license shall not have any restrictions which prohibit the position of pharmacist-in-charge;

c. active practice as a pharmacist for a minimum of two years under the jurisdiction of any board of pharmacy in the United States; and

d. the completion of the affidavit of responsibility and duties described in Subsection J of this Section.

2. The PIC shall be present and practicing at the pharmacy for which he holds the PIC position no less than 20 hours per week during the pharmacy's ordinary course of business. In the event the pharmacy's normal hours of business are less than 20 hours per week, the PIC shall be present and practicing at least 50 percent of the normal business hours.

B. An initial and renewal pharmacy permit application shall designate and identify the licensed pharmacist-in-charge.

C. - J. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 18:1381 (December 1992), effective January 1, 1993, LR 29:2100 (October 2003), effective January 1, 2004, LR 33:1133 (June 2007), LR 42:

Family Impact Statement

In accordance with section 953 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal, or

amendment. The following statements are published in the *Louisiana Register* with the proposed agency Rule.

1. The effect on the stability of the family. We anticipate no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. We anticipate no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. We anticipate no effect on the functioning of the family.

4. The effect on family earnings and family budget. We anticipate no effect on family earnings and the family budget.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. We anticipate no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, repeal, or amendment.

1. The effect on household income, assets, and financial security. We anticipate no impact on household income, assets, and financial security.

2. The effect on early childhood development and preschool through postsecondary education development. We anticipate no impact early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. We anticipate no impact on employment and workforce development.

4. The effect on taxes and tax credits. We anticipate no impact on taxes or tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. We anticipate no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with section 965 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses.

1. The establishment of less stringent compliance or reporting requirements for small businesses. The proposed Rule does not exempt small businesses from compliance with any of the requirements.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no reporting deadlines in the proposed Rule.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no reporting requirements in the proposed Rule.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed Rule. The proposed Rule identifies the performance standards for the pharmacist-in-charge of a nonresident pharmacy, which is the same standard used for a pharmacy located within the state. The rules do not provide for alternative options for small businesses.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a Provider Impact Statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate minimal costs to the provider to implement the requirements of the proposed Rule.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, May 25, 2016 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 p.m. that same day.

Malcolm J. Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Pharmacist-in-Charge of Nonresident Pharmacy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will amend the existing requirements for the pharmacist-in-charge of a nonresident pharmacy. The proposed rule change will result in a cost of approximately $2,000 for printing costs. This includes $1,000 for the proposed rule change in FY 16 and $1,000 for the final rule in FY 17.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections of state or local governmental units from the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The persons directly affected by the proposed rule change are those pharmacists intending to serve as the pharmacist-in-charge (PIC) of a nonresident pharmacy. The change from the current rule will require the PIC to be physically present and practicing in the pharmacy for which he has accepted the PIC appointment. Another proposed change from the current rule identifies the minimum amount of time the PIC must be physically present in the pharmacy. These proposed standards already exist for pharmacies located within the state but do not currently exist in nonresident pharmacies. To the extent a current PIC of a nonresident pharmacy is not physically present for the minimum amount of time in the pharmacy, there may be additional personnel costs to the pharmacy.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no impact on competition or employment, unless a nonresident pharmacy has previously been relying on a 'phantom' PIC, i.e., a PIC not physically present in the pharmacy. In that case, there could be a positive effect on employment in that pharmacy.

Malcolm J. Broussard	Evan Brasseaux
Executive Director	Staff Director
1604#057	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Emergency Medical Transportation Services
Ambulance Licensing Standards
(LAC 48:I.6037)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.6037 in the Medical Assistance Program as authorized by R.S. 36:254, R.S. 40:1231 and R.S.40:1235.2. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

In order to comply with the directives of House Concurrent Resolution (HCR) 92 of the 2015 Regular Session of the Louisiana Legislature, which directed the department to amend the provisions governing the licensing standards for ambulance service providers to establish protocols relative to the assessment and transport of patients with cardiac and stroke emergencies, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the licensing standards for emergency medical transportation services (*Louisiana Register,* Volume 41, Number 10).

The department has now determined that it is necessary to amend the provisions governing the licensing standards for emergency medical transportation services in order to further clarify these provisions.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 60. Emergency Medical Transportation Services
Subchapter B. Provider Responsibilities
§6037. Medical Protocol

A. - C.21. ...

D. The EMS service shall adopt the protocols established by the Louisiana Emergency Response Network (LERN) or develop an agency specific protocol with specific language related to the transportation of the following patients:

1. Acute stroke patients shall be transported to the closest appropriate primary stroke center, acute stroke ready hospital, or closest appropriate hospital if the patient exhibits a compromise of airway, breathing or circulatory function, or other potential life threatening emergency as defined by the protocols implemented by the ambulance service's medical director. Acute stroke patients may also be diverted to the closest appropriate hospital by order of LERN or online medical control from the local facility, potential receiving facility or medical director.

2. ...

3. In any case where the treating emergency medical technician's evaluation, according to protocol, indicates a potentially unstable condition or potential medical emergency that, if traveling the extra distance to the recommended appropriate facility could put the patient at higher risk, the emergency medical technician in his/her discretion may divert to the nearest appropriate facility.

E. - E.4. ...

F. Ambulance services are accountable for assuring compliance with applicable protocols by their personnel. Exceptions to these protocols must be reviewed on a case-by-case basis by the physician medical director.

1. Treatment decisions shall be considered given the current health status of the patient in conjunction with all of the associated risks factors including, but not limited to, distance to the nearest stroke facility.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1234.E.1 and 40:1235.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:476 (March 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:2153 (October 2015), LR 42:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it will aid in improving mortality outcomes and reducing disability occurrences by providing vital emergency medical transportation services for cardiac and stroke patients.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden on families who incur costs associated with cardiac and stroke emergencies since these provisions are expected to improve the health outcomes of cardiac and stroke patients.

Provider Impact Statement

In compliance with House Concurrent Resolution 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, May 26, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Emergency Medical Transportation Services, Ambulance Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that $540 (SGF) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule is being promulgated to amend the provisions governing the licensing standards for emergency medical transportation services in order to further clarify the medical protocol for cardiac and stroke patients to comply with the directives of House Concurrent Resolution 92 of the 2015 Regular Session of the Louisiana Legislature. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to emergency medical transportation providers for FY 15-16, FY 16-17 and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello	Evan Brasseaux
Health Standards Section Director	Staff Director
1604#071	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Medicaid Eligibility
Federally-Facilitated Marketplace Determinations
(LAC 50:III.505)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:III.505 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Patient Protection and Affordable Care Act (ACA) of 2010 requires that all applicants for coverage through the federal health insurance marketplace be assessed for eligibility in other government programs, including Medicaid. States are required to select a marketplace model that is state-based, federally-facilitated or working in partnership with the federal marketplace. States with a federally-facilitated marketplace (FFM), like Louisiana, must elect to either have the FFM make assessments of Medicaid eligibility and transfer the account to the state Medicaid agency for a final determination, or delegate the authority to make Medicaid eligibility determinations to the FFM. Initially, Louisiana elected to become a determination state and accepted eligibility determinations made by the FFM.

In August 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing Medicaid eligibility in order to become an assessment state and only accept eligibility assessments from the FFM (*Louisiana Register*, Volume 41, Number 8). The department has now determined that it is necessary to amend the provisions governing Medicaid eligibility in order to return to a determination state and accept Medicaid eligibility determinations made by the FFM.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 1. General Administration
Chapter 5. Application Processing
§505. Federally-Facilitated Marketplace Determinations

A. Effective April 20, 2016, Louisiana Medicaid will delegate its Medicaid eligibility determination authority to the federally-facilitated marketplace (FFM) in order to begin

accepting eligibility determinations made by the FFM for only those individuals who apply for healthcare coverage through the FFM. This action will result in the state becoming a determination state.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1489 (August 2015), amended LR 42:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, May 26, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Eligibility
Federally-Facilitated Marketplace Determinations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that $432($216 SGF and $216 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 15-16. It is anticipated that $216 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the April 20, 2016 Emergency Rule which amended the provisions governing Medicaid eligibility in order for Louisiana Medicaid to return to a determination state and begin accepting Medicaid eligibility determinations made by the federally-facilitated marketplace in order to assist the Medicaid Program with eligibility determinations. It is anticipated that implementation of this proposed rule will not have economic costs or benefits for FY 15-16, FY 16-17 and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele	Evan Brasseaux
Interim Medicaid Director	Staff Director
1604#072	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Medicaid Eligibility
Incurred Medical Expense Deductions
(LAC 50:III.16105)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal the May 20, 2003 Rule governing incurred medical expenses in the Medicaid Program and proposes to adopt LAC 50:III.16105 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Pursuant to 42 CFR 435.725, medical expenses not subject to third-party payment that are incurred by nursing facility residents, including Medicare and other health insurance premiums, deductibles or coinsurance charges and necessary medical or remedial care recognized under state law, but not covered under the Medicaid State Plan are budgeted in the determination of the patient liability for nursing facility care.

In compliance with 42 CFR 435.725, the Department of Health and Hospitals, Bureau of Health Services Financing currently allows deductions for incurred medical expenses in the determination of the patient liability to the nursing facility. The department has now determined that it is necessary to repeal the May 20, 2003 Rule governing incurred medical expense deductions. This proposed Rule will also revise these provisions in order to impose reasonable limits on incurred medical expense deductions, and repromulgate the provisions in a codified format for inclusion in the *Louisiana Administrative Code*.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 9. Long-Term Care Eligibility

Chapter 161. General Provisions

§16105. Incurred Medical Expense Deductions

A. Allowable Deductions. The following criteria shall apply to all incurred medical expense deductions.

1. The deductions must be for an expense incurred by a nursing facility resident who is eligible for Medicaid vendor payment to the nursing facility.

2. Each deduction must be for a service or an item prescribed by a medical professional (e.g., a physician, a dentist, an optometrist, etc.) as medically necessary, and approved by the attending physician to be included as part of the facility's plan of care for the resident.

B. Non-Allowable Deductions. Deductions will not be allowed for the following incurred medical expenses:

1. expenses payable under Medicaid, except when documentation is presented to verify the expense was denied by the Medicaid program due to service limitations;

2. expenses for services, equipment or supplies which are not medically necessary;

3. expenses for services, equipment or supplies provided as part of the nursing facility reimbursement rate; or

4. monthly fees for pre-paid medical or dental service plans including but not limited to those referred to as "concierge plans."

C. Reasonable Limits. The following reasonable limits apply to incurred medical and remedial expense deductions.

1. The deduction shall be made at the lessor of:

a. 80 percent of the provider's billed charges;

b. the Medicaid fee schedule; or

c. 80 percent of the Louisiana region 99 par Medicare fee schedule.

2. Deductions for medical and remedial care expenses incurred as a result of the imposition of a transfer of assets penalty period is limited to zero.

D. Incurred medical expense deduction amounts will be evaluated annually for consideration of increases in the cost of medical or remedial services and supplies.

E. Nursing facilities shall not enter into profit sharing agreements with other providers for any services, supplies or equipment provided for under the incurred medical expense deductions.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, May 26, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Eligibility
Incurred Medical Expense Deductions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic cost of $270 for FY 15-16, and savings of $210,156 for FY 16-17 and $228,713 for FY 17-18. It is anticipated that $540 ($270 SGF and $270 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by $270 for FY 15-16 and decrease collections by approximately $346,697 for FY 16-17 and $380,376 for FY 17-18. It is anticipated that $270 will be expended in FY 15-16 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing Medicaid financial eligibility in order to incorporate reasonable limits on incurred medical expense deductions in long-term care financial eligibility determinations, and to promulgate these provisions in a codified format for inclusion in the Louisiana Administrative Code. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures in the Medicaid program by approximately $556,853 for FY 16-17 and $609,089 for FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

Jen Steele	Evan Brasseaux
Interim Medicaid Director	Staff Director
1604#073	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Medical Transportation Program
Non-Emergency Medical Transportation
(LAC 50:XXVII.Chapter 5)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal and replace the provisions of the October 20, 1994 Rule governing non-emergency medical transportation, and amend LAC 50:XXVII.Chapter 5 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions governing non-emergency medical transportation (NEMT) (*Louisiana Register,* Volume 20, Number 10). The department promulgated an Emergency Rule which repealed the October 20, 1994 Rule in order to revise the provisions governing NEMT services, and to ensure that these provisions are appropriately promulgated in a codified format for inclusion in the *Louisiana Administrative Code*. This Emergency Rule also amended the provisions governing the reimbursement methodology for NEMT services to replace the monthly payment of capitated rates with a monthly per trip payment methodology (*Louisiana Register*, Volume 40, Number 10). The department promulgated an Emergency Rule which amended the October 1, 2014 Emergency Rule in order to further clarify these provisions to bring the language of this Rule into compliance with the approved Medicaid State Plan, and to incorporate provisions governing appeals rights for denials and partial denials of NEMT services (*Louisiana Register*, Volume 41, Number 5). This proposed Rule is being promulgated to continue the provisions of the May 20, 2015 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXVII. Medical Transportation Program
Chapter 5. Non-Emergency Medical Transportation
Subchapter A. General Provisions

§501. Introduction

A. Non-emergency medical transportation (NEMT) is non-emergency transportation to and from the providers of routine Medicaid covered services for Medicaid recipients. NEMT is intended to provide transportation only after all reasonable means of free transportation have been explored and found to be unavailable.

B. Medicaid covered transportation is available to Medicaid recipients when:

1. the individual is enrolled in either a full-coverage Medicaid benefit program or a limited-coverage Medicaid benefit program that explicitly includes transportation services; and

2. the recipient or their representative has stated that they have no other means of transportation.

C. The requested destination must be to a medical or behavioral health service provider currently enrolled in the Medicaid Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§503. Prior Authorization

A. NEMT services require prior authorization. The department or its designee will authorize transportation after verifying the recipient's Medicaid eligibility and validity of medical or behavioral health appointment(s).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§505. Requirements for Coverage

A. When transportation is not available through family and friends, payment shall be authorized for the least costly means of transportation available. The least costly means of

transportation shall be determined by the department and shall be determined according to the following hierarchy:

1. city or parish public transportation;

2. family and friends who meet the state license and insurance requirements and who are willing to:

a. enroll in the Medicaid Program; and

b. be paid a published rate for providing non-emergency transportation;

3. intrastate public conveyance (such as bus, train or plane);

4. nonprofit agencies and organizations that provide a transportation service and who are enrolled in the Medicaid Program; and

5. for profit providers enrolled in the Medicaid Program.

B. Recipients shall be allowed a choice of providers when the costs of two or more providers are equal.

C. Recipients are encouraged to utilize medical or behavioral health providers of their choice in the community in which they reside when the recipient is also in need of Medicaid reimbursed transportation services. The fact that the department will still pay for the actual medical or behavioral health service received outside the community in which the recipient resides does not obligate the department to reimburse for transportation to accommodate such a choice.

D. When the recipient chooses to utilize a medical or behavioral health provider outside of the community due to preference and/or history, payment may be authorized only for the cost of transportation to the nearest available provider.

E. The recipient may be responsible for securing any agreements with family and friends, nonprofit or profit providers to make the longer trip for the payment authorized. If the recipient needs help with making such arrangements, the department will help but the help given will imply no obligation to provide a greater reimbursement.

F. When specialty treatment required by the recipient necessitates travel over extended distances, authorization for payment for intrastate transportation shall be determined according to the following criteria.

1. Intrastate transportation reimbursement shall be authorized when medical or behavioral health services are not available to the recipient in his/her community.

2. Payment shall be authorized when free transportation is not available.

3. The department shall still authorize payment only for the most economical means of transportation. This may be through negotiating payment for transportation with family and or friends or through accessing the public conveyance systems such as bus, train or plane.

4. The determination as to use of public conveyance shall be based on least cost, medical or behavioral health condition of the recipient to be transported, and availability of public conveyance.

G. When it has been verified that public conveyance is unavailable or inappropriate for intrastate transportation the recipient shall solicit transportation from family and friends. The department will authorize payment to assist the family in accessing the needed medical services.

1. Payment will be based on distance to be traveled to the nearest available similar or appropriate medical or behavioral health services, parking and tolls. In determining the amount of payment the cost of the least costly public conveyance shall be used as the base cost to be paid to the family. Payment shall not be available for room and board or meals.

H. When no other means of transportation is available through family and friends or public conveyance, the department will solicit intrastate transportation through a nonprofit provider.

1. The nonprofit provider will be paid a fee based on the current fee schedule.

2. If the nonprofit provider cannot accept the trip then the department will reimburse for-profit providers based on the current fee schedule.

I. The department will not authorize "same day" trips except in the instance of need for immediate medical care due to injury or illness. Same day trips will not be authorized for scheduled appointments for predictable or routine medical or behavioral health care. Recipients will be asked to reschedule the appointment and make the subsequent request for transportation timely.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Subchapter B. Recipient Participation

§521. General Provisions

A. Recipients shall participate in securing transportation at a low cost and shall agree to use public transportation or solicit transportation from family and friends as an alternative to more costly means of transport.

B. When the recipient alleges that public conveyance cannot be used due to medical reasons, then verification shall be provided by giving the department a written statement from a doctor that includes the specific reason(s) that the use of public conveyance is contraindicated by the medical or behavioral health condition of the recipient. In no case can preference of the recipient be the sole determining factor in excluding use of public conveyance.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§523. Recipient Appeals

A. Recipients shall have a right to request a fair hearing for the denial of NEMT services in full or in part. This includes requests for a fair hearing for denial of meals and lodging expenses associated with authorized trips.

B. Recipients shall be provided written notice of the service denial (including denials for meals and/or lodging expenses) and given the opportunity to request a fair hearing to appeal the department's decision.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Subchapter C. Provider Responsibilities

§541. Provider Enrollment

A. All transportation providers must comply with the published rules and regulations governing the Medicaid Transportation Program, all state laws, and the regulations of any other governing state agency or commission or local

entity to which they are subject as a condition of enrollment and continued participation in the Medicaid Program.

B. Non-emergency medical transportation profit providers shall have a minimum liability insurance coverage of $100,000 per person and $300,000 per accident or a $300,000 combined service limits policy.

1. The liability policy shall cover any and all:
   a. autos;
   b. hired autos; and
   c. non-owned autos.

2. Premiums shall be prepaid for a period of six months. Proof of prepaid insurance must be a true and correct copy of the policy issued by the home office of the insurance company. Statements from the agent writing the policy will not be acceptable. Proof must include the dates of coverage and a 30-day cancellation notification clause. Proof of renewal must be received by the department no later than 48 hours prior to the end date of coverage. The policy must provide that the 30-day cancellation notification be issued to the Bureau of Health Services Financing.

3. Upon notice of cancellation or expiration of the coverage, the department will immediately cancel the provider agreement for participation. The ending date of participation shall be the ending date of insurance coverage. Retroactive coverage statements will not be accepted. Providers who lose the right to participate due to lack of prepaid insurance may re-enroll in the transportation program and will be subject to all applicable enrollment procedures, policies, and fees for new providers.

C. As a condition of reimbursement for transporting Medicaid recipients to medical or behavioral health services, family and friends must maintain the state minimum automobile liability insurance coverage, a current state inspection sticker, and a current valid driver's license. No special inspection by the department will be conducted. Proof of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the department is sought. Proof shall be the sworn and notarized statement of the individual enrolling for payment, certifying that all three requirements are met. Family and friends shall be enrolled and shall be allowed to transport up to three specific Medicaid recipients or all members of one Medicaid assistance unit. The recipients to be transported by each such provider will be noted in the computer files of the department. Individuals transporting more than three Medicaid recipients shall be considered profit providers and shall be enrolled as such.

D. As a condition of participation for out-of-state transport, providers of transportation to out-of-state medical or behavioral health services must be in compliance with all applicable federal intrastate commerce laws regarding such transportation, including but not limited to, the $1,000,000 insurance requirement. Proof of compliance with all interstate commerce laws must be submitted when enrollment in the Medicaid Program is sought or prior to providing any out-of-state Medicaid transportation.

E. A provider must agree to cover the entire parish or parishes for which he provides non-emergency medical transportation services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§543. Trip Coordination

A. Dispatch personnel will coordinate to the extent possible, trips for family members so that all recipients in a family are transported as a unit at one time to the same or close proximity providers.

B. Providers must submit a signed affidavit with claims certifying that a true and correct bill is being submitted.

C. If the provider has declined to accept a trip on a particular day the dispatch personnel will not assign additional trips to that provider for that same day.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§545. Provider Suspension and Termination

A. Providers are subject to suspension from the NEMT Program upon department documentation of inappropriate billing practices or other practices that egregiously violate Medicaid Program policy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§547. Audits

A. The department shall conduct regular audits of service authorization, reimbursement, service delivery and documentation in order to ensure compliance with published rules and regulations.

B. Lack of compliance on the part of transportation providers shall be addressed as described in the provider policy manual.

C. Lack of compliance on the part of department contractors shall be met with corrective action as described in contract documents.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Subchapter D. Reimbursement

§565. General Provisions

A. Reimbursement for NEMT services shall be based upon the current fee schedule. An additional per-mile rate may be included when the department determines that a provider requires compensation for travelling far outside of their service areas. This additional payment shall be made when there are no providers in the recipient's service area

B. Reimbursement for NEMT to regular, predictable and continuing medical services, such as hemodialysis, chemotherapy or rehabilitation therapy, as determined by the department, shall be based on a capitated rate paid by individual trip.

C. Reimbursement will not be made for any additional person(s) who must accompany the recipient to the medical provider.

D. An individual provider will be reimbursed for a trip to the nearest facility that will meet the recipient's medical or behavioral health needs. However, the individual provider may transport the recipient to a more distant facility if the individual provider will accept reimbursement from the department to the nearest facility and assumes responsibility for additional expenses incurred.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§573. Non-Emergency, Non-Ambulance Transportation

A. - F.5. ...

G. Effective for dates of service on or after October 1, 2014, the monthly payment of capitated rates shall be replaced with a per trip payment methodology.

1. Payments previously made using the monthly capitated rate shall be made by dividing the monthly rate by the number of authorized trips within a given month. Each trip will then be reimbursed separately.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:462 (March 2007), LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2564 (November 2010), LR 37:3030 (October 2011), amended LR 38:3214 (December 2012), LR 42:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, May 26, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Medical Transportation Program Non-Emergency Medical Transportation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that $1,728 ($864 SGF and $864 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 15-16. It is anticipated that $864 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the October 1, 2014 and the May 20, 2015 Emergency Rules which repealed the October 20, 1994 Rule governing non-emergency medical transportation (NEMT) services in order to revise the provisions governing NEMT services, amend the provisions governing the reimbursement methodology for NEMT services to replace the monthly payment of capitated rates with a monthly per trip payment methodology, incorporate provisions governing appeals rights for denials and partial denials of NEMT services and to ensure that these provisions are appropriately promulgated in a codified format for inclusion in the Louisiana Administrative Code. The changes to the payment methodology did not impact the overall payments made to NEMT providers, only the methodology used to establish the rate structure. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to non-emergency medical transportation services providers for FY 15-16, FY 16-17 and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jan Steele	Evan Brasseaux
Interim Medicaid Director	Staff Director
1604#074	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Backflow and Cross Connection Control in Water Supplies
(LAC 51:XII.344 and 346)

Under the authority of R.S. 40:4 and 40:5 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), intends to

amend Part XII (Water Supplies) of the Louisiana state *Sanitary Code* (LAC 51). The amendments are necessary to ensure that public water supplies continue to protect their water systems from backflow and cross connections which may occur on customer premises and which can cause contamination of the water supply.

As required by Act 836 of the 2014 Regular Legislative Session, Part XIV (Louisiana state Plumbing Code) of the Louisiana state *Sanitary Code* (LAC 51, *Public Health—Sanitary Code*) became null and void on January 1, 2016. In accordance with the Act, the Louisiana state Uniform Construction Code Council (LSUCCC) promulgated new state plumbing regulations through an emergency rule under the state Uniform Construction Code (LAC 17:I). Before January 1, 2016, comprehensive backflow protection/cross connection control regulations designed to protect public health applicable to plumbing were contained in Part XIV (Plumbing) of the state *Sanitary Code*. Effective January 1, 2016, some of these same backflow protection/cross connection control regulations applicable to plumbing have been adopted by the LSUCCC under the state Uniform Construction Code, particularly within the 2012 *International Plumbing Code* and within the 2012 *International Residential Code* (see December 20, 2015 *Louisiana Register*, Volume 41, page 2545).

The state health officer, through DHH-OPH, finds it necessary to promulgate a Rule that finalizes the requirements of an Emergency Rule (the "ER") concerning cross connection control/protection of the water supply which became effective on February 23, 2016. This Rule maintains the requirements of the ER which amended Part XII (Water Supplies) of Title 51 (*Public Health—Sanitary Code*) in order to direct public water systems to utilize the backflow and cross connection control regulations contained in the state Uniform Construction Code. Prior to the adoption of the ER, Part XII was outdated because it directed water suppliers to Part XIV of the state *Sanitary Code* relative to protecting its system from backflow and cross connections on customer premises. As mentioned above, plumbing regulations formerly contained under Part XIV of the state *Sanitary Code* have been repealed effective January 1, 2016.

In addition, the ER adopted comprehensive qualification requirements for persons involved in installing, repairing, testing, and maintaining backflow prevention devices and methods. This Rule keeps those requirements in place to ensure that all persons involved in the installation, repair, testing and maintenance of backflow prevention devices are qualified to perform such work.

For these reasons, Part XII (Water Supplies) of the Louisiana state *Sanitary Code* (LAC 51:XII) is proposed to be amended as follows.

Title 51
PUBLIC HEALTH—SANITARY CODE
Part XII. Water Supplies

Chapter 3. Water Quality Standards

§344. Protection of Water Supply/Containment Practices

A. As used in this Section, "mandatory containment practices" means the containment practices prescribed in and required by the state Uniform Construction Code, LAC 17:I, including maintenance and testing requirements, and any additional or related requirements of this Part.

B. In order to protect its water supply from potential contamination, each water supplier shall develop and implement a written backflow prevention plan outlining the policies and procedures it will use to verify that its customers comply with mandatory containment practices, and shall make a reasonable effort to ensure that only customers who comply with mandatory containment practices connect or remain connected to its water supply.

C. Unless otherwise directed by the state health officer, a water supplier shall disconnect or refuse to connect customers who:

1. fail to comply with mandatory containment practices; or

2. fail to provide or allow adequate confirmation of such compliance.

D. If a water supplier has a reasonable basis to believe that an unprotected or improperly protected cross connection exists on the premise of any customer not required to comply with mandatory containment practices, the water supplier shall take reasonable steps to perform one or more of the following:

1. confirm that the cross connection on the premise is eliminated or does not exist;

2. confirm that approved fixture isolation backflow protection is installed at the cross connection on the premise in accordance with the fixture isolation practices prescribed in and required by the state Uniform Construction Code (LAC 17:I);

3. confirm that approved containment backflow protection is installed; or

4. discontinue water service to the customer.

E. When deemed necessary to protect public health, the state health officer may issue an administrative order or emergency order requiring a water supplier to comply with this Section.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(8) and 40:5(A)(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:2795 (November 2012), amended LR 42:

§346. Installer, Repairer, Tester and Maintainer Qualifications for Backflow Prevention Devices and Methods

A. Installer/Repairer/Maintainer Qualifications. Backflow preventers shall be installed, repaired and/or maintained by a state Plumbing Board of Louisiana (SPBLA) -licensed plumber who holds an SPBLA water supply protection specialist endorsement on his/her plumbing license pursuant to R.S. 37:1361 et seq., and its implementing regulations (LAC 46:LV.101 et seq.). Backflow preventers associated with a landscape irrigation system may be installed, repaired and/or maintained by a Horticulture Commission of Louisiana-licensed landscape irrigation contractor who holds an SPBLA-issued special water supply protection specialist endorsement in accordance with R.S. 3:3808(P). Backflow preventers located on public property or otherwise under the complete control of the water supplier (for example, water meter and the piping upstream of the water meter, if provided), may be installed, repaired and/or maintained by a backflow prevention assembly repairer who meets the ASSE 5130-

2009 (backflow prevention assembly repairer professional qualification standard) or other individuals holding a backflow prevention assembly repairer certificate from a nationally recognized backflow certification organization approved by the state health officer.

B. Field Tester Qualifications. Backflow preventers shall be tested by a state Plumbing Board of Louisiana (SPBLA) - licensed plumber who holds an SPBLA water supply protection specialist endorsement on his/her plumbing license pursuant to R.S. 37:1361 et seq., and its implementing regulations (LAC 46:LV.101 et seq.); or, by a backflow prevention assembly tester who meets ASSE 5110-2009 (backflow prevention assembly tester professional qualification standard), or other individuals holding a testing certificate from a nationally recognized backflow certification organization approved by the state health officer. Backflow preventers associated with a landscape irrigation system may be tested by a Horticulture Commission of Louisiana-licensed landscape irrigation contractor who holds an SPBLA-issued special water supply protection specialist endorsement in accordance with R.S. 3:3808(P).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5(A)(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 42:

Family Impact Statement

1. The effect on the stability of the family. The stability of the family would be severely affected should one or more family members experience illness or death from contaminated drinking water caused by backflow due to a cross connection. The intent of the adoption of this Rule is to help to ensure that all family members are provided safe drinking water by continuing to properly authorize water suppliers to adopt and enforce a backflow and cross connection control program for their water supply system.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. None.

3. The effect on the functioning of the family. The functioning of the family would be severely affected should one or more family members experience illness or death from contaminated drinking water caused by backflow due to a cross connection. The intent of the adoption of this Rule is to help to ensure that all family members are provided safe drinking water by continuing to properly authorize water suppliers to adopt and enforce a backflow and cross connection control program for their water supply system.

4. The effect on the family earnings and family budget. The affect on the family earnings and family budget would be severely effected should one or more family members experience illness or death from contaminated drinking water caused by backflow due to a cross connection. The intent of the adoption of this Rule is to help to ensure that all family members are provided safe drinking water by continuing to properly authorize water suppliers to adopt and enforce a backflow and cross connection control program for their water supply system.

5. The effect on the behavior and personal responsibility of children. None.

6. The ability of the family or local government to perform the function as contained in the proposed Rule. No additional impact is expected on the family to perform the function as contained in the proposed Rule because residential customer's homes have been and continue to be required free of cross connections under both the old and the new state plumbing regulations. In fact, the new state plumbing regulations adopted on January 1, 2016 by the Louisiana state Uniform Construction Code Council (LSUCCC) contain less cross connection control regulations for residential customers than had the prior Department of Health and Hospitals plumbing regulations (which were repealed on January 1, 2016). Therefore, the ability of the family to perform the function of this Rule is somewhat easier as compared to the plumbing regulations that existed prior to January 1, 2016 because certain cross connection control regulations, particularly as regards containment devices for certain types of cross connections which may exist in some residences, have now been eliminated under the new LSUCCC plumbing regulations.

Local governmental units which own or operate a public water system are already required to have a cross connection control program; however, the existing Rule in Part XII (Water Supplies) of the Louisiana state *Sanitary Code* refers water suppliers to the old state plumbing code regulations which have now been repealed effective January 1, 2016. The intent of this Rule now points water suppliers to seek the new plumbing code regulations adopted by the LSUCCC's new plumbing regulations which were adopted and are effective on January 1, 2016.

Poverty Impact Statement

1. The effect on household income, assets, and financial security. A positive effect on household income, assets, or financial security is expected because the new state plumbing regulations adopted on January 1, 2016 by the Louisiana state Uniform Construction Code Council (LSUCCC) contain less cross connection control regulations for residential customers than had the prior Department of Health and Hospitals plumbing regulations (which were repealed on January 1, 2016). Therefore, the effect on household income, assets, and financial security to perform the function of this Rule has been lessened as compared to the plumbing regulations that existed prior to January 1, 2016 because certain cross connection control regulations, particularly as regards containment devices for certain types of cross connections which may exist in some residences, have now been eliminated under the new LSUCCC plumbing regulations.

2. The effect on early childhood development and preschool through postsecondary education development. There will be no effect on childhood development and preschool through postsecondary education development.

3. The effect on employment and workforce development. Please refer to Part IV of the Fiscal and Economic Impact Statement contained elsewhere in this Notice of Intent.

4. The effect on taxes and tax credits. Certain cross connection control regulations, particularly as regards containment devices for certain types of cross connections which may exist in some residences, have now been eliminated under the new LSUCCC plumbing regulations effective January 1, 2016. In as much as these households no longer have to purchase, install, test or maintain such containment devices, any taxes previously required to be

paid for such devices will no longer be collected. There will be no affect on tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. There will be no affect on child and dependent care, housing, nutrition, transportation, and utilities assistance. In as much as preventative public health regulations have now been lessened effective January 1, 2016 by the adoption of the new state plumbing regulations by the LSUCCC, health care costs for low income households potentially could increase should the public water supply become contaminated because of the lessening of previous public health standards regarding plumbing and cross connection control regulation

Small Business Analysis

In accordance with the Regulatory Flexibility Act (R.S. 49:965.2-965.8), this small business regulatory flexibility analysis and small business economic impact statement is being submitted for the rules and regulations proposed for adoption, amendment, or repeal (proposed Rule). The summary statement, which is based on the attached worksheet, will be published in the *Louisiana Register* with the proposed rules and regulations. The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered.

The Office of Public Health's Engineering Services Section does not expect that adoption of the proposed amendments will have a significant economic impact on a substantial number of small business entities.

1. Regulatory Flexibility Analysis. The Office of Public Health's Engineering Services Section has performed a regulatory flexibility analysis for the revision of Part XII of the state sanitary code. DHH-OPH does not expect that the proposed Rule change will have significant economic impact on a substantial number of small businesses.

2. Small Business Economic Impact Statement. A small business economic impact statement has not been prepared because it is estimated that the proposed Rule is not expected to have a significant adverse impact on a substantial number of small businesses.

3. Notice to Department of Economic Development. No notice of intent to adopt the proposed Rule has been provided to the Department of Economic Development because it is estimated that the adoption and promulgation of the proposed Rule is not expected to have a significant adverse impact on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Per HCR 170, "provider" means an organization that provides services for individuals with developmental disabilities. In particular, there should be no known or foreseeable:

1. effect on the staffing level requirements or qualifications required to provide the same level of service;

2. total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on the proposed Rule. Such comments must be received no later than Monday, May 30, 2016 at COB, 4:30 p.m., and should be addressed to Amanda Laughlin, Chief Engineer, Engineering Services Section, Office of Public Health, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7303. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 North Fourth Street, Room 132, Baton Rouge, LA 70802.

Public Hearing

DHH-OPH will conduct a public hearing at 9 a.m. on Wednesday, May 25, 2016, in Room 118 of the Bienville Building, 628 North Forth Street, Baton Rouge, LA. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez parking garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Backflow and Cross Connection Control in Water Supplies

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule revises LAC 51:XII (Water Supplies) by amending Section 344 (Protection of Water Supply/Containment Practices) and adding a new Section 346 (Installer, Repairer, Tester and Maintainer Qualifications for Backflow Prevention Devices and Methods). In accordance with Act 836 of the 2014, Part XIV (Louisiana State Plumbing Code) of the Louisiana State Sanitary Code [LAC 51 (Public Health Sanitary Code)] became null and void on January 1, 2016. Backflow and cross connection control regulations on customer premises were formerly contained within the Plumbing Code that was repealed. In order to address repealed regulations, the proposed rule directs public water systems to utilize the backflow and cross connection control regulations adopted within the Louisiana State Uniform Construction Code (LSUCC) when implementing their cross connection control program for their water system. Also, the proposed rule implements new regulations to ensure that all persons involved in the installation, repair, testing and maintenance of backflow prevention devices are qualified to perform such work.

The Office of Public Health does not anticipate that the proposed action will result in any additional implementation costs to state or local governmental units. The proposed rule changes will result in an estimated cost of $800 ($480 in FY 15-16 and $320 in FY 16-17) to publish the notice of intent and final rule in the Louisiana Register. OPH has sufficient funds to implement the proposed action.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no anticipated effects on revenue collections of state or local governmental units anticipated as a result of promulgating the proposed rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The 2012 International Plumbing Code and the 2012 International Residential Code, published by the International Code Council (ICC), were adopted by reference under the Louisiana State Uniform Construction Code (LSUCC). The

LSUCC contains model plumbing regulations (inclusive of backflow and cross connection control regulations) for the state. Water suppliers will have to obtain state-issued amendments to these model regulations. Access to such codes and amendments thereto is free by use of the Internet.

However, water suppliers may voluntarily purchase hard copies of the ICC model codes should note that the current cost for non-members of the ICC is $87.00 for the 2012 IPC and $128.00 for the 2012 IRC (soft cover book prices). The LSUCCC will, according to state law (R.S. 40:1730.26.3), have to evaluate and update the most recently ICC-published editions of the IPC and IRC no later than 5 years from the date of publication by the ICC. Therefore the LSUCC will have to adopt the 2015 editions of the IPC and IRC with applicable state amendments no later than May 30, 2019. For non-members of the ICC, the current soft cover book prices for the 2015 editions of the IPC and IRC are $87.00 and $128.00 respectively. This cost, for those whom decide to purchase copies, is expected every 3 to 5 years thereafter when yet newer ICC codes are published.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule implements regulations to ensure that all persons involved in the installation, repair, testing and maintenance of backflow prevention devices are qualified to perform such work. If the proposed rule is not adopted, then the qualifications for persons installing, repairing, testing and maintaining backflow prevention devices and methods will default to only the laws and regulations applicable to or adopted by the State Plumbing Board of Louisiana and the Horticulture Commission of Louisiana. Since some areas of the state have limited number of licensed plumbers and irrigation contractors, some public water systems would be unable to comply with backflow protection and cross connection control guidelines.

Jimmy Guidry, M.D.
State Health Officer
1604#079

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: January-March 2016

LAC Title	Part #.Section #	Action	Location: Month	LR 42 Page#
4	V.Chapter 53	Adopted	Jan.	2
	V.Chapter 55	Adopted	Jan.	3
7	V.919	Amended	Feb.	219
	V.Chapter 27	Amended	Mar.	393
	XIII.121,123,519,749,763	Amended	Feb.	211
	XXI.1301,1312	Adopted	Mar.	391
	XXI.1311,1321	Amended	Mar.	391
	XXV.Chapter 1	Amended	Feb.	212
	XXXV.125	Amended	Feb.	218
13	I.Chapter 9	Amended	Feb.	223
	I.2715	Amended	Feb.	224
	I.2719	Adopted	Feb.	224
	I.2904,2905	Amended	Jan.	41
	I.2915	Repealed	Jan.	41
	I.3307	Amended	Jan.	35
	I.3309	Adopted	Jan.	35
	I.3903,3923	Amended	Feb.	222
	I.3999	Adopted	Feb.	222
19	V.701,703	Adopted	Jan.	69
22	I.337	Amended	Mar.	424
	III.4703	Amended	Feb.	274
	III.4761	Adopted	Feb.	274
25	V.505	Amended	Jan.	35
28	IV.705,803,805	Amended	Jan.	47
	IV.2005,2007	Amended	Jan.	46
	IV.2009	Repealed	Jan.	46
	V.221,233	Amended	Jan.	46
	XLIII.133,905	Amended	Feb.	234
	CI.305,307,511,711,713,717,719,1509	Amended	Mar.	399
	CXI.1113,1115,1701,1705,1707,1125-1149	Amended	Feb.	224
	CXI.,1335-1343,1349-1357,1703	Repealed	Feb.	224
	CXI.1709-1729,1805-1810,1815,1817,1907	Repealed	Feb.	224
	CXI.1909,1915-1925,2305,2313-2323	Repealed	Feb.	224
	CXI.2401-2415	Repealed	Feb.	224
	CXIII.501,903,907,1301,1303	Amended	Feb.	230
	CXV.Chapter 23	Amended	Feb.	232
	CXXXI.243	Amended	Feb.	232
	CLXV.103,501,505,513,515,517,521,903	Amended	Jan.	42
	CLXV.503,507,509,511,519	Adopted	Jan.	42
32	I.317	Amended	Jan.	51
33	I.Chapter 8	Amended	Feb.	235
	III.504	Amended	Mar.	401
	III.509	Amended	Mar.	402
	V.10303	Amended	Feb.	280
	VII.10505-10513,10516,10517,10519	Amended	Feb.	244
	VII.10514,10515,10518,10524,10531	Adopted	Feb.	244
	VII.10521,10523,10525-10529,10534	Amended	Feb.	244
	VII.10532,10533,11101	Adopted	Feb.	244
	VII.10535-10543,11103	Amended	Feb.	244
33	VII.10536	Repealed	Feb.	244
34	V.Chapter 5	Amended	Jan.	51
37	XIII.Chapter 27	Repealed	Jan.	65
	XIII.Chapter 29	Repealed	Jan.	66
40	I.2519,2701,2705,2707,5101,5113,5315	Amended	Feb.	283
	I.5399	Amended	Feb.	283
	XXI.101	Adopted	Mar.	445
43	XVII.Chapter 3	Amended	Mar.	418
	XVII.Chapter 33	Amended	Mar.	413
46	XXIX.1515,1517	Adopted	Jan.	52
	XXXIII.304,313	Amended	Jan.	59
	XXXIII.710,712	Amended	Jan.	58
	XXXIII.714	Repealed	Jan.	58
	XXXIII.Chapter 8	Adopted	Jan.	56
	XXXIII.903	Amended	Jan.	56
	XXXIII.Chapter 11	Repealed	Jan.	56
	XXXIII.1502-1511	Adopted	Jan.	53
	XXXIII.1503-1513	Repealed	Jan.	53
	XXXVII.707,901,903,905,907,909,1107	Amended	Mar.	404
	XXXVII.709	Repealed	Mar.	404
	XXXVII.2001	Amended	Mar.	404
	XLVII.1703	Amended	Feb.	274
	XLVII.4507	Amended	Mar.	405
	LXI.1509,2701	Amended	Mar.	443
	LXVII.2901	Amended	Jan.	53
48	I.3901	Adopted	Jan.	64
	I.Chapter 90	Amended	Feb.	219
	I.12501,12503	Amended	Jan.	61
	I.12524	Repealed	Jan.	61
50	I.3511	Amended	Feb.	276
	II.20029	Adopted	Jan.	63
	V.965	Amended	Mar.	406
	V.967	Amended	Feb.	274
	V.1701	Adopted	Mar.	406
	V.6701	Adopted	Mar.	407
	VII.32915	Adopted	Feb.	275
	XXI.16107,16701,16901	Amended	Jan.	62
	XXI.16343	Adopted	Jan.	62
	XXVII.353	Amended	Feb.	277
	XXXIII.Chapters 61-67	Amended	Jan.	59
51	XII.311,355,357,363,367,903,1105,1113	Amended	Mar.	408
	XII.358,361,1102	Adopted	Mar.	408
	XII.1117,1119,1125,1133,1135,1139,1503	Amended	Mar.	408
	XII.1903,1907	Amended	Mar.	408
55	III.Chapter 7,8	Amended	Mar.	428
	V.1701	Amended	Feb.	279
	V.1703	Repealed	Feb.	279
	VII.317	Amended	Jan.	66
	IX.107,133,143,183	Amended	Mar.	427
	IX.155	Repealed	Mar.	427
56	V.1103	Amended	Mar.	403
58	I.2513	Repealed	Jan.	69
	XVIII.105	Adopted	Jan.	70
61	I.1607	Amended	Jan.	39
	I.1615-1629	Repealed	Jan.	39
	I.1633-1637	Amended	Jan.	37
	I.1641	Adopted	Jan.	37
	I.1667	Amended	Jan.	36
	I.1693	Amended	Jan.	40
	I.1695	Repromulgated	Jan.	40
	I.1701,1703	Adopted	Jan.	40
	I.4919	Adopted	Feb.	281
	I.5302	Amended	Feb.	282
	III.1701	Adopted	Feb.	280
67	III.1942	Repealed	Feb.	222
	V.6703,6708,7105,7111,7305,7311,7313	Amended	Feb.	219
	V.Chapter 75	Amended	Mar.	395
76	I.339	Adopted	Mar.	444
	VII.367	Amended	Jan.	70

Potpourri

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Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Annual Quarantine Listing 2016

In accordance with LAC 7:XV.107 and 109, we are hereby publishing the annual quarantine.

1.0 Sweetpotato Weevil (Cylas formicarius elegantulus Sum)

(1) In the United States: the states of Alabama, California, Florida, Georgia, Mississippi, North Carolina, South Carolina, Texas and any other state found to have the sweetpotato weevil.

(2) In the state of Louisiana:

(a) the entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Red River, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Feliciana;

(b) the property located at the following coordinates: 32.457650, -91.572820; and any properties within a 300-yard radius of these coordinates.

2.0 Pink Bollworm (Pectinophora gossypiella Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

Arizona

Generally infested area: the entire state

California

(1) Generally infested area: the entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, and San Diego

(2) Suppressive area: the entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, and Tulare

New Mexico

Generally infested area: the entire state

Texas

Generally infested area: the entire state

3.0 Phytophagous Snails

The states of Arizona and California

4.0 Sugarcane Pests and Diseases

All states outside of Louisiana

5.0 Lethal Yellowing

The state of Florida

6.0 Texas Phoenix Decline

The states of Texas and Florida

7.0 Tristeza, Xyloporosis, Psorosis, Exocortis

All citrus growing areas of the United States

8.0 Burrowing Nematode (Radopholus similis)

The States of Florida and Hawaii and the Commonwealth of Puerto Rico

9.0 Oak Wilt (Ceratocystis fagacearum)

Arkansas

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell

Illinois

Entire state

Indiana

Entire state

Iowa

Entire state

Kansas

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte

Kentucky

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson, Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster

Maryland

Infected Counties: Allegany, Frederick, Garrett, and Washington

Michigan

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee

Minnesota

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright

Missouri

Entire state

Nebraska

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy

North Carolina

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain

Ohio

Entire state

Oklahoma

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, Mcintosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner

Pennsylvania

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huningdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland

South Carolina

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland

Tennessee

Infected Counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White

Texas

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson

Virginia

Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe

West Virginia

Infected counties: all counties except Tucker and Webster

Wisconsin

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood

10.0Phony Peach

Alabama

Entire state.

Arkansas

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff

Florida

Entire state

Georgia

Entire state

Kentucky

County of McCracken

Louisiana

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union

Mississippi

Entire state

Missouri

County of Dunklin

North Carolina

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford

South Carolina

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York

Tennessee

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley

Texas

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur

11.0 Citrus Canker (Xanthomonas citri subsp. citri)

Louisiana

(1) Infested parishes: Orleans and St. Bernard, and portions of Jefferson, Lafourche, St. Charles, and Plaquemines

(2) Any areas designated as quarantined under the Federal Citrus Canker quarantine, 7 CFR 301.75 et seq.

12.0 Pine Shoot Beetle (Tomicus piniperda (L.))

Any areas designated as quarantined under the Federal Pine Shoot Beetle quarantine, 7 CFR 301.50 et seq.

13.0 Citrus Greening (Candidatus Liberibacter asiaticus)

Louisiana

(1) Infested parishes: Orleans and Washington.

(2) Any other areas or states designated as infested under the Federal Citrus Greening and Asian Citrus Psyllid quarantine, 7 CFR 301.76 et seq.

14.0 Asian Citrus Psyllid (Diaphorina citri Kuwayama)

Louisiana

(1) Infested parishes: Jefferson, Orleans, Lafourche, Plaquemines, St. Bernard, St. Charles, St. James, St. Tammany, Tangipahoa and Terrebonne.

(2) Any other areas or states designated as infested under the Federal Citrus Greening and Asian Citrus Psyllid quarantine, 7 CFR 301.76 et seq.

15.0 Emerald Ash Borer (Agrilus planipennis)

Louisiana

(1) Infested parishes: Bossier, Claiborne, and Webster.

(2) Any other areas or states designated as infested under the Federal Emerald Ash Borer quarantine 7 CFR 301.53-3 et seq.

Mike Strain DVM
Commissioner

1604#081

POTPOURRI

Department of Environmental Quality
Office of the Secretary
Legal Division

Public Hearing—Substantive Changes to
Proposed Rule OS093—Reportable Quantity
List for Pollutants (LAC 33:I.3905, 3917, and 3931)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that the department is seeking to incorporate substantive changes to the proposed amendments to various regulations, LAC 33:I.3905, 3917, and 3931 (Log #OS093S), which were originally noticed as OS093 in the December 20, 2015, issue of the *Louisiana Register*. (1604Pot1)

The department has made substantive changes to address comments received during the public comment period of proposed rule OS093. The changes:

- revise the proposed definition of "compressed gas;"
- delete the proposed revisions to the definitions of "discharge" and "release;"
- provide an exemption for the controlled release of hydrogen, and specify that the reporting of certain unauthorized discharges is required only if the discharge could reasonably be expected to escape the confinement of the facility or to an area to which the general permit has unrestricted access consistent with the Department of Public Safety's release and incident reporting regulations.

In the interest of clarity and transparency, the department is providing public notice and an opportunity to comment on the proposed changes to the amendments of the regulations in question. The department is also providing an interim response to comments received on the initial regulation proposal.

A strikeout/underline/shaded version of the proposed Rule that distinguishes original proposed language from language changed by this proposal and the interim response to Comments are available on the internet at www.deq.louisiana.gov under Rules and Regulations.

Public Comments

All interested persons are invited to submit written comments on the substantive changes. Persons commenting should reference this proposed regulation by OS093S. Such comments must be received no later than May 25, 2016, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. The comment period for the substantive changes ends on the same date as the public hearing. Copies of these substantive changes can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of OS093S. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing on the substantive changes will be held on May 25, 2016, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These substantive changes are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; and 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
General Counsel

1604#050

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Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	District	Well Name	Well Number	Serial Number
C. C. Crews	Caddo Pine Island	S	Stiles	003	26221
Charles A. O'Nell, Jr.	Golden Meadow	L	Jackson Cheramie A	001	169229
Cameron Parish Pipelines, LLC	Cameron Meadows	L	Cameron Parish School Board	002	215451
Cameron Parish Pipelines, LLC	Cameron Meadows	L	Cameron Parish School Bd Swd	003	216036
Cameron Parish Pipelines, LLC	Cameron Meadows	L	Cameron Parish School Board	001	224358
Cameron Parish Pipelines, LLC	Cameron Meadows	L	Cameron Parish School Board	004	235233

Operator	Field	District	Well Name	Well Number	Serial Number
Mary Love Kidd	Monroe	M	Bank Of Jerseyville	003	9336
B Johnson	Monroe	M	Langford Johnson	001	142727
T J Johnson	Caddo Pine Island	S	H Liebman	003	47348
James A. Whitson, Jr.	Lake Boeuf	L	Peltier Swd	001	230513
James A. Whitson, Jr.	Lake Boeuf	L	Rob L Stray Ra Sua;Peltier Eta	002	237387
James A. Whitson, Jr.	Three Bayou Bay	L	Sl 18441 Swd	001	64706
James A. Whitson, Jr.	Three Bayou Bay	L	Vua; Sl 18441	001	234871
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	001	68691
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	003	91384
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	003-D	93856
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	006	94055
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	006-D	96346
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	007	96444
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	008	97193
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	007-D	97644
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	009	97761
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261 C	001	98000
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	011	98332
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	008-D	98333
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261 C	002	99267
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	009-D	99929
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	011-D	99930
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261 C	003	101429
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261 Swd	001	106673
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	012	206227
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	012-D	207045
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	013	209591
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	014	209594
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	013-D	209823
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	014-D	209824
Hillside Oil & Gas, LLC	Coquille Bay	L	OA AO261	015	210773
Phoenix Oil & Gas, Ltd., L.L.P.	Bayou Bleu	L	Baist Cooperage	008	26056
M. B. Chastain Et Al	Caddo Pine Island	S	Stiles	008	32700
W A Lusk	Wildcat-No La Monroe Dist	M	Jo Oneal	001	14520
Triumph Energy, Inc.	Grand Cheniere	L	Amph F Rc Sua;E Nunez Heirs	001	221833

Operator	Field	District	Well Name	Well Number	Serial Number
Triumph Energy, Inc.	Grand Cheniere	L	Evariste Nunez Heirs Swd	001	972813
H&S Operating Company Inc.	Richland	M	Hatch Estate	001	141917
H&S Operating Company Inc.	Richland	M	Hatch Estate	002	167658
H&S Operating Company Inc.	Richland	M	Noble	001	180821
H&S Operating Company Inc.	Richland	M	Noble	002	181294
H&S Operating Company Inc.	Richland	M	Noble	003	185062
H&S Operating Company Inc.	Richland	M	Hatch Estate	005	185877
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Richard P. Ieyoub
Commissioner

1604#043

POTPOURRI

Department of Transportation and Development
Professional Engineering and Land Surveying Board

Public Hearing—Substantive Change to Proposed Rule—Examinations and Continuing Professional Development (LAC 46:LXI.707, 1301, and Chapter 31)

The Louisiana Professional Engineering and Land Surveying Board published a Notice of Intent to amend its rules in the February 20, 2016 edition of the *Louisiana Register*. The board now proposes to amend one provision of the proposed rules, specifically §3105, to read as follows.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXI. Professional Engineers and Land Surveyors
Chapter 31. Continuing Professional Development (CPD)

§3105. Requirements

A. During each biennial licensure renewal period beginning before January 1, 2017, every professional engineer licensee, including those licensed in two or more disciplines, is required to obtain 30 PDHs in engineering related activities. Effective January 1, 2017 and beginning with professional engineer licensees whose biennial licensure renewal periods begin after January 1, 2017, every professional engineer licensee, including those licensed in two or more disciplines, is required to obtain 15 PDHs per calendar year in engineering related activities. Effective January 1, 2017 and beginning with professional engineer licensees whose biennial licensure renewal periods begin after January 1, 2017, professional engineer licensees may not obtain more than 8 PDHs within a single calendar day.

1. During each biennial licensure renewal period beginning before January 1, 2017, at least one PDH shall be in professional ethics. Effective January 1, 2017 and beginning with professional engineer licensees whose biennial licensure renewal periods begin after January 1, 2017, at least one PDH per calendar year shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional engineer.

2. During each biennial licensure renewal period beginning before January 1, 2017, a minimum of eight PDHs shall be earned in Life Safety Code, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer licensee who designs buildings and/or building systems. Effective January 1, 2017 and beginning with professional engineer licensees whose biennial licensure renewal periods begin after January 1, 2017, a minimum of four PDHs per calendar year shall be earned in Life Safety Code, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer licensee who designs buildings and/or building systems.

B. During each biennial licensure renewal period beginning before January 1, 2017, every professional land surveyor licensee is required to obtain 15 PDHs in land surveying related activities. Effective January 1, 2017 and beginning with professional land surveyor licensees whose biennial licensure renewal periods begin after January 1, 2017, every professional land surveyor licensee is required to obtain 8 PDHs per calendar year in land surveying related activities.

1. During each biennial licensure renewal period beginning before January 1, 2017, at least one PDH shall be in professional ethics. Effective January 1, 2017 and beginning with professional land surveyor licensees whose biennial licensure renewal periods begin after January 1, 2017, at least one PDH per calendar year shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional land surveyor.

2. During each biennial licensure renewal period beginning before January 1, 2017, a minimum of two PDHs shall be earned in the Standards of Practice for Boundary

Surveys in Louisiana. Effective January 1, 2017 and beginning with professional land surveyor licensees whose biennial licensure renewal periods begin after January 1, 2017, a minimum of one PDH per calendar year shall be earned in the Standards of Practice for Boundary Surveys in Louisiana.

C. During each biennial licensure renewal period beginning before January 1, 2017, each dual licensee shall obtain 30 PDHs; however, at least one-third of the PDHs shall be obtained separately for each profession. Effective January 1, 2017 and beginning with dual licensees whose biennial licensure renewal periods begin after January 1, 2017, each dual licensee shall obtain 15 PDHs per calendar year; however, at least one-third of the PDHs for each calendar year shall be obtained separately for each profession.

1. During each biennial licensure renewal period beginning before January 1, 2017, at least one PDH shall be in professional ethics. Effective January 1, 2017 and beginning with dual licensees whose biennial licensure renewal periods begin after January 1, 2017, at least one PDH per calendar year shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional engineer and/or professional land surveyor.

2. During each biennial licensure renewal period beginning before January 1, 2017, a minimum of two PDHs shall be earned in the Standards of Practice for Boundary Surveys in Louisiana. Effective January 1, 2017 and beginning with dual licensees whose biennial licensure renewal periods begin after January 1, 2017, a minimum of one PDH per calendar year shall be earned in the Standards of Practice for Boundary Surveys in Louisiana.

3. During each biennial licensure renewal period beginning before January 1, 2017, a minimum of eight PDHs shall be earned in Life Safety Code, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer licensee who designs buildings and/or building systems. Effective January 1, 2017 and beginning with dual licensees whose biennial licensure renewal periods begin after January 1, 2017, a minimum of four PDHs per calendar year shall be earned in Life Safety Code, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer licensee who designs buildings and/or building systems.

D. Excess PDHs

1. Effective for biennial licensure renewal periods beginning before January 1, 2017, if a licensee exceeds the biennial licensure renewal period requirements, a maximum of 15 PDHs may be carried forward into the subsequent biennial licensure renewal period. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, if a licensee exceeds the annual requirements, a maximum of 7 PDHs may be carried forward into the subsequent calendar year.

D.2. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1047 (July 2001), LR 30:1730 (August 2004), LR 37:2420 (August 2011), LR 42:

Public Hearing

In accordance with R.S. 49:968(H)(2), a public hearing will be held on May 26, 2016 at 9 a.m. at the Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Donna D. Sentell
Executive Director

1604#026

POTPOURRI

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Public Hearing—Substantive Changes to
Proposed Rule—Resident Game Hunting Season
(LAC 76:XIX.Chapter 1)

The Department of Wildlife and Fisheries published a Notice of Intent amending the general and wildlife management area rules and regulations for the 2016-2017 season, the resident game hunting season for the 2016-2018 hunting seasons, the general and wildlife management area rules and regulations for the turkey season, the turkey hunting areas, and seasons, and bag limits for the 2017 turkey season, and the migratory bird seasons, regulations, and bag limits for the 2016-17 hunting season (LAC XIX.101, 103, 111, 113, 115, and 117) in the January 20, 2016 edition of the *Louisiana Register* (LR Vol. 42, No. 01).

The Department of Wildlife and Fisheries commission proposed substantive changes to the published Notice of Intent at nine public hearings pursuant to R.S. 49:968(H)(2) at the following locations:

- February 4 at 9:30 a.m., LDWF Headquarters, 2000 Quail Dr. Baton Rouge;
- February 24 at 6 p.m., Louisiana Ecological Office, 646 Cajundome Boulevard Suite 400, Lafayette;
- February 25 at 6:30 p.m., LSU Ag Center, 7101 Gulf Highway Lake Charles;
- February 26 at 6 p.m., Dry Prong Community Center, 705 Second Street, Dry Prong;
- February 27 at 2 p.m., LDWF Monroe Office, 368 CenturyLink Drive, Monroe;
- February 27 at 4 p.m., Houma Municipal Auditorium, 880 Verret Street, Houma;
- February 29 at 6 p.m., Alexandria Convention Hall, 915 Third Street, Alexandria;
- February 29 at 6 p.m., LDWF Minden Office, 9961 Highway 80, Minden;
- March 3 at 10:30 a.m., Rapides Parish Government Building 701 Murray Street, Alexandria.

After receiving public testimony at the nine public meetings throughout the state and written comments through email, telephone and the US Postal Service, the Department of Wildlife and Fisheries commission proposes the following substantive changes for 2016-18 resident game hunting season (LAC 76:XIX.1.101 and 103), 2016-17 general and wildlife management area hunting rules and regulations (LAC 76:XIX.1.111), 2017 general and WMA turkey hunting regulations (LAC 76:XIX.1.113), 2017 Turkey Hunting Areas, Seasons, and Bag Limits (LAC 76:XIX.1.115), and 2016-17 migratory bird seasons, regulations, and bag limits (LAC 76:XIX.1.117) Notice of Intent.

- 2016-17 Migratory Bird Seasons, Regulations, and Bag Limits—changes to light geese and white-fronted geese season, changing the opening date of the first split from November 12 to November 5, thus adding 7 days to the season.
- General and WMA Rules and Regulations—modification to proposed vessel restrictions for Pass-a-Loutre WMA, which provides an exception for such prohibited craft to be utilized on certain waterways within the WMA.
- 2016-17 Migratory Bird Seasons, Regulations, and Bag Limits—changes to Canada geese season, changing the opening date of the first split from November 12 to November 5, thus adding 7 days to the season.
- General and WMA Rules and Regulations—modification to proposed closure of a February feral hog season with dogs on three WMAs (Boeuf WMA, Dewey W. Wills WMA, and Richard K. Yancey WMA), which provides an exception to allow such season on the northern portion of Dewey W. Wills WMA.

Public Hearing

A public hearing will be held on June 02, 2016 at the Louisiana Department of Wildlife and Fisheries, 2000 Quail Dr., Baton Rouge, LA 70808 in the Louisiana Room at 9:30 a.m.

Bart Yakupzack
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Substantive Changes to Proposed Rule Resident Game Hunting Season

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will have no expenditure impact on state or local governmental units.

The proposed rule change allows the hunting of feral hogs with dogs during the month of February on the portion of the Dewey W. Wills Wildlife Management Area (WMA) north of the Catahoula Lake Diversion Canal. This proposed rule change provides an exception to an earlier proposed closure for hunting with hogs during the month of February on the Dewey W. Wills WMA.

The proposed rule allows the use of mud boats and air-cooled propulsion engines after 2:00 p.m. on portions of the Pass a Loutre WMA: South Pass, Southeast Pass, Loomis Pass, and Cadro Pass. This proposed rule change provides an exception to an earlier imposed ban on the use of mud boats and air-cooled propulsion engines throughout all portions of the Pass a Loutre WMA.

The proposed rule change alters the dates for waterfowl hunting seasons in the West Zone but does not change the total number of waterfowl hunting days during the season. The closing date for the first split is moved from December 4, 2016 to November 27, 2016, shortening the first split by one week. The closing date for the second split is moved from January 22, 2017 to January 29, 2017, lengthening the second split by one week.

The proposed rule change moves the second youth hunt day from January 28, 2017 to February 4, 2017.

The proposed rule change moves the opening date for Canada goose season from November 12 to November 5.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is anticipated to have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will result in no significant change in costs or benefits to any persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have no effect on competition and employment.

Bryan McClinton.
Undersecretary
1604#063

Evan Brasseaux
Staff Director
Legislative Fiscal Office

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EXECUTIVE ORDER JBE 16-24

Flags at Half-Staff to Honor the
Victims of the Attack in Orlando

WHEREAS, as a mark of respect for the victims of the act of hatred and terror perpetrated on Sunday, June 12, 2016, in Orlando, Florida, the President ordered the flags of the United States to be flown at half-staff until sunset, June 16, 2016;

WHEREAS, the thoughts and prayers of Louisiana citizens are with the families and victims of this senseless and unimaginable attack; and

WHEREAS, Louisiana stands ready to assist the State of Florida to bring justice for those whose lives were lost.

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

SECTION 1: As an expression of respect for the victims of the Orlando attack, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all public buildings and institutions of the State of Louisiana immediately until sunset on Thursday, June 16, 2016.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Thursday, June 16, 2016.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 13th day of June, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1607#002

EXECUTIVE ORDER JBE 16-25

Flags at Half-Staff to Honor Reverend E. Edward Jones, Sr.

WHEREAS, born in DeRidder in 1931, Reverend E. Edward Jones, Sr. died on June 9, 2016, at the age of 85;

WHEREAS, while he was nationally known as a religious, social, and civil rights activist, he was well-known in Louisiana for his commitment to improving the lives of citizens in his community of Shreveport;

WHEREAS, he recently celebrated his fifty-seventh anniversary of serving as the pastor of Galilee Baptist Church in Shreveport;

WHEREAS, before becoming a minister, he began his career in education at Morehouse Parish School;

WHEREAS, inspired by a meeting with Dr. Martin Luther King, Jr., at Galilee Baptist Church in the early 1960s, he became an influential figure in the desegregation of Caddo Parish School District;

WHEREAS, Reverend Jones served as president of the National Baptist Convention of America from 1985 until 2003;

WHEREAS, instrumental in ensuring that disadvantaged, elderly and handicapped citizens have better access to supportive living residences, Reverend Jones served as president of two housing developments since 1985;

WHEREAS, he served on many boards, including the Louisiana State University Board of Supervisors and the Grambling State University Foundation, and he received many awards recognizing his good work, including induction into the Grambling State University Hall of Fame in 1986; and

WHEREAS, his commitment to improving the lives of others will long be remembered, and the passion and generosity with which he served his community serves as an example for everyone committed to doing the most for the least among us.

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

SECTION 1: As an expression of respect for Reverend E. Edward Jones, Sr., the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all public buildings and institutions of the State of Louisiana until sunset on Friday, June 17, 2016.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Friday, June 17, 2016.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 16th day of June, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1607#023

EXECUTIVE ORDER JBE 16-26

Conditions for Participation in the Industrial
Tax Exemption Program

WHEREAS, Article 7, Section 21(F) of the Louisiana Constitution provides that the State Board of Commerce and Industry "with the approval of the governor, may enter into contracts for the exemption from ad valorem

taxes of a new manufacturing establishment or an addition to an existing manufacturing establishment, on such terms and conditions as the board, with the approval of the governor, deems in the best interest of the state";

WHEREAS, Article 7, Section 21(F) also provides that the contracts for the exemption "shall be for an initial term of no more than five calendar years and may be renewed for an additional five years";

WHEREAS, under past practices of the Board of Commerce and Industry and previous governors of Louisiana, this has resulted in a 100 percent exemption or abatement from local property taxes for an initial period of five years, plus the opportunity for a five-year renewal, for a total of ten years of full exemption from local property taxes for qualifying manufacturing establishments;

WHEREAS, under past practices of the Board of Commerce and Industry and previous governors of Louisiana, exemption contracts, unlike those in most states, have allowed ad valorem tax exemptions for maintenance capital, environmental capital upgrades, and new replacements to existing machinery with the result that the same components of a manufacturing plant remain exempt from the local property taxes for years after the expiration of the ten-year period for the contract;

WHEREAS, under past practices the Board of Commerce and Industry and previous governors of Louisiana, exemption contracts have been allowed for Miscellaneous Capital Additions without requiring these projects to file advance notifications, which may more accurately identify projects that will provide for the goals of economic development;

WHEREAS, under past practices of the Board of Commerce and Industry and previous governors of Louisiana, there have been no job creation or capital investment thresholds required for eligibility for the program;

WHEREAS, further, receipt of other incentives from the State by way of direct funding, rebates, tax credits, industrial bonds, or other similar incentives has not factored into determinations of the Board or Governor for eligibility or extent of the exemption or for the length of the contract for the exemption despite the discretionary provisions granted in Article 7, Section 21(F);

WHEREAS, the Board of Commerce and Industry and previous governors of Louisiana have approved Industrial Tax Exemption contracts that and will result in an average of $1.4 billion in foregone ad valorem tax revenue each year for the next five years for parishes, municipalities, school districts and other political subdivisions of the state directly providing law enforcement, water and sewage, infrastructure, and educational opportunities to Louisiana citizens;

WHEREAS, Louisiana's adjacent states authorize local governments to grant discretionary exemptions based on the attractiveness of a particular project—in contrast with Louisiana where neither the Board of Commerce and Industry or previous administrations have, in the past, exercised discretion in awarding the Industrial Tax Credit Exemption authorized by the Louisiana Constitution;

WHEREAS, as a result, Louisiana has forgone opportunities to negotiate and/or to offer prospects lesser or greater benefits under the Industrial Tax Exemption program based upon the merit of the project being considered; and

WHEREAS, this practice has put Louisiana at a competitive disadvantage with neighboring states which use discretion in granting tax exemptions and thereby forgo less revenue by denying projects that will not create significant employment or sufficient capital investment.

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

SECTION 1: This order provides the terms and conditions under which the Governor is to determine that contracts for the Industrial Tax Exemption Program are in the best interests of the State of Louisiana in accordance with Article 7, Section 21(F) of the Louisiana Constitution.

SECTION 2: For all pending contractual applications for which no advance notification is required under the Rules of the Board of Commerce and Industry, except for such contracts that provide for new jobs at the completed manufacturing plants or establishments, this order is effective immediately; for all contracts for which advance notification is required under the Rules of the Board of Commerce and Industry, this order is effective for advance notifications filed after the date of the issuance of this order.

SECTION 3: Only contracts accompanied by advance notifications will be considered by the Governor. Applications for miscellaneous capital additions and applications for tax exemptions for maintenance capital, required environmental capital upgrades, and new replacements for existing machinery will not be approved or issued contracts by the Governor.

SECTION 4: The Governor will not approve contracts unless the Board of Commerce and Industry has specifically determined that the establishment meets the constitutional definition of manufacturing. Exemption contracts for new manufacturing plants or establishments are favored by the Governor and exemption contracts for additions to any existing plant or establishment are not favored by the Governor unless they provide for new jobs or present compelling reasons for the retention of existing jobs.

SECTION 5: All contracts providing for the Industrial Tax Exemption shall include Exhibit "A" consisting of a Cooperative Endeavor Agreement between the State of Louisiana, the Louisiana Department of Economic Development, and the Applicant providing for the creation or retention of jobs and provisions for the exercise of the options in the Louisiana Constitution for the term or percentage of the exemption granted in the contract, and for the reduction or loss of the exemption based upon the applicant's compliance with the contract, provided with respect to the manufacturing project for which the exemption is granted will be approved by the Governor.

SECTION 6: All Contracts providing for the Industrial Tax exemption shall also include Exhibit "B" consisting of approvals of the relevant governing Parish Council or Police Jury by resolution, Municipal Council by resolution, School Board by resolution and Sheriff by resolution signifying whether each of those authorities is in favor of the project. The Secretary of Economic Development will provide guidance to the local parties to

Exhibit "B" as to the suggested alternatives for their consideration including parameters for job creation, payroll, percentages of exemption, and length of contract.

SECTION 7: Only contracts including Exhibit "A" and Exhibit "B" as described herein will be approved by the Governor. Contracts for the Industrial Tax Exemption that do not meet these conditions will not be approved by the Governor. The Board of Commerce and Industry may address, by rule, any other contractual arrangements that it deems necessary and submit these to the Governor for consideration as amendments to this Executive Order.

SECTION 8: The Department of Revenue shall, in coordination with the Louisiana Department of Economic Development, implement procedures and shall annually review all contracts subject to this Executive Order to assure compliance with existing law, this Order, and the terms of the Industrial ax Exemption contract.

SECTION 9: Article 7 Section 21(F) provides for an initial term for the contract of exemption to be "no more than five years" and that "the contract may be renewed for an additional five years"; and in determining whether to sign the initial contract or to renew an existing contract, the Board of Commerce and Industry and the Governor will consider the information collected and the provisions and conditions presented in Exhibits "A" and "B".

SECTION 10: The terms for the Governor's approval of the contracts for the Industrial Tax Exemption as provided for in this Executive Order represent the primary cause for the Governor's execution of the contracts and any occurrence which operates to change or suspend the terms of any contract approved by the Board of Commerce and Industry and executed by the Governor after the effective date of this Executive Order shall render the approval of the Governor of the affected contract void and of no force or effect.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 24th day of June, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1607#024

EXECUTIVE ORDER JBE 16-27

Call for Meetings of State Mineral and Energy Board

WHEREAS, the State Mineral and Energy Board, created and established by Act No. 93 of the 1936 Regular Legislative Session, R.S. 30:121 et seq. , meets at the call of the governor pursuant to the provisions of R.S. 30:123;

WHEREAS, the customary meeting schedule for the State Mineral and Energy Board is impracticable at times, due to holidays, special events, and/or special circumstances; and

WHEREAS, it is essential to the functioning of government that the State Mineral and Energy Board be able to reschedule or cancel meetings expeditiously in a time of crisis, special event, or special circumstance.

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

SECTION 1: The regular scheduled meetings of the State Mineral Board (hereafter "Board") shall be held on the second Wednesday of each month for the granting of oil, gas, and mineral leases, and such other business as may properly come before the Board.

SECTION 2: Upon obtaining approval of the Board, the chair of the Board is authorized to issue for the Governor the call of a meeting of the Board scheduled for a date other than the second Wednesday of a month, when a meeting on the second Wednesday is impracticable because a holiday or other special event falls on that date.

SECTION 3: Upon obtaining the approval of the Board, the chair of the Board is authorized to issue for the Governor the call of a meeting of the Board that is in addition to the Board's monthly meeting, when special circumstances necessitate that an additional meeting be held.

SECTION 4: During a declaration of emergency, the chair of the Board is hereby delegated the Governor's authority to cancel, reschedule, or consolidate any Board meeting and is also hereby authorized to issue for the Governor the call of a special meeting of the Board that is in addition to the Board's monthly meeting.

SECTION 5: When special circumstances necessitate and when it is impracticable for a quorum of the Board to meet to grant the Chair the appropriate authority, the Chair of the Board is hereby delegated the Governor's authority to cancel, reschedule, or consolidate any Board meeting.

SECTION 6: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the Board in implementing the provisions of this Order.

SECTION 7: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in city of Baton Rouge, on this 28th day of June, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1607#026

EXECUTIVE ORDER JBE 16-28

Authorization for Chair of the State Mineral and Energy Board to Sign Certain Documents on Governor's Behalf

WHEREAS, the State Mineral and Energy Board (hereafter "Board "), created by Act No. 93 of the 1936 Regular Session and continued through La. R.S. 30:121 et seq., is authorized through La. R.S. 30:124 to lease for development and production of minerals, oil, and gas the lands belonging to the State of Louisiana and the lands to which title is held in the public, including road beds, water bottoms, and lands adjudicated to the state at tax sale;

WHEREAS, pursuant to La. R.S. 30:129, the Board has full supervision of all mineral leases granted by the State of Louisiana, and the general authority to take any action for the protection of the interests of the state, institute actions to annul a lease upon any legal ground, and enter into agreements and amend leases;

WHEREAS, Louisiana Revised Statute 30: 128 expressly prohibits and provides penalties for the transfer or assignment of any lease of minerals or mineral rights owned by the State of Louisiana without the Board's approval;

WHEREAS, prior to the creation of the Board, certain state leases and other agreements pertaining to the development and production of mineral, oil, and gas were executed on behalf of the State of Louisiana by the Governor and, therefore, those leases and agreements contain language which require the signature of the Governor prior to any transfer of interests therein; and

WHEREAS, the chair of the Board has been authorized to sign such leases and agreements on behalf of the governor pursuant to Executive Orders issued by former governors.

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

SECTION 1: With respect to documents presented to the State Mineral and Energy Board pursuant to La. R.S. 30:128 for approval of the right to transfer or assign a lease of minerals or mineral rights owned by the State of Louisiana which require the signature of the Governor prior to any transfer of interests therein, and which the Board has approved the transfer or assignment, the chair of the Board is authorized and directed to sign the document on behalf of the Governor.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of June, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1607#027

EXECUTIVE ORDER JBE 16-29

Procedures in Cases before Military Courts in the State of Louisiana

WHEREAS, The need for special laws and regulations in relation to military discipline and the consequent need and justification for a special and exclusive system of military justice has been recognized by the Louisiana Legislature in the enactment of the Louisiana Code of Military Justice, La. R.S. 29:101 et seq.;

WHEREAS, the Louisiana Code of Military Justice provides authority for the Governor and the Adjutant General to enforce good order and discipline in the military forces of the State of Louisiana; and

WHEREAS, Louisiana Revised Statute 29: 136 authorizes the Governor to prescribe the procedures, including the modes of proof, in cases before the military courts of the State of Louisiana.

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

SECTION 1: In accordance with the provisions of the Louisiana Code of Military Justice, La. R.S, 29:136 in particular, the procedure in cases before military courts of the State of Louisiana are hereby prescribed; such procedures shall be the Rules for Court Martial prescribed in the latest edition of the Manual for Courts Martial, United States, in all ways not inconsistent with Louisiana law and regulation.

SECTION 2: Further, and in accordance with La, R.S. 29:136, the modes of proof in cases before military courts of the State of Louisiana are hereby prescribed; such modes shall be the Military Rules of Evidence prescribed in the latest edition of the Manual for Courts Martial, United States, in all ways not inconsistent with Louisiana law and regulation.

SECTION 3: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 28th day of June, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1607#028

EXECUTIVE ORDER JBE 16-30

Authority to Arm Designated
Louisiana National Guardsmen

WHEREAS, Article IV, Section 5 of the Louisiana Constitution establishes the governor as the Commander-in-Chief, providing:

> *The governor shall be commander-in-chief of the armed forces of the state, except when they are called into service of the federal government. He may call out these forces to preserve law and order, to suppress insurrection, to repel invasion, or in other times of emergency.*

WHEREAS, Louisiana Revised Statute 29:7 states that the Governor may, with or without a declaration of emergency, order into the active service of the state any part of the National Guard in order to prevent or prepare for terrorist events and, that when so ordered, members of the National Guard on state active duty or in a duty status under Title 32 of the United States Code shall have all of the powers and authority of peace officers as are reasonably necessary to preserve the lives, property, and security of persons within the State of Louisiana;

WHEREAS, the State of Louisiana is proud to have many thousands of National Guardsmen who train to respond and protect the citizens and property of our State and their uniforms should not make them targets for terrorism without having the ability to defend themselves and other peaceful, law abiding citizens;

WHEREAS, there are increasing threats to the security of state military forces from homegrown terrorist organizations within the State of Louisiana; and

WHEREAS, these threats occur while Louisiana's soldiers and airmen are in Louisiana communities and when located on a state military installation or readiness center; and

WHEREAS, the Adjutant General of Louisiana should identify appropriate members of the National Guard currently ordered to state active duty under Louisiana Revised Statute 29:7 or in a duty status under Title 32 of the United States Code and issue appropriate orders designating security procedures for members of the National Guard and facilities to have the means of self-defense should such an attack occur in the State of Louisiana.

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

SECTION 1: In accordance with my authority as Commander-in-Chief of the military forces of this state, I authorize and direct the Adjutant General to identify and arm certain members of the military forces of Louisiana as reasonably necessary to preserve the lives, property, and security of themselves and other persons subject to threat of a terrorist attack.

SECTION 2: All existing immunities for officers and other members of the military forces of this state, including but not limited to the immunity provided in Louisiana Revised Statutes 29:23, 23.1, and 735, remain in full force and effect.

SECTION 3: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 28th day of June, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1607#029

EXECUTIVE ORDER JBE 16-31

Coordinated System of Care

WHEREAS, the Coordinated System of Care (CSoC) is a cross-departmental project of the Office of Juvenile Justice, the Department of Children and Family Services, the Department of Health and Hospitals and the Department of Education to organize a coordinated network of broad, effective services for Louisiana's at risk children and youth with significant behavioral health challenges or related disorders;

WHEREAS, the CSoC was originally established to:

A. Improve the overall outcomes of these children and their caretakers being served by the Coordinated System of Care;

B. Reduce the state's cost of providing services by leveraging Medicaid and other funding sources as well as increasing service effectiveness and reducing duplication across agencies;

C. Reduce out-of-home placements in the current number and future admissions of children and youth with significant behavioral health challenges or co-occurring disorders; and

WHEREAS, it is in the best interests of the citizens of the State of Louisiana to continue implementation of this centralized and coordinated effort through the CSoC Governance Board.

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

SECTION 1: The Coordinated System of Care Governance Board (hereafter "Board") is established within the Louisiana Department of Health and Hospitals to govern the CSoC.

SECTION 2: The Board shall set policy for the governance of the CSoC. The duties of the Board shall include, but are not limited to, the following:

A. Establishing policy and monitoring adherence;
B. Setting standards;
C. Defining target populations;

D. Providing multi-departmental oversight;

E. Directing use of multiple funding sources;

F. Directing the implementing agencies; and

G. Monitoring the quality, cost and adherence to standards.

SECTION 3: The Board shall be composed of nine (9) members as follows:

A. The secretary of the Department of Children and Family Services, or the secretary's designee;

B. The secretary of the Department of Health and Hospitals, or the

C. The superintendent of the Department of Education, or the superintendent's designee;

D. The Deputy Secretary of the Department of Public Safety and Corrections, Youth Services, Office of Juvenile Justice, or the Deputy Secretary's designee.

E. One (1) representative from the Governor's Office or his designee;

F. Two (2) family representatives;

G. One (1) non-voting youth representative; and

H. One (1) advocate representative.

SECTION 4: The chair of the Board shall be an agency head and a member of the Board. All board officers shall be elected by and from the membership of the Board.

SECTION 5: The Board shall meet a minimum of six times annually at regularly scheduled intervals and at the call of the chair.

SECTION 6: Board members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Board.

Board members who are an employee or an elected public official of the State of Louisiana or a political subdivision thereof may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

Board members who are not employees of the State of Louisiana or a political subdivision of the State of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from DHH.

SECTION 7: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the Board in implementing and maintaining the provisions of this Order, including the execution of memorandums of understanding and the redirection of the designated funding of the agencies involved to finance the CSoC. This process will be fiscally managed by the Louisiana Bureau of Health Services Financing.

SECTION 8: The Bureau of Health Services Financing (BHSF) within DHH, shall continue to serve as the "single state agency" as defined in the federal regulations. As such, BHSF shall be responsible for assuring compliance with all Title XIX requirements.

SECTION 9: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 28th day of June, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1607#030

EXECUTIVE ORDER JBE 16-32

Executive Branch—Merit Increase Freeze

WHEREAS, pursuant to the provisions of Article IV, Section 5 of the Louisiana Constitution of 1974, as amended, and the Preamble Section 10.C. of Act 17 of the 2016 Regular Session of the Louisiana Legislature, the Governor may issue executive orders which limit the expenditure of funds by the various agencies in the executive branch of State government; and

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

WHEREAS, the State Civil Service Commission, on June 16, 2016, adopted a rule suspending the ability of an appointing authority to grant performance adjustments to classified employees and also prohibits classified employees from gaining eligibility for a performance adjustment for the period from June 29, 2016 through June 29, 2017; and

WHEREAS, to ensure that the State of Louisiana continues prudent money management practices, the interests of the citizens of the State of Louisiana are best served by implementing a similar freeze on the ability of unclassified employees within the executive branch of state government to receive salary increases.

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

SECTION 1: The authority to award merit increases for all unclassified employees is frozen beginning immediately and continuing through June 30, 2017. During this period of suspension, no appointing authority may grant a merit increase to any unclassified employee nor may any unclassified employee gain eligibility for a merit increase without written approval of the commissioner of administration.

SECTION 2: All other elected state officials or entities with constitutional authority are urged to join in this effort to preserve state services to our citizens by exercising their authority to suspend the awarding of salary increases to unclassified state employees starting immediately and continuing through the duration of the 2016-2017 fiscal year.

SECTION 3: This freeze shall not affect promotions and performance planning and review requirements. Appointing authorities must continue to comply with all Civil Service Rules regarding performance planning and review of employees.

SECTION 4: This Order is effective upon signature and shall continue in effect until June 30, 2017, unless amended, modified, terminated, or rescinded by the Governor, or terminated prior to such date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 1st day of July, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1607#032

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDA

Office of the Governor
Division of Administration

PPM 49—General Travel Regulations
(LAC 4:V.Chapter 15)

Title 4
ADMINISTRATION
Part V. Policy and Procedure Memoranda
Chapter 15. General Travel Regulations—PPM Number 49

§1501. Authorization and Legal Basis

A. In accordance with the authority vested in the Commissioner of Administration by Section 231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950-968 as amended, notice is hereby given of the revision of Policy and Procedures Memorandum No. 49, the state general travel regulations, effective July 1, 2016. These amendments are both technical and substantive in nature and are intended to clarify certain portions of the previous regulations or provide for more efficient administration of travel policies. These regulations apply to all state departments, boards and commissions created by the legislature or executive order and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.

> Please note that when political subdivisions are required to follow PPM49 for any pass through money issued by the state of Louisiana, any and all required approvals must be sent to the correct appointing authority, not to the Commissioner of Administration.

B. Legal Basis (R.S. 39:231.B) "The Commissioner of Administration, with the approval of the governor, shall, by rule or regulation prescribe the conditions under which each of various forms of transportation may be used by state officers and employees in the discharge of the duties of their respective offices and positions in the state service and the conditions under which allowances will be granted for traveling expenses.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007), republished LR 33:1314 (July 2007), amended LR 34:1299 (July 2008), LR 35:1192 (July 2009), LR 36:1647 (July 2010), LR 42:981 (July 2016).

§1502. Definitions

A. For the purposes of this PPM, the following words have the meaning indicated.

Authorized Persons—

a. advisors, consultants, contractors and other persons who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed through a contract for professional, personal, or consulting services.

b. members of boards, commissions, and advisory councils required by federal or state legislation or regulation. Travel allowance levels for all such members and any staff shall be those authorized for state employees unless specific allowances are legislatively provided.

c. The department head or his/her designee is allowed to deem persons as an authorized traveler for official state business only.

> NOTE: College/University Students must be deemed authorized travelers to be reimbursed for state business purposes. A file must be kept containing all of these approvals.

Conference/Convention—is herein defined as a meeting (other than routine) for a specific purpose and/or objective. Non-routine meetings can be defined as a seminar, conference, convention, or training. Documentation required is a formal agenda, program, letter of invitation, or registration fee. Participation as an exhibiting vendor in an exhibit /trade show also qualifies as a conference. For a hotel to qualify for conference rate lodging it requires that the hotel is hosting or is in "conjunction with hosting" the meeting. In the event the designated conference hotel(s) have no room available, a department head may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels located near the conference hotel.

Controlled Billed Account (CBA)—credit account issued in an agency's name (no plastic card issued). These accounts are direct liabilities of the state and are paid by each agency. CBA accounts are controlled through an authorized approver(s) to provide a means to purchase airfare, registration, lodging, rental vehicles, pre-paid shuttle service and any other allowable charges outlined in the current State of Louisiana State Liability Travel and CBA Policy. Each department head determines the extent of the account's use.

Corporate Travel Card—credit cards issued in a State of Louisiana employee's name to be used for specific, higher cost official business travel expenses. Corporate Travel Cards are state liability cards, paid by each agency.

Emergency Travel—each department shall establish internal procedures for authorizing travel in emergency situations. Approval may be obtained after the fact from the Commissioner of Administration with appropriate documentation, under extraordinary circumstances when PPM49 regulations cannot be followed but where the best interests of the state requires that travel be undertaken.

Executive Traveler—the governor of state of Louisiana, he/she should sign as the traveler but have his/her chief of staff and director of budget sign for travel authorization and travel expenses.

Extended Stays—any assignment made for a period of 31 or more consecutive days at a place other than the official domicile.

Higher Education Entities—entities listed under Schedule 19 Higher Education of the General Appropriations Bill.

Higher Education Entity Head—president of a university.

In-State Travel—all travel within the borders of Louisiana or travel through adjacent states between points within Louisiana when such is the most efficient route.

International Travel—all travel to destinations outside the 50 United States, District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam and Saipan.

Lowest Logical Airfare—in general, these types of airfares are non-refundable, penalty tickets. Penalties could include restrictions such as advanced purchase requirements, weekend stays, etc. Prices will increase as seats are sold. When schedule changes are required for lowest logical tickets, penalty fees are added.

Official Domicile—every state officer, employee, and authorized person, except those on temporary assignment, shall be assigned an official domicile:

a. except where fixed by law, official domicile of an officer or employee assigned to an office shall be, at a minimum, the city limits in which the office is located. The department head or his designee should determine the extent of any surrounding area to be included, such as parish or region. As a guideline, a radius of at least 30 miles is recommended. The official domicile of an authorized person shall be the city in which the person resides, except when the department head has designated another location (such as the person's workplace);

b. a traveler whose residence is other than the official domicile of his/her office shall not receive travel and subsistence while at his/her official domicile nor shall he/she receive reimbursement for travel to and from his/her residence;

c. the official domicile of a person located in the field shall be the city or town nearest to the area where the majority of work is performed, or such city, town, or area as may be designated by the department head, provided that in all cases such designation must be in the best interest of the agency and not for the convenience of the person.

d. The department head or his/her designee may authorize approval for an employee to be reimbursed for lodging expenses within an employee's domicile with proper justification as to why this is necessary and in the best interest of the state.

Out-of-State Travel—travel to any of the other 49 states plus District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and Saipan.

Passport—a document identifying an individual as a citizen of a specific country and attesting to his or her identity and ability to travel freely.

Per Diem—a flat rate paid in lieu of travel reimbursements for people on extended stays only.

Receipts/Document Requirements—supporting documentation, including original receipts, must be retained according to record retention laws. It shall be at the discretion of each agency to determine where the receipts/documents will be maintained.

Routine Travel—travel required in the course of performing his/her job duties. This does not include non-routine meetings, conferences and out-of-state travel.

State Employee—employees below the level of state officer

State Officer—

a. state elected officials;

b. department head as defined by Title 36 of the Louisiana Revised Statutes, and the equivalent positions in higher education and the office of elected officials.

Suburb—an immediate or adjacent location (overflow of the city) to the higher cost areas which would be within approximately 30 miles of the highest cost area.

Temporary Assignment—any assignment made for a period of less than 31 consecutive days at a place other than the official domicile.

Travel Period—a period of time between the time of departure and the time of return.

Travel Routes—the most direct traveled route must be used by official state travelers.

Travel Scholarships—if any type of scholarship for travel is offered/received by a state employee, it is the agency/employee's responsibility to receive/comply with all ethic laws/requirements. See R.S. 42:1123

Traveler—a state officer, state employee, or authorized person performing authorized travel.

Visa—a document or, more frequently, a stamp in a passport authorizing the bearer to visit a country for specific purposes and for a specific length of time.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007), republished LR 33:1314 (July 2007), amended LR 34:1299 (July 2008), LR 35:1192 (July 2009), LR 36:1647 (July 2010), LR 42:981 (July 2016).

§1503. General Specifications

A. Department Policies

1. Department heads may establish travel regulations within their respective agencies, but such regulations shall not exceed the maximum limitations established by the Commissioner of Administration. Three copies of such regulations shall be submitted for prior review and approval by the Commissioner of Administration. One of the copies shall highlight any exceptions /deviations to PPM-49.

2. Department and agency heads will take whatever action necessary to minimize all travel to carry on the department mission.

3. All high cost expenditures (airfare, lodging, vehicle rentals, and registration) must be placed on the LaCarte Purchasing Card, Travel Card or agency CBA programs

unless prior approval is granted from the Commissioner of Administration.

4. Contracted Travel Services. The state has contracted for travel agency services which use is mandatory for airfares unless exemptions have been granted by the Division of Administration, Office of State Travel, prior to purchasing airfare tickets. The contracted travel agency has an online booking system which can and should be used by all travelers for booking airfare. Use of the online booking system can drastically reduce the cost paid per transaction and state travelers are strongly encouraged to utilize.

5. Contracted Hotel Services. The state has a contract for hotel services, with HotelPlanner.

NOTE: Travelers will be responsible for adhering to hotel's cancellation policy that is set by the hotel when booking through Hotelplanner. If a traveler does not cancel a hotel stay within the cancellation time frame that is set by the hotel, the traveler will be responsible for payments. No exceptions unless approval is granted from the Commissioner of Administration.

6. Contracted Vehicles Rentals. The state has a contract for all rentals based out of Louisiana through Enterprise Rent-A-Car, which use is mandatory.

a. The state has a contracts for all out-of-state rental vehicles which use is mandatory. Travelers shall use Hertz, Enterprise, or National for business travel. These contracts are also applicable to all authorized travelers, and contractors.

7. When a state agency enters into a contract with an out-of-state public entity, the out-of-state public entity may have the authority to conduct any related travel in accordance with their published travel regulations.

8. Authorization to Travel

a. All non-routine travel must be authorized with prior approvals in writing by the head of the department, board, or commission from whose funds the traveler is paid. A file shall be maintained, by the agency, on all approved travel authorizations.

b. Annual travel authorizations are no longer a mandatory requirement of PPM-49 for routine travel, however, an agency can continue to utilize this process if determined to be in your department's best interest and to obtain prior approval for annual routine travel. A prior approved travel authorization is still required for non-routine meetings, conferences and out-of-state travel.

c. Executive traveler must sign as the traveler but have his/her chief of staff and director of budget sign for travel authorization and travel expenses.

B. Funds for Travel Expenses

1. Persons traveling on official business will provide themselves with sufficient funds for all routine travel expenses not covered by the corporate travel card, LaCarte purchasing card, if applicable, and/or agency's CBA account. Advance of funds for travel shall be made only for extraordinary travel and should be punctually repaid when submitting the travel expense form covering the related travel, no later than the fifteenth day of the month following the completion of travel.

2. Exemptions. Cash advance(s) meeting the exception requirement(s) listed below, must have an original receipt to support all expenditures in which a cash advance was given, including meals. At the agency's discretion, cash advances may be allowed for:

a. state employees whose salary is less than $30,000/year;

b. state employees who accompany and/or are responsible for students or athletes for a group travel advance;

NOTE: In this case and in regards to meals, where there are group travel advancements, a roster with signatures of each group member along with the amount of funds received by each group member, may be substituted for individual receipts. (This exception does not apply when given for just an individual employee's travel which is over a group.)

c. state employees who accompany and/or responsible for client travel;

d. new employees who have not had time to apply for and receive the state's corporate travel card;

e. employees traveling for extended periods, defined as 30 or more consecutive days;

f. employees traveling to remote destinations in foreign countries, such as jungles of Peru or Bolivia;

g. lodging purchase, if hotel will not allow direct bill or charges to agency's CBA and whose salary is less than $30,000/year;

h. registration for seminars, conferences, and conventions;

i. any ticket booked by a traveler 30 days or more in advance and for which the traveler has been billed, may be reimbursed by the agency to the traveler on a preliminary expense reimbursement request. The traveler should submit the request with a copy of the bill or invoice. Passenger airfare receipts are required for reimbursement;

j. employees who infrequently travel or travelers that incur significant out-of-pocket cash expenditures and whose salary is less than $30,000/year.

3. Expenses Incurred on State Business. Traveling expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency and must be within the limitations prescribed herein.

4. CBA (Controlled Billed Account) issued in an agency's name, and paid by the agency may be used for airfare, registration, rental cars, prepaid shuttle charges, lodging and any allowable lodging associated charges such as parking and internet charges. Other credit cards issued in the name of the state agency are not to be used without written approval.

5. No Reimbursement When No Cost Incurred by Traveler. This includes but is not limited to reimbursements for any lodging and/or meals furnished at a state institution or other state agency, or furnished by any other party at no cost to the traveler. In no case will a traveler be allowed mileage or transportation when he/she is gratuitously transported by another person.

C. Claims for Reimbursement

1. All claims for reimbursement for travel shall be submitted on the state's Travel Expense Form BA-12, unless exception has been granted by the Commissioner of Administration, and shall include all details provided for on the form. It must be signed by the person claiming reimbursement and approved by his/her immediate

supervisor. In all cases the date and hour of departure from and return to domicile must be shown, along with each final destination throughout the trip clearly defined on the form. On the state's Travel Authorization Form GF-4 the second page must be completed with breakdown of the estimated travel expenses. This is necessary for every trip, not just when requesting a travel advance. For every travel authorization request, the "purpose of the trip" for travel must be stated in the space provided on the front of the form.

2. Except where the cost of air transportation, registration, lodging, rental vehicles, shuttle service, and all other allowable charges outlined in the current State of Louisiana State Liability Travel and CBA Policy are invoiced directly to the agency or charged to a state liability card, any and all expenses incurred on any official trip shall be paid by the traveler and his travel expense form shall show all such expenses in detail so that the total cost of the trip shall be reflected on the travel expense form. If the cost of the expenses listed above are paid directly or charged directly to the agency/department, a notation will be indicated on the travel expense form indicating the date of travel, destination, amount, and the fact that it has been paid by the agency/department. The traveler must provide receipts, for all items charged or billed direct to the agency.

3. In all cases, and under any travel status, cost of meals shall be paid by the traveler and claimed on the travel expense form for reimbursement, and not charged to the state department, unless otherwise authorized by the department head or his designee, allowed under the State Liability Travel, CBA and/or LaCarte Purchasing Card Policy or with written approval from the Office of State Purchasing and Travel. A file must be kept containing all of these special approvals.

4. Claims should be submitted within the month following the travel, but preferably held until a reimbursement of at least $25 is due. Department heads at their discretion may make the 30 day submittal mandatory on a department wide basis.

5. Any person who submits a claim pursuant to these regulations and who willfully makes and subscribes to any claim which he/she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels or advises the preparation or presentation of a claim, which is fraudulent or is false as to any material matter shall be guilty of official misconduct. Whoever shall receive an allowance or reimbursement by means of a false claim shall be subject to disciplinary action as well as being criminally and civilly liable within the provisions of state law.

6. Agencies are required to reimburse travel in an expeditious manner. In no case shall reimbursements require more than 30 days to process from receipt of complete, proper travel documentation.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1253 (June 2000), LR 27:803 (June 2001), LR 28:1126 (June 2002), LR 29:823 (June 2003), LR 30:1112 (June 2004), LR 31:1184 (June 2005), LR 33:966 (June 2007), republished LR 33:1315 (July 2007), amended LR 34:1300 (July 2008), republished LR 35:1193 (July 2009), amended LR 36:1648 (July 2010), LR 42:982 (July 2016).

§1504. Methods of Transportation

A. Cost-Effective Transportation. The most cost-effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered should be length of travel time, employee's salary, cost of operation of a vehicle, cost and availability of common carrier services, etc. Common carrier shall be used for out-of-state travel unless it is documented that utilization of another method of travel is more cost-efficient or practical and approved in accordance with these regulations.

B. Air

1. Private Owned or Charter Planes. Before travel by privately-owned or by chartered aircraft is authorized for individual's travel by a department head, the traveler shall certify that: at least two hours of working time will be saved by such travel; and no other form of transportation, such as commercial air travel or a state plane, will serve this same purpose.

a. Chartering a privately owned aircraft must be in accordance with the Procurement Code.

b.i. Reimbursement for use of a chartered or un-chartered privately owned aircraft under the above guidelines will be made on the following basis:

(a). at the rate of $1.17 per mile; or

(b). at the lesser of coach economy airfare.

ii. If there are extenuating circumstances requiring reimbursement for other than listed above, approval must be granted by the Commissioner of Administration.

c. When common carrier services are unavailable and time is at a premium, travel via state aircraft shall be investigated, and such investigation shall be documented and readily available in the department's travel reimbursement files. Optimum utilization will be the responsibility of the department head.

2. Commercial Airlines. (Receipts required.) All state travelers are to purchase commercial airline tickets through the state contracted travel agency (see front cover for contract travel agency contact numbers). This requirement is mandatory unless approval is granted from the Office of State Travel. (In the event travelers seek approval to go outside the travel agency, they shall submit their request through their agency travel program administrator, who will determine if the request should be submitted to the Office of State Travel.)

a. While state contractors are not required to use the state's contracted travel agency when purchasing airfare, it will be the agency's responsibility to monitor cost ensuring that the contractor(s) are purchasing the lowest, most logical airfare.

b. The state always supports purchasing the "best value" ticket. Therefore, once all rates are received, the traveler must compare cost and options to determine which fare would be the "best value" for their trip. To make this determination, the traveler must ask the question: Is there a likelihood my itinerary could change or be cancelled? Depending on the response, the traveler must determine if the costs associated with changing a non-refundable ticket (usually around $200) would still be the best value.

i. Another factor to assist having a travel agent search the lowest fare is advising the agent if traveler is flexible in either your dates or time of travel. By informing the travel agent of your "window of time" for your departure and return will assist them to search for the best price.

ii. Travelers are to seek airfares allowing an ample amount of lead time prior to departure date. The lead-time should be about 10 to 14 days in advance of travel dates to ensure the lowest fares are available.

NOTE: Cost of a preferred or premium seat is not reimbursable. To avoid these charges or to avoid being bumped, a traveler must check in as early as possible. A traveler should check-in online 24 hours prior to a flight or check-in at the airport several hours prior to departure to obtain a seat assignment. Please be aware that it is a strict airline policy that a traveler must check-in, at a minimum, prior to 30 minutes of departure. The airlines are very strict about this policy. Airline rules typically state that if you don't arrive at least 30 minutes before the schedule departure, you may forfeit your reservation. The earlier you arrive at the gate increases the chances of retaining your original reservation and assurance of a seat on the flight purchased.

c. Commercial air travel will not be reimbursed in excess of lowest logical airfare when it has been determined to be the best value (receipts required). The difference between coach/economy class rates and first class or business class rates will be paid by the traveler. Upgrades at the expense of the state are not permitted, without prior approval of the Commissioner of Administration. If space is not available in less than first or business class air accommodations in time to carry out the purpose of the travel, the traveler will secure a certification from the airline or contracted travel agency indicating this fact. The certification is required for travel reimbursement.

d. The policy regarding airfare penalties is that the state will pay for the airfare and/or penalty incurred for a change in plans or cancellation when the change or cancellation is required by the state or other unavoidable situations approved by the agency's department head. Justification for the change or cancellation by the traveler's department head is required on the travel expense form.

e. When an international flight segment is more than 10 hours in duration, the state will allow the business class rate not to exceed 10 percent of the coach rate. The traveler's itinerary provided by the travel agency must document the flight segment as more than 10 hours and must be attached to the travel expense form.

f. A lost airline ticket is the responsibility of the person to whom the ticket was issued. The airline fee of searching and refunding lost tickets will be charged to the traveler. The difference between the prepaid amount and the amount refunded by the airlines must be paid by the employee.

g. Traveler is to use the lowest logical airfare whether the plane is a prop or a jet.

h. Employees may retain promotional items, including frequent flyer miles, earned on official state travel. However, if an employee makes travel arrangements that favor a preferred airline/supplier to receive promotional items/points and this circumvents purchasing the most economical means of travel, they are in violation of this travel policy. Costs for travel arrangements subject to this violation are non-reimbursable.

i. When making airline reservations for a conference, let the travel agent know that certain airlines have been designated as the official carrier for the conference. In many instances, the conference registration form specifies that certain airlines have been designated as the official carrier offering discount rates, if available. If so, giving this information to our contracted agency could result in them securing that rate for your travel.

j. Tickets which are unused by a traveler should always be monitored by the traveler and the agency. Traveler should ensure that any unused ticket is considered when planning future travel arrangements. Some airlines have a policy which would allow for a name change to another employee within the agency. A view of the latest airline policies regarding unused tickets are available at the State Travel Office's website http://www.doa.la.gov/Pages/osp/Travel/af-index.aspx .

i. Ultimately, it is the traveler's responsibility to determine, upon initial notification of an unused ticket and then every 30 days thereafter, if they will be utilizing the unused ticket. If it is determined that the ticket will not be utilized prior to expiration and there is a possibility to transfer the ticket, the traveler must immediately advise the agency travel administrator that the ticket is available for use by another employee, section or agency. The traveler administrator should then act accordingly.

ii. In addition, the department head, at a minimum of three months prior to expiration, must review all unused airfare to determine, based on the traveler's justification, if reimbursement from the traveler must be made to the agency for the amount of the unused ticket. All files must be properly documented.

iii. This may be accomplished with the unused ticket report sent to each agency program administrator each month from the contracted travel agency. This report in conjunction with employee notifications while booking other flights and employee email notifications every 90, 60, 30 and 14 days prior to ticket expiration should be more than sufficient to reduce the loss of reusable airfare.

C. Motor Vehicle. No vehicle may be operated in violation of state or local laws. No traveler may operate a vehicle without having in his/her possession a valid U.S. driver's license. Safety restraints shall be used by the driver and passengers of vehicles. All accidents, major and minor, shall be reported first to the local police department or appropriate law enforcement agency. In addition, an accident report form, available from the Office of Risk Management (ORM) of the Division of Administration, should be completed as soon as possible and must be returned to ORM, together with names and addresses of principals and witnesses. Any questions about this should be addressed to the Office of Risk Management of the Division of Administration. These reports shall be in addition to reporting the accident to the Department of Public Safety as required by law. Operating a state owned vehicle, state-rented vehicle or state-leased vehicle or operating a non-state-owned vehicle for state business while intoxicated as set forth in R.S. 14:98 and 14:98.1 is strictly prohibited, unauthorized, and expressly violates the terms and conditions of use of said vehicle. In the event such operation results in the employee being convicted of, pleading nolo contendere to, or pleading guilty to driving while intoxicated

under R.S. 14:98 and 14:98.1, such would constitute evidence of the employee: violating the terms and conditions of use of said vehicle, violating the direction of his/her employer, and acting beyond the course and scope of his/her employment with the State of Louisiana. Personal use of a state-owned, state-rented or state-leased vehicle is not permitted. No person may be authorized to operate or travel in a state owned or rental vehicle unless that person is a classified or unclassified employee of the State of Louisiana; any duly appointed member of a state board, commission, or advisory council; or any other person who has received specific approval and is deemed as an "authorized traveler" on behalf of the State, from the department head or his designee to operate or travel in a fleet vehicle on official state business. A file must be kept containing all of these approvals. Any persons who are not official state employees must sign an Acknowledgement of Non-State Employees Utilizing State Vehicles form , located at the Office of State Travel's website, http://www.doa.la.gov/Pages/osp/Travel/forms.aspx prior to riding in or driving a state-owned vehicle or rental vehicle on behalf of the state. Each agency is responsible in ensuring that this along with any other necessary documents and requirements are completed and made part of the travel file prior to travel dates. Students not employed by the state shall not be authorized to drive state-owned or rented vehicles for use on official state business. A student may be deemed as an "authorized traveler" on behalf of the state by the department head or his designee to operate or travel in a state-owned or rented vehicle on official state business. The Acknowledgement of Non-State Employees Utilizing State Vehicles form acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel must be signed as part of the approval process. A file must be kept containing all of these approvals. Persons operating a state owned, rental or personal vehicle on official state business will be completely responsible for all traffic, driving, and parking violations received. This does not include state-owned or rental vehicle violations, i.e. inspections sticker, as the state and/or rental company would be liable for any cost associated with these types of violations.

1. State-Owned Vehicles

a. Travelers in state-owned automobiles who purchase needed fuel, repairs and equipment while on travel status shall make use of all fleet discount allowances and state bulk purchasing contracts where applicable. Reimbursements require a receipt and only regular unleaded gasoline, or diesel when applicable, should be used. This applies for both state owned vehicles and rental vehicles, as mid-grade, super, plus or premium gasoline is not necessary. If traveler utilizes anything other than regular unleaded gasoline unless vehicle requires diesel, or any other manufactory mandated grade, without justification and prior approval from the agency department head, traveler must reimburse the agency the difference between what was paid and the state average gasoline rates. Each agency/department shall familiarize itself with the existence of the fuel/repair contract(s), terms and conditions as well as location of vendors.

b. State-owned vehicles may be used for out-of-state travel only if permission of the department head has been given prior to departure. If a state-owned vehicle is to be used to travel to a destination more than 500 miles from its usual location, documentation that this is the most cost-effective means of travel should be readily available in the department's travel reimbursement files.

c. Unauthorized persons should not be transported in state vehicles. Approval of exceptions to this policy may be made by the department head if he determines that the unauthorized person is part of the official state business and the best interest of the state will be served and the passenger (or passenger's guardian) signs an Acknowledgement of Non-State Employees Utilizing State Vehicles form acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel.

d. If a state vehicle is needed/requested to be brought to the home of a state employee overnight, then the agency/traveler should ensure it is in accordance with requirements outlined in R.S. 39:361-364.

2. Personally Owned Vehicles

a. When two or more persons travel in the same personally owned vehicle, only one charge will be allowed for the expense of the vehicle. The person claiming reimbursement shall report the names of the other passengers.

b. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while conducting official state business. Mileage may be reimbursable on the basis of no more than $0.51 per mile and in accordance with the following:

i. For official in-state business travel:

(a). employee should utilize a state vehicle when available;

(b). employee may rent a vehicle from the State's in-state contract Enterprise-Rent-A-Card if a state vehicle is not available and travel exceeds 100 miles; or

(c). if an employee elects to use his/her personal vehicle, reimbursement may not exceed a maximum of 99 miles per round trip and/or day (day or the return to domicile) at $0.51 per mile.

> Please note that mileage is applicable for round trip (multiple days) and/or round trip (one day).
>
> Example No. 1: If someone leaves Baton Rouge, travels to New Orleans and returns that same day, they are entitled to 99 miles maximum for that day trip if they choose to drive their personal vehicle.
>
> Example No. 2: If someone leaves Baton Rouge, travels to New Orleans, and returns two days later, they are entitled to 99 miles maximum for the entire "trip" if they choose to drive their personal vehicle.
>
> Example No. 3: If someone leaves Baton Rouge, travels to New Orleans then on to Lafayette, Shreveport, Monroe and returns to the office four days later, they are entitled to 99 miles maximum for the entire "trip" if they choose to drive their personal vehicle.

c. Mileage shall be computed by one of the following options:

i. on the basis of odometer readings from point of origin to point of return;

ii. by using a website mileage calculator or a published software package for calculating mileage such as

Tripmaker, How Far Is It, Mapquest, etc.. Employee is to print the page indicating mileage and attach it with his/her travel expense form.

d. An employee shall never receive any benefit from not living in his/her official domicile. In computing reimbursable mileage, while the employee is on official state travel status, to an authorized travel destination from an employee's residence outside the official domicile, the employee is always to claim the lesser of the miles from their official domicile or from their residence. If an employee is leaving on a non-work day or leaving significantly before or after work hours, the department head may determine to pay the actual mileage from the employee's residence not to exceed a maximum of 99 miles per round trip and/or day at $0.51 per mile. See Example Subparagraph C.2.b of this Section.

e. The department head or his designee may approve an authorization for routine travel for an employee who must travel in the course of performing his/her duties; this may include domicile travel if such is a regular and necessary part of the employee's duties, but not for attendance to infrequent or irregular meetings, etc., within the city limits where his/her office is located, the employee may be reimbursed for mileage only not to exceed a maximum of 99 miles per round trip and/or day at $0.51 per mile. See Example Subparagraph C.2.b of this Section.

f. Reimbursements will be allowed on the basis of $0.51 per mile, not to exceed a maximum of 99 miles per round trip and/or day, to travel between a common carrier/terminal and the employees point of departure, i.e., home, office, etc., whichever is appropriate and in the best interest of the state. See Example Subparagraph C.2.b of this Section.

g. When the use of a privately-owned vehicle has been approved by the department head for out-of-state travel for the travelers convenience, the traveler will be reimbursed for mileage on the basis of $0.51 per mile only not to exceed a maximum of 99 miles per round trip and/or day. If prior approval for reimbursement of actual mileage is requested and granted by the Commissioner of Administration, the total cost of the mileage reimbursement may never exceed the cost of a rental vehicle or the cost of travel by using the lowest logical airfare obtained at least 14 days prior to the trip departure date, whichever is the lesser of the two. The reimbursement would be limited to one lowest logical airfare quote, not the number of persons traveling in the vehicle. The traveler is personally responsible for any other expenses in-route to and from destination which is inclusive of meals and lodging. If a traveler, at the request of the department, is asked to take his/her personally owned vehicle out-of-state for a purpose that will benefit the agency, then the department head may on a case-by-case basis determine to pay a traveler for all/part of in-route travel expenses, however, mileage reimbursement over 99 miles would still require prior approval from the Commissioner of Administration's approval. In this case, once approval is obtained from the Commissioner of Administration to exceed 99 miles, then the department head may authorized actual mileage reimbursements. File should be justified accordingly.

h. When a traveler is required to regularly use his/her personally owned vehicle for agency activities, the agency head may request prior authorization from the Commissioner of Administration for a lump sum allowance for transportation or reimbursement for transportation (mileage). Request for lump sum allowance must be accompanied by a detailed account of routine travel listing exact mileage for each such route and justification why a rental vehicle is not feasible. Miscellaneous travel must be justified by at least a three-month travel history to include a complete mileage log for all travel incurred, showing all points traveled to or from and the exact mileage. Request for lump sum allowance shall be granted for periods not to exceed one fiscal year. A centralized file must be kept containing all approvals.

NOTE: Once someone is given a monthly vehicle allowance or lump sum allowance, they are not to be reimbursed for mileage, fuel or rental vehicles. Rental could be allowed only when flying out of state.

i. In all cases, the traveler shall be required to pay all operating expenses for his/her personal vehicle including fuel, repairs, and insurance.

j. The only exemption which would not require the Commissioner of Administration's prior approval for exceeding 99 miles reimbursement and receiving actual mileage reimbursements is for members of boards and commissions, not administration/office personnel, and for students which are traveling on a grant, scholarship, or any other occasion where use of a personal vehicle is the best and/or only method of transportation available. Department head approval is required.

3. Rented Motor Vehicles (Receipts Required). Any rental vehicles not covered in the state' in-state or out-of-state contracts should be bid in accordance with proper purchasing rules and regulations. The state has a contract for all vehicle rentals based out of Louisiana through Enterprise Rent-A-Car, which use is mandatory for business travel. This contract is applicable to all authorized travelers, and contractors. The state has contracts for out-of-state vehicles rentals. Travelers shall use Hertz, Enterprise-Rent-A-Car, or National which use is mandatory for business travel. These contracts are also applicable to all authorized travelers, and contractors.

a. In-State Vehicle Rental. The state has contracted for all rentals based out of Louisiana through Enterprise Rent-A-Car's State Motor Pool Rental Contract, which use is mandatory, for business travel which applies to all state of Louisiana employees and/or authorized travelers, contractors, etc. traveling on official state business.

i. A rental vehicle should be used, if a state owned vehicle is not available, for all travel over 99 miles. All exemptions must be requested and granted by the Commissioner of Administration for an reimbursements which exceed 99 miles prior to the trip. Requests for exemption must be accompanied by a detailed explanation as to why a rental is not feasible. If an exemption from the program is granted by the Commissioner of Administration as stated above, then the employee will not be required to rent a vehicle and may receive actual mileage reimbursement up to $0.51 per mile.

ii. All state contractors, who have entered into a contract with the state of Louisiana on or after March 1, 2013, and whose contracts are required to follow PPM49 for

travel reimbursements, are required to utilize both in-state and out-of-state mandatory contracts awarded by the state.

iii. Although exemptions may be granted, by the Commissioner of Administration, all must adhere to the current mileage reimbursement rate of no more than $0.51 per mile. The only exemption which would not require the Commissioner of Administration's prior approval for exceeding 99 miles reimbursement and receiving actual mileage reimbursements is for members of boards and commissions, not administration/office personnel, and for students which are traveling on a grant, scholarship, or any other occasion where use of a personal vehicle is the best and/or only method of transportation available. Department head approval is required.

v. For trips of 100 miles or more, any employee and/or authorized traveler, should use a state owned vehicle or rental from Enterprise Rent-A-Car State Motor Pool Rental Contract, when a state vehicle is not available.

vi. For trips of less than 100 miles employees should utilize a state vehicle when available, may utilize their own vehicle and receive mileage reimbursement not to exceed a maximum of 99 miles per round trip and/or day at $0.51 per mile or may rent a vehicle from Enterprise Rent-A Car's State Motor Pool Rental Contract.

vii. Reservations should not be made at an airport location for daily routine travel, as this will add additional unnecessary cost to your rental charges. No travelers may purchase prepaid fuel. If traveler utilizes anything other than regular unleaded gasoline, unless vehicle requires diesel or any other manufactory mandated grade, without justification and prior approval from the agency department head, traveler must reimburse the agency the difference between what was paid and the state average gasoline rate

b. Payments Rentals through the State Motor Pool Rental Contract may be made using the "LaCarte" purchasing card, an agency's CBA account, an employee's state corporate travel card or by direct bill to the agency. This will be an agency decision as to the form of payment chosen. If direct bill is chosen, agency must set up account billing information with Enterprise. An account may be established by contacting Joseph Rosenfeld at 225-445-7250, joseph.g.rosenfeld@ehi.com

c. Out-of-State Vehicle Rental. The State has contracted for rental vehicles for domestic and out-of-state travel, excluding Louisiana and international travel, utilizing the state of Louisiana's Out-of-State Contracts, which use is mandatory. All state of Louisiana employees and/or authorized travelers, contractors are mandated to use these contracts due to exceptional pricing which includes CDW (collision damage waiver) and one million dollar liability insurance. The state of Louisiana Out-of-State participating vendors include Enterprise Rent-A-Car, National Car Rental and Hertz Car Rental Corporation. It is the traveler's discretion which rental company is utilized.

d. All state contractors who have entered into a contract with the state of Louisiana on or after March 1, 2013, and whose contracts are required to follow PPM 49 for travel reimbursements, are required to utilize both in-state and out-of-state mandatory contracts awarded by the state.

e. Although exemptions may be granted, by the Commissioner of Administration, all must adhere to the current mileage reimbursement rate of no more than $0.51 per mile.

f. The only exemption which would not require the Commissioner of Administration's approval for exceeding 99 miles reimbursement and receiving actual mileage reimbursements is for students which are traveling on a grant, scholarship, or any other occasion where use of a personal vehicle is the best and/or only method of transportation available. Department head approval is required.

g. Payments Rentals made through the State of Louisiana out-of-state contracts may be made using the "LaCarte" purchasing card, an employee's corporate travel card or by direct bill to the agency. This will be an agency decision as to the form of payment chosen. If a direct bill account is chosen for Enterprise and National, you may contact Joseph Rosenfeld at 225-445-7250, joseph.g.rosenfeld@ehi.com. And for Hertz, you may contact Tami Vetter at 225-303-5973, tvetter@hertz.com.

h. Approvals. Written approval of the department head or his designee prior to departure is not required for the rental of vehicles, however, if your agency chooses, approval may be made mandatory or handled on an annual basis if duties require frequent rentals. Special approval is required, from the department head or his/her designee, for rental of any vehicle in the "full size" category or above.

i. Vehicle Rental Size

i. Only the cost of a compact or intermediate model is reimbursable, unless:

(a). non-availability is documented; or

(b). the vehicle will be used to transport more than two persons.

NOTE: When a larger vehicle is necessary as stated in 1 or a larger vehicle is necessary due to the number of persons being transported, the vehicle shall be upgraded only to the next smallest size and lowest price necessary to accommodate the number of persons traveling.

ii. A department head or his/her designee may, on a case-by-case basis, authorize a larger size vehicle provided detailed justification is made in the employee's file. Such justification could include, but is not limited to, specific medical requirements when supported by a doctor's recommendation.

j. Personal Use of Rental. Personal use of a rental vehicle, when rented for official state business, is not allowed.

k. Gasoline (Receipts Required). Reimbursements require an original receipt and only regular unleaded gasoline, or diesel when applicable, should be used. This applies for both state owned vehicles and rental vehicles, as mid-grade, super, plus or premium gasoline is not necessary. An employee should purchase gasoline with the state's fuel card or other approved credit card at reasonable cost from a local gasoline station prior to returning the rental. Pre-paid fuel options, for rental vehicles, are only to be allowed. If traveler utilizes anything other than regular unleaded gasoline, unless vehicle requires diesel or any other manufactory mandated grade, without justification and prior approval from the agency Department Head, traveler must reimburse the agency the difference between what was paid

and the state average gasoline rate. Each agency/department shall familiarize itself with the existence of the fuel/repair contract(s), terms and conditions as well as locations of vendors.

l. Insurance for Vehicle Rentals within the 50 United States. Insurance billed by car rental companies is not reimbursable. All insurance coverage for rental vehicles, other than the state's in-state and out-of-state mandatory contracts, is provided by the Office of Risk Management. Should a collision occur while on official state business, the accident should immediately be reported to the Office of Risk Management and rental company. Any damage involving a third party must be reported to appropriate law enforcement entity to have a police report generated.

i. CDW/Damage Waiver Insurance and $1 Million Liability Protection Coverage is included in the State in-state and out-of-state rental contract pricing.

NOTE: Lost keys and car door unlocking services for rental vehicles are not covered under the damage waiver policy and are very costly. The agency should establish an internal procedure regarding liability of these costs.

ii. No other insurance will be reimbursed when renting, except when renting outside the 50 United States, see §1504.C.3.i. There should be no other charges added to the base price, unless the traveler reserves the vehicle at an airport location (which is not recommended for daily routine travel). Reimbursable amounts would then be submitted at the end of the trip on a travel expense form.

j. Insurance for Vehicles Rentals outside the 50 United States. (receipts required) The Office of Risk Management (ORM) recommends that the appropriate insurance (liability and physical damage) provided through the car rental company be purchased when the traveler is renting a vehicle outside the 50 United States. With the approval of the department head or his/her designee required insurance costs may be reimbursed for travel outside the 50 United States only.

4. The following are insurance packages available by rental vehicle companies which are reimbursable:

a. collision damage waiver (CDW). Should a collision occur while on official state business, the cost of the deductible should be paid by the traveler and submit a reimbursement claimed on a travel expense form. The accident should also be reported to the Office of Risk Management;

b. loss damage waiver (LDW);

c. auto tow protection (ATP), *approval of department head;

d. supplementary liability insurance (SLI), *if required by the rental company;

e. theft and/or super theft protection (coverage of contents lost during a theft or fire), *if required by the car rental company;

f. vehicle coverage for attempted theft or partial damage due to fire, *if required by the car rental company.

5. The following are some of the insurance packages available by rental vehicle companies that are not reimbursable:

a. personal accident coverage insurance (PAC);

b. emergency sickness protection (ESP).

6. Navigation equipment (GPS System), rented not purchased, from a rental car company, may only be reimbursed if an employee justifies the need for such equipment and with prior approval of the department head or his designee.

D. Public Ground Transportation. The cost of public ground transportation such as buses, subways, airport shuttle/limousines, and taxis are reimbursable when the expenses are incurred as part of approved state travel. See receipt requirements below.

1. Airport shuttle/limousines, taxi and all other public transportation where a receipt is available, requires a receipt for reimbursements. A driver's tip for shuttle/limousines and taxis may be given and must not exceed 15 percent of total charge. Amount of tip must be included on receipt received from driver/company.

2. All other forms of public ground transportation, where a receipt in not possible and other than those listed above, are limited to $15 per day without a receipt, claims in excess of $15 per day requires a receipt. At the agency's discretion, the department head may implement an agency wide policy requiring receipts for all public transportation request less than $15 per day.

3. To assist agencies with verification of taxi fares, you may contact the taxi company for an estimate or visit sites such as taxifarefinder.com. An employee should always get approval, prior to a trip, if multiple taxis will be used; as it may be in the agency's best interest to rent a vehicle versus reimbursement of multiple taxi expenses.

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§1505. State Issued Travel Credit Cards/CBA Accounts

A. Use. All high cost expenditures (airfare, lodging, vehicle rentals, and registration) must be placed on the LaCarte Purchasing Card, Travel Card or agency CBA programs unless prior approval is granted from the Commissioner of Administration. The State Travel Office contracts for an official state corporate travel card to form one source of payment for travel. If a supervisor recommends an employee be issued a state travel card, the employee should complete an application through their agency travel program administrator. The State Travel Office contracts for an official state corporate travel card to form one source of payment for travel. If a supervisor recommends an employee be issued a state travel card, the employee should complete an application through their agency travel program administrator.

1. The employee's corporate travel card is for official state travel business purposes only. Personal use on the state travel card shall result in disciplinary action.

B. Liability

1. The corporate travel card is the liability of the state. Each monthly statement balance is due in full to the card-

issuing bank. The state will have no tolerance to assist those employees who abuse their travel card privileges.

2. The department/agency is responsible for cancellation of corporate travel cards for those employees terminating/retiring from state service.

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§1506. Lodging and Meals

A. Eligibility

1. Official domicile/temporary assignment. Travelers are eligible to receive reimbursement for travel only when away from "official domicile" or on temporary assignment unless exception is granted in accordance with these regulations. Temporary assignment will be deemed to have ceased after a period of 30 calendar days, and after such period the place of assignment shall be deemed to be his/her official domicile. He/she shall not be allowed travel and subsistence unless permission to extend the 30 day period has been previously secured from the Commissioner of Administration.

2. Extended Stays. For travel assignments approved by the Commissioner of Administration involving duty for extended periods (31 or more consecutive days) at a fixed location, the reimbursement rates indicated should be adjusted downward whenever possible. Claims for meals and lodging may be reported on a per diem basis supported by lodging receipt. Care should be exercised to prevent allowing rates in excess of those required to meet the necessary authorized subsistence expenses. It is the responsibility of each agency head to authorize only such travel allowances as are justified by the circumstances affecting the travel.

a. The only exemption, for travel of 31 days or more which does not require the Commissioner of Administration's approval, are students, professors or other state employees which are traveling on a grant, scholarship, studying abroad or any other occasion where funds utilized are other than state general funds. Department head approval is required.

3. Single Day Travel

a. Meals are not eligible for reimbursements on single day travel. This means that when an authorized traveler of the state is in travel status where no overnight stay is required, no meals are eligible for reimbursement. Each department head or their designees are to determine the reasonableness of when an overnight stay is justified.

b. However, the department head will be allowed to authorize single day meal reimbursements on a case-by-case basis or by type(s) of single day travel when it is determined to be in the best interest of the department. In those cases, the department must keep the approvals in the travel file and must be responsible to take appropriate steps to report the reimbursement as wages to the employee.

c. If a department head or his/her designee determines that single day meals will be provided for, they must adhere the following allowances. To receive any meal reimbursement on single day travel, an employee must be in travel status for a minimum of 12 hours.

i The maximum allowance for meal reimbursement for single day travel will be $42.

(a). Breakfast and Lunch: ($22) the 12 hours travel duration must begin at or before 6 a.m.

(b). Lunch: ($13) requires 12 hours duration in travel status.

(c). Lunch and Dinner: ($42) the 12 hour travel duration must end at or after 8 p.m.

4. Travel with Over Night Stay. (minimum of 12 hours in travel status) Travelers may be reimbursed for meals according to the following schedule.

a. Breakfast—when travel begins at/or before 6 a.m. on the first day of travel or extends at/or beyond 9 a.m. on the last day of travel, and for any intervening days.

b. Lunch—when travel begins at/or before 10 a.m. on the first day of travel or extends at/or beyond 2 p.m. on the last day of travel, and for any intervening days.

c. Dinner—When travel begins at/or before 4 p.m. on the first day of travel or extends at/or beyond 8 p.m. on the last day of travel, and for any intervening days.

5. Alcohol—reimbursement for alcohol is prohibited.

B. Exceptions

1. Routine Lodging Overage Allowances (Receipts required).

a. Department head or his/her designee has the authority to approve actual costs for routine lodging provisions on a case by case basis, not to exceed 50 percent over PPM-49 current listed rates.

NOTE: this authority for increase in allowance is for lodging only and not for any other area of PPM49.

b. Justification must be maintained in the file to show that attempts were made with hotels in the area to receive the state/best rate. In areas where the governor has declared an emergency, a department head or his/her designee will have the authority to approve actual routine lodging provisions on a case by case basis not to exceed 75 percent over PPM-49 current listed rates. Each case must be fully documented as to necessity (e.g., proximity to meeting place) and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files.

2. Actual Expenses for State Officers (Itemized receipts or other supporting documents are required for each item claimed). State officers and others so authorized by statute (see definition under state officer) or individual exception will be reimbursed on an actual expense basis for meals and lodging except in cases where other provisions for reimbursement have been made by statute. Request shall not be extravagant and will be reasonable in relation to the purpose of travel. State officers entitled to actual expense reimbursements are only exempt from meals and lodging rates; they are subject to the time frames and all other requirements as listed in these travel regulations.

C. Meals and Lodging Allowances (Meal rates are not a per diem, only the maximum allowed while in travel status.)

1. Meal Allowance—includes tax and tips. Receipts are not required for routine meals within these allowances, unless a cash advance was received. See §1503.B.2. Number of meals claimed must be shown on travel expense form. For meal rates, the inclusion of suburbs (see definition of suburb) shall be determined by the department head or his/her designee on a case-by-case basis. See tier pricing below. Partial meals such as continental breakfast or airline meals are not considered meals.

NOTE: If a meal is included in a conference schedule, it is part of the registration fee, therefore, an employee cannot request/receive additional reimbursement for that meal. If meals of state officials receiving actual expenses exceed these allowances, itemized receipt are required. See §1506.B.2

2. Meals with relatives or friends may not be reimbursed unless the host can substantiate costs for providing for the traveler. The reimbursement amount will not automatically be the meal cost for that area, but rather the actual cost of the meal.

Example: The host would have to show proof of the cost of extra food, etc. Cost shall never exceed the allowed meal rate listed for that area.

3. Routine Lodging Allowance. The state has contracted for all hotel expenditures through HotelPlanners contract. Lodging rate, plus tax and any mandatory surcharge. (Receipts are required.) For lodging rates, the inclusion of suburbs (see definition of suburb) shall be determined by the department head on a case-by-case basis. Employees should always attempt to use the tax exempt form located on the State Travel website for all in-state lodging. http://www.doa.la.gov/Pages /osp/Travel/forms. aspx when traveling in-state on official state business, and must be used if hotel expenses are being charged to employee's state corporate travel card, the LaCarte Card or the agency's CBA account. When two or more employees on official state business share a lodging room, the state will reimburse the actual cost of the room; subject to a maximum amount allowed for an individual traveler times the number of employees.

4. Lodging with relatives or friends may not be reimbursed unless the host can substantiate costs for accommodating the traveler. The amount will not automatically be the lodging cost for that area, but rather the actual cost of accommodations.

Example: The host would have to show proof of the cost of extra water, electricity, etc. Cost shall never exceed the allowed routine lodging rate listed for that area. Department head or his/her designee's approval must be provided to allow lodging expenses to be direct billed to an agency.

5. Conference Lodging Allowance. Employees may be allowed lodging rates, plus tax (other than State of Louisiana tax) and any mandatory surcharge. (Receipts are required.) Department head or his/her designee has the authority to approve the actual cost of conference lodging, for a single occupancy standard room, when the traveler is staying at the designated conference hotel. If there are multiple designated conference hotels, the lower cost designated conference hotel should be utilized, if available. In the event the designated conference hotel(s) have no room availability, a department head or his/her designee may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels in the immediate vicinity of the conference hotel. This allowance does not include agency hosted conference lodging allowances; see §1510 for these allowances. In the event a traveler chooses to stay at a hotel which is not associated with the conference, then the traveler is subject to making reservation and getting reimbursed within the hotel rates that will be allowed in routine lodging only, as listed below.

6. Resort fees are not allowable unless attending a conference and/or if a traveler is staying in a city that all hotels are charging a resort fee.

7. No reimbursements are allowed for functions not relating to a conference, i.e., tours, dances, golf tournaments, etc.

TIER I	
Breakfast	$9
Lunch	$13
Dinner	$29
Total	$51
Lodging Area	Routine Lodging
In-State Cities (except as listed)	$89
Alexandria/Leesville/Natchitoches	$97
Baton Rouge-EBR	$98
Covington/Slidell-St.Tammany	$89
Lake Charles-Calcasieu	$89
Lafayette	$89

TIER II	
Breakfast	$10
Lunch	$16
Dinner	$30
Total	$56
Lodging Area	Routine Lodging
New Orleans – Orleans, St. Bernard, Jefferson and Plaquemines Parishes May– September October – December January - April	$122 $153 $160
Out-Of-State (Except Cities Listed in Tier III & IV)	$91

TIER III	
Breakfast	$12
Lunch	$17
Dinner	$32
Total	$61
Lodging Area	Routine Lodging
Austin,TX; Atlanta, GA; Cleveland, OH; Dallas/Fort Worth, TX; Denver, CO; Ft. Lauderdale, FL; Hartford, CT; Houston, TX; Kansas City, MO; Las Vegas Los Angeles, CA; Miami, FL; Minneapolis/St. Paul, MN; Nashville, TN; Oakland, CA; Orlando, FL; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Portland, OR, Sacramento, CA; San Antonio, TX; San Diego, CA; Sedona, AZ; St. Louis, MO; Wilmington, DE; all of Alaska and Hawaii; Puerto Rico; Virgin Island; American Samoa; Guam, Saipan	$126

TIER IV	
Breakfast	$13
Lunch	$19
Dinner	$36

TIER IV	
Total	$68
Lodging Area	Routine Lodging
Baltimore, MD; San Francisco, CA; Seattle, WA; Chicago, IL; Boston, MA	$175
Alexandria, VA; Arlington, VA; New York City, NY; Washington DC	$225
International Cities	$200

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§1507. Parking and Related Parking Expenses

A. Parking at the Baton Rouge Airport. The state's current contract rate is $3.50 per day (no receipts required) for parking in the indoor parking garage as well as the outside, fenced parking lot at the Baton Rouge airport. Documentation required to receive the contract price is the airport certificate and a state ID. If the agency does not issue a state ID, the traveler would need a business card and a driver's license along with the certificate to be eligible for the state contracted rate. Airport certificate may be found on State Travel Office's website at http://www.doa.la.gov/Pages /osp/travel/parking.aspx .

B. New Orleans Airport Parking. The state's current contract is with Park-N-Fly and the rate, inclusive of all allowable and approved taxes/fees, etc will not exceed $7 per day and $42 weekly (no receipts required for parking at Park-N-Fly in New Orleans). Promotional code 0050930 must be used to obtain this rate. For on-line reservations, no other documentation will be required to receive this rate. For all "pay when you exit" employees, a state issued ID or a valid ID with a state business card along with a tax exempt form is required to receive the state contracted rate. At the agency discretion an employee may be paid actual expenses, at another location, up to $7 per day with a receipt.

C. Travelers using motor vehicles on official state business may be reimbursed for all other parking, including airport parking except as listed in Subsections A and B above, ferry fares, and road and bridge tolls. For each transaction over $5, a receipt is required.

D. Tips for valet parking not to exceed $2 per day.

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§1508. Reimbursement for Other Expenses (These charges are while in travel status only.)

A. The following expenses incidental to travel may be reimbursed.

1. Communications Expenses

a. For official state business—all business communication costs may be reimbursed (receipts required).

b. For domestic overnight travel—up to $3 for personal calls upon arrival at each destination and up to $3 for personal calls every second night after the first night if the travel extends several days.

c. For international travel—up to $10 for personal calls upon arrival at each destination and up to $10 for personal calls every second night after the first night if the travel extends several days.

d. Internet access charges for official state business from hotels or other travel locations are treated the same as business telephone charges. A department may implement a stricter policy for reimbursement of Internet charges. (Receipts required)

B. Charges for Storage and Handling of State Equipment (Receipts required)

C. Baggage Tips

1. Hotel Allowances—up to $3 tip per hotel check-in and $3 tip per hotel checkout, if applicable.

2. Airport Allowances—up to $3 tip for airport outbound departure trip and $3 tip for inbound departure trip.

D. Luggage Allowances (Receipt Required). A department head or his designee may approve reimbursement to a traveler for airline charges for first checked bag for a business trip of five days or less and for the second checked bag for a 6-10 day business trip and/or any additional baggage which is business related and required by the department. The traveler must present a receipt to substantiate these charges.

1. Travelers will be reimbursed for excess baggage charges (overweight baggage) only in the following circumstances:

a. when traveling with heavy or bulky materials or equipment necessary for business;

b. the excess baggage consists of organization records or property.

NOTE: Traveler should always consider shipping materials to final destination or splitting materials into additional pieces of luggage to avoid the excess baggage charges in order to save their agency costs.

E. Registration fees at conferences (meals that are a designated integral part of the conference may be reimbursed on an actual expense basis with prior approval by the department head).

NOTE: If a meal is included in a conference schedule, it is part of the registration fee, therefore, an employee cannot request/receive additional reimbursement for that meal.

F. Laundry Services. Employees on travel for more than seven days may be reimbursed with department head or his/her designee's prior approval, up to actual, but reasonable, costs incurred. Receipts are required for reimbursement.

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§1509. Special Meals

A. Reimbursement designed for those occasions when, as a matter of extraordinary courtesy or necessity, it is appropriate and in the best interest of the state to use public funds for provision of a meal to a person who is not otherwise eligible for such reimbursement and where reimbursement is not available from another source. Requests should be within reason and may include tax and tips. Itemized receipts are required.

1. Visiting dignitaries or executive-level persons from other governmental units, and persons providing identified gratuity services to the state. This explicitly does not include normal visits, meetings, reviews, etc., by federal or local representatives.

2. Extraordinary situations are when state employees are required by their supervisor to work more than a 12-hour weekday or six-hours on a weekend (when such are not normal working hours to meet crucial deadlines or to handle emergencies).

B. All special meals must have prior approval from the Commissioner of Administration or, for higher education, the entity head or his designee in order to be reimbursed, unless specific authority for approval has been delegated to a department head for a period not to exceed one fiscal year with the exception in Subsection C, as follows.

C. A department head may authorize a special meal within allowable rates listed under Meals—Tier 1, to be served in conjunction with a working meeting of departmental staff. Reasonable tip is allowed if ordered from outside vendor. No tip should ever exceed 20 percent.

D. In such cases, the department will report on a quarterly basis to the Commissioner of Administration all special meal reimbursements made during the previous three months. For higher education, these reports should be sent to the respective institution of higher education management board. These reports must include, for each special meal, the name and title of the person receiving reimbursement, the name and title of each recipient, the cost of each meal and an explanation as to why the meal was in the best interest of the state. Renewal of such delegation will depend upon a review of all special meals authorized and paid during the period. Request to the commissioner for special meal authorization must include, under signature of the department head:

1. name and position/title of the state officer or employee requesting authority to incur expenses and assuming responsibility for such;

2. clear justification of the necessity and appropriateness of the request;

3. names, official titles or affiliations of all persons for whom reimbursement of meal expenses is being requested;

4. statement that allowances for meal reimbursement according to these regulations will be followed unless specific approval is received from the Commissioner of Administration to exceed this reimbursement limitation:

a. all of the following must be reviewed and approved by the department head or his/her designee prior to reimbursement:

i detailed breakdown of all expenses incurred, with appropriate receipts(s);

ii. subtraction of cost of any alcoholic beverages;

iii. copy of prior written approval from the Commissioner of Administration or, for higher education, the entity head or his/her designee.

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§1510. Agency Hosted Conferences (Both In-State and Out-of-State)

A. State Sponsored Conferences. An agency must solicit three bona fide competitive quotes in accordance with the governor's executive order for small purchase.

B. Attendee Verification. All state sponsored conferences must have a sign-in sheet or some type of attendee acknowledgment for justification of number of meals ordered and charged.

C. Conference Lunch Allowance. Lunch direct billed to an agency in conjunction with a state sponsored conference is to be within the following rates plus mandated gratuity.

Lunch In-State excluding New Orleans	$20
Lunch—New Orleans and Out-of-State	$25

i. Any other meals such as breakfast and dinner require special approval in accordance with PPM 49 §1509, Special Meals, and must have prior approval from the Commissioner of Administration or for higher education, the entity head or his/her designee.

D. Conference Refreshment Allowance. Cost for break allowances for meeting, conference or convention are to be within the following rates.

i. Refreshments shall not exceed $4.50 per person, per morning and/or afternoon sessions. A mandated gratuity may be added if refreshments are being catered.

E. Conference Lodging Allowances. Lodging rates may not exceed $20 above the current listed routine lodging rates listed for the area in which the conference is being held.

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27:807 (June 2001), republished LR 27:1495 (September 2001), LR 28:1130 (June 2002), LR 30:1116 (June 2004), LR 31:1191 (June 2005), LR 32:941 (June 2006), republished LR 33:1323 (July 2007), amended LR 34:1308 (July 2008), LR 35:1201 (July 2009), LR 36:1657 (July 2010), LR 42:993 (July 2016).

§1511. International Travel

A. International travel must be approved by the Commissioner of Administration or, for higher education, the entity head or his designee prior to departure, unless specific authority for approval has been delegated to a department head. Requests for approval must be accompanied by a detailed account of expected expenditures (such as room rate, date, meals, local transportation, etc.), and an assessment of the adequacy of this source to meet such expenditures without curtailing subsequent travel plans.

B. International travelers will be reimbursed the Tier IV area rates for meals and lodging, unless U.S. State Department rates are requested and authorized by the Commissioner of Administration or, for higher education, the entity head or his designee, prior to departure. Itemized receipts are required for reimbursement of meals and lodging claimed at the U.S. State Department rates: http://aoprals.state.gov/web920/ per_diem.asp.

C. It is the agency's decision, if justification is given, to allow state employees to be reimbursed for a VISA and/or immunizations when the traveler is traveling on behalf of the agency/university on official state business. However, it is not considered best practice for the state to reimburse for a passport, therefore, passport reimbursements must be submitted to the department head for approval along with detailed justification as to why this reimbursement is being requested/approved.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

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§1512. Waivers

A. The Commissioner of Administration may waive in writing any provision in these regulations when the best interest of the state will be served. All waivers must obtain prior approvals, except in emergency situations.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1259 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1119 (June 2004), LR 31:1192 (June 2005), republished LR 33:1323 (July 2007), amended LR 34:1308 (July 2008), republished LR 35:1202 (July 2009), amended LR 36:1657 (July 2010), LR 42:994 (July 2016).

Tammy Toups
Assistant Director

1607#039

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Emerald Ash Borer Quarantine (LAC 7:XV.167)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and the authority of the state entomologist pursuant to R.S. 3:1652, and in order to avoid a lapse in coverage until a permanent rule is in effect, notice is hereby given that Department of Agriculture and Forestry is adopting these emergency regulations establishing a quarantine in Union Parish for the following pest: emerald ash borer ("EAB"), *Agrilus planipennis* Fairmaire. The state entomologist has determined that EAB has been found in Union Parish and may be prevented, controlled, or eradicated by quarantine.

EAB poses an imminent peril to the health and welfare of Louisiana forests, commercial and private forestry/wood product industries, and nursery growers due to its ability to infest ash trees. In 2013, the wholesale value of woody ornamental sales for nursery growers in the state was $62.6 million, a portion of which is comprised of sales of ash trees (Louisiana State University AgCenter 2013 *Louisiana Summary*, *Agriculture and Natural Resources*). Louisiana's forests and forestry/wood products industries generated an output industry production value of $10.86 billion in 2012, a portion of which is comprised of ash trees and ash tree products (Louisiana State University AgCenter publication 3367-G, 2015). Sales of ash firewood by retail and wholesale suppliers to private individuals also are important to the state's economy.

Natural spread of EAB is limited to relatively short distances. However, without restriction, EAB can spread through human-assisted means over long distances via infested ash nursery stock, ash logs/timber and cut firewood. Once an ash tree is infested, it experiences twig dieback and tree decline. Tree death occurs within a few years. Failure to prevent, control, or eradicate this pest threatens to damage Louisiana's commercial ash tree nursery industry, and over time this pest poses a threat to destroy the majority of ash in our state, both commercial and residential. The loss of the state's commercial nursery-grown ash trees, forestry/wood ash products and even residential ash trees would be devastating to the state's economy and to its private citizens. The quarantine established by this emergency regulation is necessary to prevent the spread of EAB to all areas in Louisiana where ash may exist, outside of the current areas where this pest has been found.

For these reasons, the presence of EAB in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana's citizens and forests, the state's commercial and private forestry/wood product industries, and nursery growers. As a result of this imminent peril, the Department of Agriculture and Forestry, Office of Forestry and Office of Agricultural and Environmental Sciences, hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in these emergency regulations.

This Rule shall have the force and effect of law effective June 22, 2016, and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry or until permanent rules are promulgated in accordance with law.

Title 7
AGRICULTURE AND ANIMALS
Part XV. Plant Protection and Quarantine
Chapter 1. Crop Pests and Diseases
Subchapter F. Emerald Ash Borer Quarantine
§167. Emerald Ash Borer Quarantine

A. The department issues the following quarantine because the state entomologist has determined that the insect emerald ash borer ("EAB"), *Agrilus planipennis*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

B. Quarantined areas in this state include:

1. the entire parishes of Bossier, Claiborne, Union and Webster;

2. a declaration of quarantine for EAB covering any other specific parishes or areas of this state shall be published in the official journal of the state and in the *Louisiana Register*.

C. No regulated articles as defined in this Subsection shall be moved out of any area of this state that is listed in this Subsection as a quarantined area for EAB, except as provided in this Subsection.

D. The following articles are hosts of EAB and are deemed to be regulated articles for purposes of this Subsection:

1. the emerald ash borer in all of its life stages; firewood of all hardwood (non-coniferous) species; nursery stock, green lumber, and other material living, dead, cut, or fallen, including logs, stumps, roots, branches, and composted and uncomposted chips of the genus *Fraxinus*;

2. any other article, product, or means of conveyance not listed in Paragraph 4.a of this Section may be designated as a regulated article if an inspector determines that it presents a risk of spreading emerald ash borer and notifies the person in possession of the article, product, or means of conveyance that it is subject to the restrictions of the regulations.

E. Regulated articles may be moved from quarantined areas to non-quarantined areas within or outside of Louisiana only if moved under the following conditions.

1. The regulated articles being moved are accompanied by a certificate or limited permit issued by LDAF and attached in accordance with the EAB federal requirements.

2. The regulated articles being moved are not accompanied by a certificate or limited permit but are being moved by the United States Department of Agriculture for experimental or scientific purposes;

3. The regulated articles being moved are not accompanied by a certificate or limited permit but originated outside of any EAB quarantined area and are moved interstate through the quarantined area under the following conditions:

a. the points of origin and destination are indicated on a waybill accompanying the regulated article; and

b. the regulated article, if moved through the quarantined area, is moved in an enclosed vehicle or is completely covered to prevent access by the EAB; and

c. the regulated article is moved directly through the quarantined area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs), or has been stored, packed, or handled at locations approved by an inspector as not posing a risk of infestation by emerald ash borer; and

d. the article has not been combined or commingled with other articles so as to lose its individual identity.

F. Persons or businesses engaged in growing, handling, or moving regulated articles intrastate may enter into a compliance agreement with LDAF if such persons or businesses review with an LDAF inspector each provision of the compliance agreement. Any person or business who enters into a compliance agreement with LDAF must agree to comply with the provisions of this Subpart and any conditions imposed under this Subpart.

1. Any compliance agreement may be canceled orally or in writing by an inspector whenever the inspector determines that the person who has entered into the compliance agreement has not complied with this Subpart or any conditions imposed under this Subpart. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit. Any person whose compliance agreement has been canceled may appeal the decision in writing to LDAF within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants LDAF to consider in deciding the appeal. A hearing may be held to resolve a conflict as to any material fact. Rules of practice for the hearing will be adopted by LDAF. As soon as practicable, LDAF will grant or deny the appeal, in writing, stating the reasons for the decision.

G. Any person violating this quarantine shall be subject to imposition of the remedies and penalties set forth in R.S. 3:1653.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652 and 3:1653.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 41:2577 (December 2015), amended LR 42:

Mike Strain DVM
Commissioner

1607#015

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network
(LAC 28:CLXVII.101, 103, 313, 503, 509, 511, 512, 513, 515, 517, 521, 703, 705,707, 709, and 713)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the revision of *Bulletin 140—Louisiana Early Childhood Care and Education Network*: §101, Purpose; §103, Definitions; §313, Academic Approval for Type III Early Learning Centers; §503, Coordinated Observation Plan and Observation Requirements; §509, Performance Rating Calculations for Publicly-Funded Sites; §511, Performance Rating Calculations for Community Networks; §512, Performance Ratings for Publicly-funded Sites; §513, Informational Metrics of Best Practices; §515, Reporting for the Accountability System; §517, Data Verification; §521, Performance Profile Appeals Procedure; §703, Coordinated Enrollment Process; §705, Implementation Timeline; §707, Demonstrated Progress Toward Implementation; §709, Community Network Request for Funding for Publicly-Funded Programs; and §713, Request for Departmental Review. This Declaration of Emergency, effective June 22, 2016, is for a period of 120 days from adoption, or until finally adopted as Rule.

R.S. 17:407.23 requires BESE to create a uniform assessment and accountability system for publicly- funded early childhood education programs that includes a letter grade indicative of student performance. In response to this law, the board adopted *Bulletin 140—Louisiana Early Childhood Care and Education Network*, to set forth regulations focused specifically on early childhood community networks. The networks ensure that:

- one organization within each local community network coordinates across early childhood programs (child care, Head Start, school-based pre-kindergarten);
- set clear expectations for implementation of coordinated enrollment as required by Act 717 of the 2014 Regular Legislative Session and establish processes to ensure fairness and equity for providers and families;
- establish a unified quality and improvement system;
- specify how programs and community networks will be evaluated in the 2015-2016 academic learning year, as required by state law; and
- establish processes for fairness and equity for programs.

The proposed revisions update *Bulletin 140—Louisiana Early Childhood Care and Education Network*, to communicate differences in quality, honor quality and

improvement, address sites rated very low quality, increase observation accuracy and credibility, increase transparency, ensure parent choice, support coordinated enrollment, and extend the academic approval process beyond the learning year. State law and *Bulletin 140—Louisiana Early Childhood Care and Education Network*, call for such a system to take full effect beginning with the 2016-2017 school year, which is why BESE has exercised the emergency provision in the adoption of these policy revisions.

Title 28
EDUCATION
Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network

Chapter 1. General Provisions

§101. Purpose

A. The purpose of this bulletin is to establish the duties and responsibilities of the early childhood care and education network, local community networks, community network lead agencies, and publicly-funded early childhood care and education programs; establish performance and academic standards for kindergarten readiness; define kindergarten readiness; and create a uniform assessment and accountability system for publicly-funded early childhood care and education sites and community networks that includes a performance profile indicative of performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2580 (December 2015), amended LR 42:

§103. Definitions

* * *

Assurances—see *program partner assurances.*

* * *

Program Partner Assurances—assurances that early childhood care and education programs must submit to the department in order to access their public funding.

* * *

School Year—for purposes of this Bulletin, July 1-June 30.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.23 and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2580 (December 2015), amended LR 42:

Chapter 3. Early Childhood Care and Education Network

§313. Academic Approval for Type III Early Learning Centers

A. All type III early learning centers shall meet the performance and academic standards of the early childhood care and education network regarding kindergarten readiness as provided in this Bulletin.

B. - C.2.b. …

D. Initial Academic Approval for an Applicant for a New Type III Early Learning Center License for Fiscal Years 2016-2017 and Beyond

1. In order to obtain the initial academic approval required to be licensed as a type III early learning center, a center applying for a new type III license must:

a. submit a signed copy of the current program partner assurances to the department, thereby agreeing to comply with the provisions of this Bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process as provided in Chapter 7.

2. An applicant for a new type III early learning center license who has held a type III early learning center license and received a corrective action plan as provided in §313 at any time during the current or preceding fiscal year shall not be allowed to apply for academic approval for the fiscal year in which the center received a corrective action plan and the following fiscal year.

E. Renewal of Academic Approval for Type III Early Learning Centers for the Fiscal Years 2016-2017 and 2017-2018

1. Academic approval shall be renewed annually for fiscal years 2016-2017 and 2017-2018 for any type III early learning center that:

a. has current academic approval

b. is in compliance with the provisions of this Bulletin; and

c. has submitted a signed copy of the current annual program partner assurances to the department, and is thereby agreeing to comply with the provisions of this Bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. Type III early learning centers shall annually submit a signed copy of the annual program partner assurances to the department prior to July 1, or as requested by the department, whichever occurs earlier.

F. Renewal of Academic Approval for Existing Type III Early Learning Centers for Fiscal Year 2018-2019 and Beyond

1. Academic approval shall be renewed annually for fiscal years 2018-2019 and beyond for any type III early learning center that:

a. has current academic approval;

b. is in compliance with the provisions of this Bulletin;

c. has not had two unsatisfactory performance ratings within any consecutive three school years; and

d. has submitted a signed copy of the current annual program partner assurances to the department, and is thereby agreeing to comply with the provisions of this Bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. Early learning centers shall annually submit a signed copy of annual program partner assurances to the department prior to July 1, or as requested by the department, whichever is earlier.

G. A center that has its academic approval terminated may not apply for academic approval for the fiscal year in which academic approval was terminated or the following fiscal year

H. Academic approval shall be valid for the fiscal year, July 1-June 30, for which it is granted.

I. Academic approval is granted to a specific owner and a specific location and is not transferable. If a type III early learning center changes owners or location, it is considered a new operation, and academic approval for the new owner or location must be obtained prior to beginning operations under new ownership or at the new location.

J. Upon a change of ownership or change of location, the academic approval granted to the original owner or at the original location becomes null and void.

K. Renewal

1. Prior to July 1 of each year, the department shall send notice to each type III early learning center that has academic approval providing one of the following:

a. renewal of academic approval for the center;

b. notice of the center's failure to comply with specific requirements in Subsection A of this Section and specific corrective actions that must be taken by a specified date in order for academic approval to be renewed; or

c. if an early learning center has received the notice outlined in Subparagraph L.2.a of this Section within the academic year and the center has not provided the required certifications and completed the stated corrective actions, the department may terminate the center's academic approval as provided in Subparagraph L.2.c of this Section and send notice of termination of the center's academic approval.

L. Denial, Termination or Refusal to Renew Academic Approval

1. The department may deny terminate, or refuse to renew academic approval for:

a. violations of any provisions of this bulletin;

b. failure to timely comply with a corrective action plan provided by the department;

c. any act of fraud, such as the submission of false or altered documents or information;

d. failure to timely submit a signed copy of the annual program partner assurances; or

e. two unsatisfactory performance ratings within any consecutive three school years.

2. Notice

a. If a type III early learning center is in violation of any provision of this bulletin, the department shall notify the center in writing and may specify any corrective actions in a corrective action plan that shall be required to retain academic approval.

b. Within 30 calendar days of receiving such notice, the center shall submit certification in writing to the department that the corrective actions specified in the corrective action plan have been taken or are in the process of being taken in compliance with the schedule provided in the corrective action plan and certification that the center will remain in compliance with the corrective action plan and all applicable regulations.

c. If the type III early learning center does not respond in a timely or satisfactory manner to the notice and corrective action plan or adhere to the implementation schedule required in the corrective actions plan, the department may terminate or refuse to renew the center's academic approval.

d. The department shall provide written notice of denial, termination or refusal to renew academic approval to the center.

e. The denial, termination or refusal to renew a center's academic approval shall be effective when notice of the denial, termination, or refusal to renew is given.

M. Appeal Procedure

1. BESE shall have the authority to grant an appeal of the denial, termination or refusal to renew academic approval for a type III early learning center.

2. The appeal procedure shall be used when needed to address unforeseen and aberrant factors impacting type III early learning centers or when needed to address issues that arise when the literal application of the academic approval regulations does not consider certain unforeseen and unusual circumstances.

3. A type III early learning center may request an appeal of the denial, termination, or refusal to renew its academic approval by submitting a written request for an appeal to the department within 15 calendar days of being given notice of the denial, termination, or refusal to renew its academic approval.

4. All appeal requests shall clearly state the specific reasons for requesting the appeal and the reasons why the appeal should be granted and shall include any necessary supporting documentation.

5. The department shall review all timely submitted appeal requests and make recommendations to BESE during the first regularly scheduled BESE meeting following receipt of the appeal requests, or during the second regularly scheduled BESE meeting if an appeal request is received within 10 working days of the next regularly scheduled BESE meeting. Within this interval, the department shall notify the center of its recommendation and allow the center to respond in writing. The department's recommendation and the center's response shall be submitted to BESE for final disposition.

6. An early learning center that appeals the termination or refusal to renew its academic approval shall retain its academic approval during the appeal process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.36(C) and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2584 (December 2015), amended LR 42:

Chapter 5. Early Childhood Care and Education Accountability System

§503. Coordinated Observation Plan and Observation Requirements

A. - B.4.c. …

5. The department shall monitor observer accuracy within each observation period by comparing the domain level results from classroom observations conducted by the department's third-party contractors to the domain level

results from classroom observations conducted by the community network for each observer.

a. Within each observation period, for observations conducted by a community network observer that have been compared to domain level results conducted by the department's third-party contractors, if more than 20 percent of the domain level results are different by more than one point for the community network observer, that observer and lead agency shall be issued a notice in writing by the state regarding their level of accuracy.

b. Within each observation period, for observations conducted by a community network observer that have been compared to domain level results conducted by the department's third-party contractors, if more than 33 percent of the domain level results are different by more than one point for the community network observer, that observer shall be shadow scored by another community network observer in the next observation period.

c. Within each observation period, for observations conducted by a community network observer that have been compared to domain level results conducted by the department's third-party contractors, if 50 percent or more of the domain level results are different by more than one point for the community network observer, the department shall determine that the community network observer shall not be able to conduct observations for that community network for the next observation period.

i. If the observer is no longer able to conduct observations for the community network, the department shall notify the observer and the lead agency that the observer shall not be able to conduct observations for that community network for the next observation period.

ii. A lead agency or community network observer may request in writing that the department review its decision in Subparagraph 5.c of this Subsection within 15 calendar days of receiving the decision.

iii. All requests for departmental review shall clearly state the specific reasons for requesting the review and the action being sought, and shall include all necessary supporting documentation.

iv. The department shall respond to the request for departmental review within 30 calendar days after receiving it.

v. The department may waive the action in Subparagraph 5.c of this Subsection in cases of extenuating circumstances or if the action would result in no other assessor being available to conduct required observations.

d. Observers who are receive notification from the department under Clause 5.c.i of this Subsection must meet the reliability requirements of 80 percent accuracy through annual recertification prior to being permitted to complete observations for the community network.

C. Coordinated Observation Plan

1. Each community network shall develop and maintain no later than September 30 of each year a written annual plan for coordinated observation using *CLASS*® that at a minimum includes:

a. - d.ii. …

iii. the community network conducts inter-rater reliability observation checks for 10 percent of all classrooms observed during the fall observation period and for 10 percent of all classrooms observed during the spring observation period, and that these reliability observation checks include every observer for the community network at least once annually; and

C.1.d.iv. - D.3. …

E. The department shall publicly release the reliability requirements for third-party contractors hired by the department annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2586 (December 2015, amended LR 42:

§509. Performance Rating Calculations for Publicly-Funded Sites

A. The performance rating for each publicly-funded site shall be based on the average of the dimension-level toddler and PreK observation results from the fall and spring observation periods for all toddler and PreK classrooms within the site, excluding the negative climate dimension.

1. BESE may include a weight for improvement beginning with the 2016-2017 school year.

2. Sites that have classrooms that receive a score of 3.5 or above for the negative climate dimension shall receive a notice in writing at the end of the observation period in which they received that score. If a site receives a notice for two consecutive observation periods, an indicator of high negative climate may be reported on the performance profile.

B. Any classroom in a publicly-funded site that does not have the observations required in §503 or does not have all results reported, shall have third party scores for that classroom reported when available. If no third party scores are available for that classroom, but there are observation scores for comparable classrooms within the site as required in §503, the department shall assign the average domain score for the comparable classrooms to each missing CLASS score. The department may assign a score of 1 to each missing CLASS domain score if no comparable local or third party scores are available. If this occurs, the score of one for missing or not-reported observation results shall be included in the performance rating calculation for that site. In these circumstances, the number of missing or not-reported observation results shall be reported on the performance profile.

B.1. - C.2. …

a. For the 2015-2016 learning year, if the observation results conducted by community networks are consistently different by more than one point from observation results conducted by the department's third-party contractors, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractors, including those results that do not differ by at least one point.

b. Beginning with the 2016-2017 school year, if observation results conducted by community networks are consistently different by more than one point from observation results conducted by the department's third party contractors, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third party contractors, including those results that do not differ by at least one point.

D. The performance rating for each site shall be based on the following numerical scale:

1. 6.0-7.0—excellent;
2. 4.50-5.99—proficient;
3. 3.0-4.49—approaching proficient;
4. 1.0-2.99—unsatisfactory.

E. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2587 (December 2015), amended LR 42:

§511. Performance Rating Calculations for Community Networks

A. Community networks shall receive two performance ratings which shall be calculated as follows.

1. *CLASS*® observation results shall be one of the community network performance ratings.

2. An equitable access score for four-year-olds shall be one of the community network performance ratings.

3. BESE may include a weight for improvement on equitable access beginning with the 2017-2018 school year.

B. The *CLASS*® observation results shall be determined by averaging the results of all fall and spring dimension-level toddler and PreK observation results for all toddler and PreK classrooms within the community network excluding negative climate.

1. Any classroom in a site that does not have the observations required in §503, or has not had all observation results reported, shall have third party scores for that classroom reported when available. If no third party scores are available for that classroom, but there are observation scores for comparable classrooms within that site as required in §503, the department shall assign the average domain score for the comparable classrooms to each missing CLASS domain score. The department may assign a score of 1 to each missing CLASS domain score if no comparable local or third party score are available. If this occurs, the score of one for missing observation or not-reported results shall be included in the performance rating calculation for the community network. In these circumstances the number of missing or not-reported observation results shall be reported on the community network's performance profile.

1.a. - 2.b.i. …

ii. For every year after the 2015-2016 school year, if the observation results conducted by a community network are consistently different by more than one point from observation results conducted by the department's third party contractor, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third party contractor for that site, including those results that do not differ by at least one point.

C. The equitable access score performance rating shall be determined by calculating the access achieved by the community network for all at-risk four-year-old children in the community network coverage area. Points are earned on a four level rating scale according to:

Percentage of At-Risk Four-Year-Olds Served	Rating
90-100 percent	Excellent
80-89.99 percent	Proficient
70-79.99 percent	Approaching Proficient
0-69.99 percent	Unsatisfactory

D. The *CLASS* observation results performance rating for each community network shall be based on the following numerical scale:

1. 6.0-7.0—excellent;
2. 4.5-5.99—proficient;
3. 3.0-4.49—approaching proficient;
4. 1.0-2.99—unsatisfactory.

E. - G. …

H. Prior to the start of the 2017-2018 school year, a workgroup of Early Childhood Care and Education Advisory Council members shall be formed to study the inclusion of additional metrics in the performance rating calculations and review R.S. 17:407.21 et seq. for potential statutory changes, and shall make recommendations regarding the use of any additional performance rating calculation metrics in §509.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:

§512. Performance Ratings for Publicly-Funded Sites

A. Unsatisfactory Publicly-Funded Sites

1. Beginning with the 2016-2017 school year, publicly-funded sites rated as unsatisfactory, as defined in §509, for two school years in any consecutive three school year period, shall lose their public funding and have their academic approval terminated.

2. The state superintendent may grant exception to Subsection A of this Section if the publicly-funded site serves a special population, or if taking the required action in Subsection A of this Sectionwould create an extraordinary burden for families or place children at risk of harm.

3. The department shall conduct an annual needs analysis for families in regions that may be impacted by publicly-funded sites losing their public funding to support access to early childhood programs.

B. Rewards and Recognition

1. Beginning in the 2016-2017 school year, sites and community networks that are rated "excellent" shall be included in an annual honor roll published by the department and be eligible for financial rewards, as funds are available and as determined by the department.

2. No later than the 2017-2018 school year, sites and community networks that demonstrate significant improvement in their overall score or rating shall be labeled "top gains" on their performance profile and be eligible for financial rewards, as funds are available and as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§513. Informational Metrics of Best Practices

A. Informational metrics are measures of a publicly-funded site and a community network's use of the following early childhood care and education best practices. The performance profile shall report the publicly-funded site and community network's use of the best practices identified as investment in quality measures, which shall include but is not limited to:

1. teacher/child ratios. Publicly-funded sites maintain teacher/child ratios based on the age of children that are at or better than the minimum standards required in BESE *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*;

a. to achieve gold level ratios, publicly-funded sites use the following teacher/child ratios and group sizes;

Age	Teacher/Child Ratio	Maximum Group Size
Birth to 1 year	1:4	8
1 year to 2 years	1:4	8
2 years to 3 years	1:6	12
3 years to 4 years	1:8	16
4 years to 5 years	1:10	20

b. to achieve silver level ratios, publicly-funded sites use the following teacher/child ratios and group sizes;

Age	Teacher/Child Ratio	Maximum Group Size
Birth to 1 year	1:4	8
1 year to 2 years	1:6	12
2 years to 3 years	1:8	16
3 years to 4 years	1:10	20
4 years to 5 years	1:12	24

c. to achieve bronze level ratios, publicly-funded sites use the minimum ratio standards required in BESE *Bulletin 137—Louisiana Early Learning Center Licensing Regulations;*

2. teacher preparation. Publicly-funded sites ensure lead teachers meet or exceed credential requirements for publicly-funded classrooms provided in BESE *Bulletin 746—Louisiana Standards for State Certification of School Personnel*;

3. standards-based curriculum. Publicly-funded sites use a curriculum that is aligned to BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*.

B. The performance profile may report informational metrics in the following categories:

1. child assessment that informs instruction;
2. investment in quality measures;
3. family engagement and supports; and
4. community network supports (reported at the community network level only):

a. the number of children served in new publicly-funded early childhood seats;

b. the percent of publicly-funded early childhood seats that are filled.

C. Each year and in collaboration with the Early Childhood Care and Education Advisory Council, the department shall review the results of the accountability system, including but not limited to the performance of programs on each domain of the *CLASS*, how the performance profile ratings are calculated, and the observer reliability substitution rates, and recommend any improvements for this Bulletin. To develop these recommendations, the department shall work collaboratively with the Early Childhood Care and Education Advisory Council, which shall establish a workgroup for this purpose. The department, with assent shown by vote of the Advisory Council, can decide in a given year that no review is needed.

D. Contingent on available funding, the department shall conduct an external implementation evaluation of Louisiana's early childhood care and education network to answer questions that include but are not limited to whether the system:

1. is based on Performance Ratings that are valid and reliable;

2. meaningfully differentiates between levels of program quality; and

3. delivers a robust set of quality improvement supports and incentives for improvement, as well as consequences for failure to improve. The results of the study shall be shared with the Early Childhood Care and Education Advisory Council and BESE.

E.1. The LDE is required to collect data designed to strengthen the state's ability to track and monitor implementation of new and ongoing policies and supports, program quality, and child outcomes, positioning Louisiana to:

a. provide targeted supports to teachers, programs, and schools; and

b. be evaluation-ready when funds and evaluators become available.

2. The LDE shall explore critical data elements being collected by other states, seek recommendations from the Early Childhood Advisory Council on critical data elements and present a report on the findings to BESE no later than January 2017.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:

§515. Reporting for the Accountability System

A. Lead agencies shall report to the department, in the manner specified by the department, the following:

1. classroom counts:

a. by October 1, the number of classrooms serving infant, toddler and PreK children in each publicly-funded site on October 1;

b. by February 1, the number of classrooms serving infant, toddler, and PreK children in each publicly-funded site on February 1; and

c. by February 1, the number of classrooms in the February 1 count that have been added or removed since the October 1 count;

A.2. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2589 (December 2015), amended LR 42:

§517. Data Verification

A. The department shall provide all non-survey data contributing to the performance profile for publicly-funded sites and community networks to each lead agency prior to publishing the performance rating.

B. In 2015-2016, the department shall provide lead agencies 30 calendar days for final review, correction, and verification of data for the performance profiles. For all subsequent years, the department shall provide lead agencies 10 calendar days for final review, correction, and verification of data for performance profiles.

1. The lead agency shall create and implement a community network data certification procedure that requires review of all performance profile data for each site during the data certification period.

2. The department may request the certification procedure from each lead agency.

3. Data corrections shall not be grounds for an appeal or waiver request as all data corrections shall be made prior to the release of profiles regardless of the source of any errors.

4. Data corrections may only be submitted for the following reasons:

a. *CLASS*® observations results have been reported incorrectly; or

b. *CLASS*® observation results were not reported.

5. The department shall review all data corrections and grant approval of those corrections that are proven valid.

6. The department may request additional documentation to support the validity of the changes.

C. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2590 (December 2015), amended LR 42:

§521. Performance Profile Appeals Procedure

A. BESE shall have the authority to grant an appeal of a publicly-funded site or community network's performance profile.

B. The appeal procedure shall be used when needed to address unforeseen and aberrant factors impacting publicly-funded sites and community networks or when needed to address issues that arise when the literal application of the accountability system regulations does not consider certain unforeseen and unusual circumstances. Failure to complete observations or use of third-party scores are not sufficient reasons for requesting an appeal. Data corrections shall not be grounds for an appeal or waiver request as all data corrections shall be made prior to the release of profiles regardless of the source of any errors.

C. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2590 (December 2015), amended LR 42:

Chapter 7. Coordinated Enrollment

§703. Coordinated Enrollment Process

A. - B.4. …

C. In collaboration with representatives of providers of child care, Head Start, and prekindergarten services, the lead agency shall develop policies and procedures for how the requirements of §703.B will be implemented. These policies and procedures shall be submitted to the department prior to initiation of the enrollment process, and shall include training for providers and parents on the eligibility criteria for different programs, the matching process for the network, and the complaint process for providers and parents as needed.

D. - F. …

G. Request for Departmental Review

1. Any parent or caregiver may request that the department review the placement of his or her child resulting from the coordinated enrollment process.

2. A request for departmental review shall be submitted in writing to the department within 30 calendar days of placement of the child or of the event upon which the request for review is based.

3. All requests for departmental review shall clearly state the specific reasons for requesting the review and the action being sought, and shall include all necessary supporting documentation.

4. The department shall respond to the request for departmental review within 30 calendar days after receiving it.

5. Written notice of the process in outlined in §703.G.2, as well of the complaint process described in §311.A-F. and the appropriate contact information for the department, shall be made available to any parent or caregiver at the time they receive the decision of their child's placement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2591 (December 2015), amended LR 42:

§705. Implementation Timeline

A. - D. ….

E. Prior to the start of the school year, BESE shall review this Chapter and revise as necessary based on learnings from the previous year. A work group of the Early Childhood Care and Education Advisory Council shall be formed to study the effectiveness of the coordinated enrollment process and make recommendations to the council and BESE for changes for implementation in the following school year. This research may include, but not be limited to, defining key indicators of effectiveness, conducting focus groups of all provider types, reviewing data on the placement of new early childhood seats opened statewide, and reviewing other available information. The department, with assent shown by vote of the Advisory Council, may decide in a given year that no review is needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2592 (December 2015), amended LR 42:

§707. Demonstrated Progress toward Implementation

A. …

B. The department may require community networks to complete an enrollment self-assessment each year. This self-assessment shall include, but is not limited to, the outcomes of the prior year's coordinated enrollment process, specifically how family choice resulted in these outcomes.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2592 (December 2015), amended LR 42:

§709. Community Network Request for Funding for Publicly-Funded Programs

A. By December 1 of each fiscal year, the lead agency shall develop, in collaboration with representatives of providers of child care, Head Start, and prekindergarten services, and submit a funding request for the following fiscal year to the department on behalf of the community network that is based on the coordinated enrollment results, which shall include the following:

1. the number of applications received for each age of at-risk children;

2. the number of seats requested at each publicly-funded site;

3. the number of seats recommended by the lead agency to receive funding with a prioritization by site and age of children served by funding source;

4. the criteria and process used to develop the community network request;

5. the recommended plan to maximize all funding sources to increase service to at-risk children;

6. the number of seats being requested in a mixed delivery setting; and

7. The number of eligible children served in the network by specific program type.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2592 (December 2015), amended LR 42:

§713. Request for Departmental Review

A. Any publicly-funded program may request that the department review an enrollment decision or funding request of its lead agency or local enrollment coordinator. All programs shall be given written notice of the opportunity to request a departmental review of a lead agency or local enrollment coordinator's enrollment decision or funding request, as well as the complaint process described in §311.A-F and the appropriate contact information for the department.

B. A request for departmental review shall be submitted in writing to the department no later than 30 calendar days after the day on which community networks must submit funding requests to the department or the day in which the community network submitted the funding request to the department, whichever is later.

C. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2593 (December 2015), amended LR 42:

James D. Garvey, Jr.
President

1607#021

DECLARATION OF EMERGENCY

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.301, 701, 703, and 2107)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:5001 et seq., and R.S. 56:797.D(2)].

This rulemaking clarifies the definition of eligible non-citizen, clarifies that Performance and Honors Award stipends are paid for each semester for which tuition is paid by TOPS and for which the student remains eligible for the Award, and implements Acts 18, 388, and 503 of the 2016 Regular Session of the Louisiana Legislature.

This Emergency Rule is necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LASFAC has determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective July 01, 2016, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG16172E)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education
Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Award Amount—

a. Through the 2015-2016 academic year (college), an amount equal to tuition at the school attended, for those students attending a Louisiana public college or university, as determined by the commission, which may be used by the student to pay any educational expense included in that student's "cost of attendance." The amount paid for TOPS and TOPS-Tech Awards shall be as follows.

i. For students with the TOPS Opportunity, Performance, and Honors Award attending a Louisiana public college or university and enrolled in an academic degree program, the amount shall equal the actual cost of tuition.

ii. For students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or an out-of-state college or university if all of the conditions of §703.I are met and enrolled in an academic degree program, the amount shall equal the weighted average award amount.

iii. For students with the TOPS Opportunity, Performance, and Honors Award attending a Louisiana public college or university and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the actual cost of tuition.

iv. For students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or who attend an eligible cosmetology or proprietary school and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the average award amount (TOPS-Tech).

v. For students with the TOPS-Tech Award attending an eligible public college or university that does not offer an academic undergraduate degree at the baccalaureate level or higher and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the actual cost of tuition.

vi. For students with a TOPS-Tech Award attending an eligible college or university that offers an academic undergraduate degree at the baccalaureate level or higher and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the average award amount (TOPS-Tech).

vii. For students with the TOPS Opportunity, Performance, and Honors Award enrolled in a Louisiana professional school, the amount shall be equal to the tuition charged or the tuition charged a student pursuing a baccalaureate degree at the highest cost public school, whichever is less or the weighted average award amount, depending upon whether the Louisiana professional school is a public or private school.

viii. For students with the TOPS Opportunity, Performance and Honors Award enrolled in a Louisiana Graduate Degree Program, the amount shall be equal to the tuition or the tuition charged for a student while pursuing a baccalaureate degree at the highest cost public school in the state, whichever is less.

b. Beginning with the 2016-2017 academic year (college), the award amount determined by the administering agency in accordance with Section 1.a-h., above during the 2016-2017 academic year (college), plus any increase in the award amount specifically authorized by the Louisiana Legislature.

* * *

Eligible Noncitizen—

a. an individual who can provide documentation from the U. S. Citizenship and Immigration Services (USCIS) or its successor that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident, including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the United States must provide documentation from the USCIS to verify permanent residency. For 1997, 1998 and 1999 high school graduates, an eligible noncitizen shall be treated as meeting the citizenship requirements for an award under this Part.

b. beginning with the 2018-2019 academic year (high school) and later, a student who is not a citizen of the United States but who is the child of a non-United States citizen who is either serving in any branch of the United States armed forces or has been honorably discharged from any branch of the United States armed forces shall be treated as meeting the citizenship requirements for an award under this Part.

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 40:53 (January 2014), LR 40:281 (February 2014), LR 41:649, 658 (April 2015), LR 41:2595 (December 2015), LR 42:

Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§701. General Provisions

A. - E.1.b. ...

2.a. The TOPS Performance Award provides a $400 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1(H), or LAC 28:IV.503.D, 509.C, or 701.E.2.b. If a student attends an eligible summer session, quarter, term, or equivalent unit and requests that their TOPS Award be paid for that session,

semester, quarter, term, or equivalent unit, the stipend will also be paid since payment of a TOPS Award for a summer session, quarter, term, or equivalent unit will count toward the eight semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

3.a. The TOPS Honors Award provides an $800 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1(H), or LAC 28:IV.503.D, 509.C or 701.E.3.b. If a student attends an eligible summer session, quarter, term, or equivalent unit and requests that their TOPS Award be paid for that session, semester, quarter, term, or equivalent unit, the stipend will also be paid since payment of a TOPS Award for a summer session, quarter, term, or equivalent unit will count toward the eight semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

4.a. Through the 2009-2010 Academic Year (college), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provided therein, plus any applicable TOPS stipend and a sum of not more than $150 per semester or $300 annually for the actual cost of books and other instructional materials.

b. Beginning with the 2010-2011 academic year (College), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students with the TOPS Opportunity, Performance and Honors Award participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provided therein, plus a sum of $300 per semester or $600 per academic year to be applied toward the cost of books and other instructional materials. In addition, those students with the Performance Award shall receive $400 per semester or $800 per academic year for other educational expenses and those students with the Honors Award shall receive $800 per semester or $1,600 per academic year for other educational expenses. If the student attends an eligible summer session, quarter, term, or equivalent unit and requests that their TOPS Award be paid for that session, semester, quarter, term, or equivalent unit in accordance with this paragraph, the amounts stipulated herein will also be paid since payment of a TOPS Award for a summer ssession, quarter, term, or equivalent unit will count toward the eight semester limit for TOPS.

E.5. - G.2. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1645-1648 (December 1997), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999), LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26:1995 (September 2000), LR 26:2000 (September 2000), repromulgated LR 27:1848 (November 2001), amended LR 28:447 (March 2002), LR 28:2331 (November 2002), LR 29:880 (June 2003), LR 29:2372 (November 2003), LR 30:1161 (June 2004), LR 31:2213 (September 2005), LR 35:228 (February 2009), LR 36:2854 (December 2010), LR 40:1002 (May 2014), LR 41:663 (April 2015), LR 42:

§703. Establishing Eligibility

A. - A.5.g.viii. …

6. have achieved an ACT score, as defined in §301 of at least:

a. if qualifying under the terms of §703.A.5.a, b, or g:

i. the state's reported prior year ACT composite average, truncated to a whole number, but never less than 20 for the Opportunity Award; or

ii. a 23 for the Performance Award; or

iii. a 27 for the Honors Award; or

b. if qualifying under §703.A.5.c:

i. is a Louisiana resident, except as defined in Subparagraph h of the definition of *Louisiana Resident* in §301:

(a). the state's reported prior year average, truncated to a whole number plus 3 points, but never less than 23 for the Opportunity Award; or

(b). a 26 for the Performance Award; or

(c). a 30 for the Honors Award; and

ii. is a Louisiana resident as defined in Subparagraph h of the definition of *Louisiana Resident* in §301:

(a). the state's reported prior year average, truncated to a whole number, plus 2 points, but never less than 22 for the Opportunity Award; or

(b). a 25 for the Performance Award; or

(c). a 29 for the Honors Award; and

c.i. if completed the 12th grade level of an approved home study program during or before the academic year (high school) 2003-2004 and qualifying under §703.A.5.d;

(a). the state's reported prior year average, truncated to a whole number, plus 3 points, but never less than 23 for the Opportunity Award; or

(b). a 26 for the Performance Award; or

(c). a 30 for the Honors Award; and

ii. if completed the 12th grade level of an approved home study program during or after academic year (high school) 2004-2005 and through academic year (high school) 2006-2007 and qualifying under §703.A.5.d;

(a). the state's reported prior year average, truncated to a whole number plus 2 points, but never less than 22 for the Opportunity Award; or

(b). a 25 for the Performance Award; or

(c). a 29 for the Honors Award; and

iii. if completed the 12th grade level of an approved home study program during or after the academic year (high school) 2007-2008 and after, and qualifying under §703.A.5.d;

(a). the state's reported prior year average, truncated to a whole number, plus 2 points, but never less than 22 for the Opportunity Award; or

(b). a 24 for the Performance Award; or

(c). a 28 for the Honors Award; and

d.i. if qualifying under §703.A.5.e by graduating from a high school defined in §1701.A.5; which is limited to the Opportunity Award only; the state's reported prior year average, truncated to a whole number, plus 3 points, but never less than 23;

ii. if qualifying under §703.A.5.e by successfully completing the 12th grade level a home study program approved by BESE and conducted outside the United States and its territories during or before the academic year (high school) 2003-2004 or during or after the academic year (high school) 2008-2009; which is limited to the Opportunity Award only; the state's reported prior year average, truncated to a whole number, plus 3 points, but never less than 23;

iii. if qualifying under §703.A.5.e by successfully completing the 12th grade level a home study program approved by BESE and conducted outside the United States and its territories during or after the academic year (high school) 2004-2005 and through the academic year (high school) 2007-2008; which is limited to the Opportunity Award only; the state's reported prior year average, truncated to a whole number, plus 2 points, but never less than 22;

e. if qualifying under §703.A.5.f; which is limited to the Performance Award only; a 24; and

7. not have a criminal conviction, except for misdemeanor traffic violations, and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

8. agree that awards will be used exclusively for educational expenses;

B. Students qualifying:

1. under §703.A.5.a and b during or before academic year (high school) 2006-2007, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.50 for the Performance or Honors Awards;

2. under §703.A.5.a and b during or after academic year (high school) 2007-2008, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.00 for the Performance or Honors Awards;

3. under §703.A.5.a and b in academic year (high school) 2020-2021 must have attained a TOPS cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.25 for the Performance; or

c. a 3.50 for the Honors Award.

4. under §703.A.5.f and graduating in academic year (high school) 2000-2001 through 2005-2006, must have attained a TOPS cumulative high school grade point average, based on a 4.00 maximum scale, of at least a 3.00 for the Performance Award.

C. - J.4.b.ii. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:651, 664 (April 2015), LR 41:1486 (August 2015), LR 41:2596, 2599 (December 2015), LR 42:

Chapter 21. Miscellaneous Provisions and Exceptions

§2107. Funds and Funding

A. - B. …

C. Insufficient Funds Appropriated

1. All LASFAC administered State Scholarship and Grant Program Awards are contingent upon the annual appropriation of funds by the Louisiana Legislature.

2. In the event appropriated funds are insufficient to fully reimburse institutions for awards and stipends for all students determined eligible for the TOPS opportunity, performance, honors and TECH Awards for a given academic year, each student's award, including stipends for TOPS performance and honors awards, shall be reduced by an equal percentage on a pro rata basis.

3. A student whose award is reduced pursuant to this section shall not be required to accept payment of his award or enroll or maintain continuous enrollment in an eligible college or university during the time period during which there is a funding shortfall. A student who exercises this option:

a. Shall be eligible to receive his remaining TOPS award upon enrollment in an eligible college or university, provided the student meets the continuation requirements for his award except as specifically set forth in this section; and

b. Shall exhaust all award eligibility within five years of the reduction of his award, provided that if the student requests and is granted an exception to the requirement to enroll full time or to maintain continuous enrollment in school in accordance with §1901 of these rules, the time period within which the student must exhaust

his award eligibility shall be extended by the number of semesters/terms for which he receives an exception.

4. The provisions of this Sections shall not apply to the stipend for books and other instructional materials provided to persons serving in the Louisiana National Guard as set forth in §701.E.4.a and b of these rules or to the TOPS Tech Early Start Program.

D. Stop Payment of Uncleared Checks. The LASFAC may stop payment on checks which are issued as scholarship or grant awards but not negotiated by September 1 following the close of the academic year for which they were issued.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:1998 (September 2000), repromulgated LR 27:1869 (November 2001), amended LR 28:449 (March 2002), LR 28:777 (April 2002), LR 28:2333 (November 2002), LR 31:40 (January 2005), LR 38:3162 (December 2012), LR 42:

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Senior Attorney

1607#012

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Major Medical Centers
(LAC 50:V.2715)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.2715 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH) payments in order to re-establish the provisions governing payments to public, non-rural community hospitals (*Louisiana Register*, Volume 40, Number 10). The department now proposes to adopt provisions to establish a qualification criteria and DSH payment methodology for major medical centers located in the central and northern areas of Louisiana.

This action is being taken to promote the public health and welfare of uninsured individuals, and ensure their continued access to health services by assuring that hospitals are adequately reimbursed for furnishing uncompensated care. It is estimated that the implementation of this Emergency Rule will increase expenditures in the Medicaid Program by $50,000,000 for state fiscal year 2016-17.

Effective June 30, 2016, the Department of Health, Bureau of Health Services Financing adopts provisions governing DSH payments to major medical centers located in the central and northern areas of Louisiana.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 3. Disproportionate Share Hospital Payments
Chapter 27. Qualifying Hospitals
§2715. Major Medical Centers Located in Central and Northern Areas of the State

A. Effective for dates of service on or after June 30, 2016, hospitals qualifying for payments as major medical centers located in the central and northern areas of the state shall meet the following criteria:

1. be a private, non-rural hospital located in Department of Health administrative regions 6, 7, or 8;

2. have at least 200 inpatient beds as reported on the Medicare/Medicaid cost report, Worksheet S-3, column 2, lines 1-18, for the state fiscal year ending June 30, 2015. For qualification purposes, inpatient beds shall exclude nursery and Medicare designated distinct part psychiatric unit beds;

3. does not qualify as a Louisiana low-income academic hospital under the provisions of §3101; and

4. such qualifying hospital (or its affiliate) does have a memorandum of understanding executed on or after June 30, 2016 with Louisiana State University School of Medicine, the purpose of which is to maintain and improve access to quality care for Medicaid patients in connection with the expansion of Medicaid in the state through the promotion, expansion, and support of graduate medical education and training.

B. Payment Methodology. Effective for dates of service on or after June 30, 2016, each qualifying hospital shall be paid a DSH adjustment payment which is the pro rata amount calculated by dividing their hospital specific allowable uncompensated care costs by the total allowable uncompensated care costs for all hospitals qualifying under this category and multiplying by the funding appropriated by the Louisiana Legislature in the applicable state fiscal year for this category of hospitals.

1. Costs, patient specific data and documentation that qualifying criteria is met shall be submitted in a format specified by the department.

2. Costs and lengths of stay shall be reviewed by the department for reasonableness before payments are made.

3. Aggregate DSH payments for hospitals that receive payment from this category, and any other DSH category, shall not exceed the hospital's specific DSH limit. If payments calculated under this methodology would cause a hospital's aggregate DSH payment to exceed the limit, the payment from this category shall be capped at the hospital's specific DSH limit.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

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

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1607#022

DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waivers
Community Choices Waiver
Electronic Visit Verification
(LAC 50:XXI.9305)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services adopt LAC 50:XXI.9305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, through collaborative efforts, provide enhanced long-term services and supports to individuals who are elderly or have a disability through the Community Choices Waiver program.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which amended the provisions governing the Community Choices Waiver in order to adopt requirements which mandate that providers of personal assistant services must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services (*Louisiana Register,* Volume 41, Number 3). This Rule is being promulgated to continue the provisions of the April 1, 2015 Emergency Rule. This action is being taken to promote the health and welfare of Community Choices Waiver participants by assuring that they receive the services they need and to ensure that these services are rendered in an efficient and cost-effective manner.

Effective July 28, 2016, the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the Community Choices Waiver to establish requirements for the use of an EVV system.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services Waivers
Subpart 7. Community Choices Waiver
Chapter 93. Provider Responsibilities
§9305. Electronic Visit Verification

A. Effective for dates of service on or after April 1, 2015, Community Choices Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the Community Choices Waiver provider manual.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 42:

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

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1607#045

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Intermediate Care Facilities for Persons
with Developmental Disabilities
Licensing Standards
(LAC 48:I.8595 and 8599)

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.8595 and §8599 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:953(B)(1)et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing repealed the provisions governing the minimum licensing standards for intermediate care facilities I and II, community homes and group homes, and

adopted provisions to incorporate these facilities under a single comprehensive Rule for intermediate care facilities for persons with developmental disabilities (ICFs/DD) (*Louisiana Register*, Volume 38, Number 12).

Act 540 of the 2006 Regular Session of the Louisiana Legislature amended R.S. 29:726(F) to provide for rapid communications in times of disaster or emergencies. In compliance with Act 540, the department promulgated an Emergency Rule to amend the provisions governing ICFs/DD to require timely filing of electronic reports related to census information and other needed information during declared disasters or emergencies (*Louisiana Register*, Volume 42, Number 4). This Emergency Rule is being promulgated to continue the provisions of the April 7, 2016 Emergency Rule.

This action is being taken to prevent imminent peril to the health, safety or welfare of Louisiana citizens who are residents of ICFs/DD.

Effective August 6, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing standards for intermediate care facilities for persons with developmental disabilities.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 85. Intermediate Care Facilities for Persons with Developmental Disabilities
Subchapter G. Emergency Preparedness
§8595. Emergency Preparedness Plan

A. - B.15.f. ...

C. An ICF/DD shall electronically enter current facility information into the department's ESF-8 Portal or into the current LDH Emergency Preparedness webpage or electronic database for reporting.

1. The following information shall be entered or updated before the fifteenth of each month:

a. operational status;

b. census;

c. emergency contact and destination location information; and

d. emergency evacuation transportation needs categorized by the following types:

i. *red*–high risk residents who will need to be transported by advanced life support ambulance due to dependency on mechanical or electrical life sustaining devices or very critical medical condition;

ii. *yellow*–residents who are not dependent on mechanical or electrical life sustaining devices, but cannot be transported using normal means (buses, vans, cars), may need to be transported by an ambulance; however, in the event of inaccessibility of medical transport, buses, vans or cars may be used as a last resort; and

iii. *green*-residents who do not need specialized transportation may be transported by car, van, bus or wheelchair accessible transportation.

2. An ICF/DD shall also enter or update the facility's information upon request, or as described per notification of an emergency declared by the secretary. Emergency events may include, but are not limited to:

a. hurricanes;

b. floods;

c. fires;

d. chemical or biological hazards;

e. power outages;

f. tornados;

g. tropical storms; and

h. severe weather.

3. Effective immediately, upon notification of an emergency declared by the secretary, all ICFs/DD shall file an electronic report with the ESF-8 Portal or into the current LDH Emergency Preparedness webpage or electronic database for reporting.

a. The electronic report shall be filed, as prescribed by department, throughout the duration of the emergency declaration.

b. The electronic report shall include, but is not limited to, the following:

i. status of operation;

ii. availability of beds;

iii. generator status;

iv. evacuation status;

v. shelter in place status;

vi. mobility status of clients;

vii. range of ages of clients;

ix. intellectual levels/needs of clients; and

x. any other client or facility related information that is requested by the department.

NOTE: The electronic report shall not be used to request resources or to report emergency events.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3207 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

§8599. Notification of Evacuation, Relocation, or Temporary Cessation of Operations

A. In the event that an ICF/DD evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state, local or parish OHSEP, the ICF/DD must immediately give notice to the Health Standards Section as well as the Office for Citizens with Developmental Disabilities (OCDD) and OHSEP as directed by filing an electronic report with the ESF-8 Portal or into the current LDH Emergency Preparedness webpage or electronic database for reporting:

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3208 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1607#046

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Intermediate Care Facilities for Persons
with Intellectual Disabilities
Supplemental Payments
(LAC 50:VII.32917)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:VII.32917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing provides Medicaid reimbursement to non-state intermediate care facilities for persons with intellectual disabilities (ICFs/ID) for services rendered to Medicaid recipients.

The Department of Health and Hospitals, Bureau of Health Services Financing, promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/ID in order to adopt provisions to establish supplemental Medicaid payments for services provided to Medicaid recipients residing in privately-owned facilities that enter into a cooperative endeavor agreement with the department (*Louisiana Register,* Volume 41, Number 8). The department has now determined that it is necessary to amend the provisions of the August 1, 2015 Emergency Rule to establish upper payment limits for supplemental payments to private intermediate care facilities entering into a cooperative endeavor agreement with the department to provide a privately operated living setting to residents discharging from Pinecrest Supports and Services Center, hereafter referred to as Pinecrest. This action is being taken to secure new federal funding, and to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation.

Effective July 20, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions of the August 1, 2015 Emergency Rule governing the reimbursement methodology for non-state ICFs/ID.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part VII. Long Term Care
Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities
Chapter 329. Reimbursement Methodology
Subchapter A. Non-State Facilities
§32917. Supplemental Payments

A. Effective for dates of service on or after August 1, 2015, monthly supplemental payments shall be made to qualifying privately-owned intermediate care facilities for persons with intellectual disabilities.

1. In order to qualify for the supplemental payment, the private entity must enter into a cooperative endeavor agreement with the department to lease state-owned ICF/ID beds.

B. Effective for dates of service on or after August 1, 2016, monthly supplemental payments shall be made to qualifying privately-owned intermediate care facilities for persons with intellectual disabilities (ICFs/ID) to provide a privately operated living setting to residents discharging from Pinecrest Supports and Services Center.

1. In order to qualify for the supplemental payment, the private entity must enter into a cooperative endeavor agreement with the department to provide a privately operated living setting, with an end goal of increased community placement opportunities, to residents of Pinecrest who desire to discharge and have been deemed ready for discharge by their interdisciplinary teams, and meet the admission protocol/criteria of the contracted party but have not been successful in securing a placement with a private provider.

C. Supplemental payments for services rendered to Medicaid recipients shall not exceed the facility's upper payment limit (UPL) pursuant to 42 CFR 447.272. The UPL will be based on the Centers for Medicare and Medicaid Services' approved ICF transitional rate of $329.26 including provider fee.

D. The supplemental payment will be the difference between the actual Medicaid payment and what would have been paid if the ICF/ID was paid up to the UPL amount.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

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

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1607#044

DECLARATION OF EMERGENCY

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

Personal Care Services—Long-Term
Standards for Participation
Electronic Visit Verification
(LAC 50:XV.12909)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.12909 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in

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

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, through collaborative efforts, provide enhanced long-term personal care services and supports to individuals with functional impairments.

The department promulgated an Emergency Rule which amended the provisions governing long-term personal care services (LT-PCS) in order to adopt requirements which mandate that LT-PCS providers must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for long-term personal care services (*Louisiana Register*, Volume 41, Number 3). This Emergency Rule is being promulgated to continue the provisions of the April 1, 2015 Emergency Rule.

This action is being taken to promote the health and welfare of persons with a functional impairment by assuring that they receive the services they need, and to ensure that these services are rendered in an efficient and cost-effective manner.

Effective July 28, 2016, the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing long-term personal care services to establish requirements for the use of an EVV system.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 9. Personal Care Services
Chapter 129. Long Term Care
§12909. Standards for Participation

A. - D.2. ...

E. Electronic Visit Verification. Effective for dates of service on or after April, 1, 2015, providers of long-term personal care services shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

1. Reimbursement shall only be made to providers with documented use of the EVV system.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), LR 39:2508 (September 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

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

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1607#047

DECLARATION OF EMERGENCY

Department of Health
Office of Public Health

Protection of Water Supply
(LAC 51:XII.344 and 346)

The state health officer, acting through the Department of Health, Office of Public Health (LDH-OPH), pursuant to the rulemaking authority granted by R.S. 40:4(A)(8) and (13), hereby adopts the following Emergency Rule to prevent an imminent peril to the public health and safety. This Rule is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950, et seq.).

As required by Act 836 of the 2014 Regular Legislative Session, Part XIV (*Louisiana State Plumbing Code*) of the Louisiana State Sanitary Code [LAC 51 (*Public Health Sanitary Code*)] became null and void on January 1, 2016. In accordance with the Act, the Louisiana State Uniform Construction Code Council (LSUCCC) promulgated new state plumbing regulations through an Emergency Rule under the *State Uniform Construction Code* (LAC 17:I). Before January 1, 2016, comprehensive backflow protection/cross connection control regulations designed to protect public health applicable to plumbing were contained in Part XIV (Plumbing) of the state sanitary code. Effective January 1, 2016, some of these same backflow protection/cross connection control regulations applicable to plumbing have been adopted by the LSUCCC under the *State Uniform Construction Code*, particularly within the *2012 International Plumbing Code* and within the *2012 International Residential Code* (see December 20, 2015 *Louisiana Register*, Volume 41, page 2545).

Public water supplies continue to be responsible for protecting their water systems from backflow and cross connections which may occur on customer premises and which can cause contamination of the water supply. This Emergency Rule amends Part XII (Water Supplies) of Title 51 (*Public Health Sanitary Code*) in order to direct public water systems to utilize the backflow and cross connection control regulations contained in the state uniform construction code in order to reasonably ensure the protection of their water system from contamination caused by backflow. Currently, Section 344.A of Part XII is outdated because it directs water suppliers to Part XIV of the state sanitary code relative to protecting its system from backflow and cross connections on customer premises. As mentioned above, plumbing regulations formerly contained under Part XIV of the state sanitary code have been repealed effective January 1, 2016.

In addition, the LSUCCC did not adopt regulations under the *State Uniform Construction Code* relative to the

qualifications of persons installing, repairing, testing and maintaining backflow prevention devices and methods. In as much as no comprehensive regulation exists covering the qualifications of all such persons involved in the installation, repair, testing and maintenance of backflow prevention devices and methods, the rule proposes to adopt a regulation under LAC 51:XII which is nearly identical to the qualification regulations formerly contained in Part XIV of the *Louisiana State Sanitary Code.*

For these reasons, the state health officer declares that an emergency currently exists to ensure the continued protection of public health and finds it necessary to promulgate an Emergency Rule effective June 22, 2016. This Emergency Rule definitively directs water suppliers to seek applicable cross connection control regulations adopted within the *State Uniform Construction Code* when implementing their cross connection control program for their water system. The Emergency Rule also implements regulations in an attempt to ensure that all persons involved in the installation, repair, testing and maintenance of backflow prevention devices are qualified to perform such work. Unless rescinded or terminated earlier, this Emergency Rule shall remain in effect for the maximum period authorized under state law or until the date that a final rule on this same subject matter has been promulgated under regular rulemaking. The agency has initiated regular rulemaking for this Rule and published the Rule's Notice of Intent on April 20, 2016.

Title 51
PUBLIC HEALTH—SANITARY CODE
Part XII. Water Supplies
Chapter 3. Water Quality Standards

§344. Protection of Water Supply/Containment Practices

A. As used in this Section, "mandatory containment practices" means the containment practices prescribed in and required by the *State Uniform Construction Code* (LAC 17:I), including maintenance and testing requirements, and any additional or related requirements of this Part.

B. In order to protect its water supply from potential contamination, each water supplier shall develop and implement a written backflow prevention plan outlining the policies and procedures it will use to verify that its customers comply with mandatory containment practices, and shall make a reasonable effort to ensure that only customers who comply with mandatory containment practices connect or remain connected to its water supply.

C. Unless otherwise directed by the state health officer, a water supplier shall disconnect or refuse to connect customers who:

1. fail to comply with mandatory containment practices; or

2. fail to provide or allow adequate confirmation of such compliance.

D. If a water supplier has a reasonable basis to believe that an unprotected or improperly protected cross connection exists on the premise of any customer not required to comply with mandatory containment practices, the water supplier shall take reasonable steps to perform one or more of the following:

1. confirm that the cross connection on the premise is eliminated or does not exist;

2. confirm that approved fixture isolation backflow protection is installed at the cross connection on the premise in accordance with the fixture isolation practices prescribed in and required by the State Uniform Construction Code (LAC 17:I);

3. confirm that approved containment backflow protection is installed; or

4. discontinue water service to the customer.

E. When deemed necessary to protect public health, the state health officer may issue an Administrative Order or Emergency Order requiring a water supplier to comply with this Section.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4.A.(8) and 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:2795 (November 2012), amended LR 42:

§346. Installer, Repairer, Tester and Maintainer Qualifications for Backflow Prevention Devices and Methods

A. Installer/Repairer/Maintainer Qualifications. Backflow preventers shall be installed, repaired and/or maintained by a State Plumbing Board of Louisiana (SPBLA)-licensed plumber who holds a SPBLA water supply protection specialist endorsement on his/her plumbing license pursuant to R.S. 37:1361 et seq. and its implementing regulations (LAC 46:LV.101 et seq.). Backflow preventers associated with a landscape irrigation system may be installed, repaired and/or maintained by a Horticulture Commission of Louisiana-licensed landscape irrigation contractor who holds a SPBLA-issued special water supply protection specialist endorsement in accordance with R.S. 3:3808.P. Backflow preventers located on public property or otherwise under the complete control of the water supplier (for example, water meter and the piping upstream of the water meter, if provided), may be installed, repaired and/or maintained by a backflow prevention assembly repairer who meets the ASSE 5130-2009 (*Backflow Prevention Assembly Repairer Professional Qualification Standard*) or other individuals holding a backflow prevention assembly repairer certificate from a nationally recognized backflow certification organization approved by the state health officer.

B. Field Tester Qualifications. Backflow preventers shall be tested by a State Plumbing Board of Louisiana (SPBLA)-licensed plumber who holds a SPBLA water supply protection specialist endorsement on his/her plumbing license pursuant to R.S. 37:1361 et seq. and its implementing regulations (LAC 46:LV.101 et seq.)*;* or, by a backflow prevention assembly tester who meets ASSE 5110-2009 (*Backflow Prevention Assembly Tester Professional Qualification Standard*), or other individuals holding a testing certificate from a nationally recognized backflow certification organization approved by the state health officer. Backflow preventers associated with a landscape irrigation system may be tested by a Horticulture Commission of Louisiana-licensed landscape irrigation

contractor who holds a SPBLA-issued special water supply protection specialist endorsement in accordance with R.S. 3:3808.P.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A).(8) and R.S. 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 42:

Public Comments

Interested persons may submit written comments to Amanda Laughlin, Chief Engineer, Engineering Services Section, Office of Public Health, P.O. Box 4489, Baton Rouge, LA 70821-4489. She is responsible for responding to inquiries regarding this Emergency Rule.

Jimmy Guidry, M.D.,
State Health Officer
and
Rebekah E. Gee, MD, MPH,
Secretary

1607#014

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Spring Inshore Shrimp Season Closure in
Shrimp Management Zones 1 and 2

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and a Declaration of Emergency adopted by the commission on May 5, 2016 which authorized the secretary of the department to close the 2016 spring inshore shrimp season in any portion of Louisiana's inside waters to protect small white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop, the secretary hereby declares:

The 2016 spring inshore shrimp season will close on July 3, 2016 at 6 p.m. in state inside waters from the Mississippi/Louisiana state line westward to the western shore of Freshwater Bayou Canal except for the following waters:

- a portion of Mississippi Sound and the open waters of Breton and Chandeleur Sounds as described by the double-rig line.

All remaining state inside waters as well as all state outside waters seaward of the inside/outside shrimp line, as described in R.S. 56:495 will remain open to shrimping until further notice.

The number, distribution and percentage of small juvenile white shrimp taken in biological samples within these waters have rapidly increased in recent weeks and these waters are being closed to protect these developing shrimp.

Charlie Melancon
Secretary

1607#025

DECLARATION OF EMERGENCY

Workforce Commission
Office of Workers' Compensation Administration

Medical Treatment Guidelines (LAC 40:I.5157)

The Louisiana Workforce Commission has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act to amend certain portions of the medical guidelines contained in the *Louisiana Administrative Code*, Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 51. This Emergency Rule effective June 20, 2016, will remain in effect for a period of 120 days.

This amendment is required to provide for CPT codes inadvertently omitted from the medical reimbursement scheduled submitted in LAC 40.5157.B, Table 2 in February 2014. This does not affect current existing CPT codes.

The department considers emergency action necessary to facilitate the timely payment to HCP for services rendered to injured workers pending enactment of a rule through regular administrative procedure.

Title 40
LABOR AND EMPLOYMENT
Part I. Workers' Compensation Administration
Subpart 2. Medical Guidelines

Chapter 51. Medical Reimbursement Schedule

Editor's Note: The following Sections of this Chapter are applicable and shall be used for the Chapters in this Part governing reimbursement. These specific Chapters are: Chapter 25, Hospital Reimbursement; Chapter 29, Pharmacy; Chapter 31, Vision Care Services; Chapter 33, Hearing Aid Equipment and Services; Chapter 35, Nursing/Attendant Care and Home Health Services; Chapter 37, Home and Vehicle Modification; Chapter 39, Medical Transportation; Chapter 41, Durable Medical Equipment and Supplies; Chapter 43, Prosthetic and Orthopedic Equipment; Chapter 45, Respiratory Services; Chapter 47, Miscellaneous Claimant Expenses; Chapter 49, Vocational Rehabilitation Consultant; Chapter 51, Medical Reimbursement Schedule; and Chapter 53, Dental Care Services.

§5157. Maximum Reimbursement Allowances

A. Table 1

* * *

B. Table 2

Maximum Fee Allowance Schedule Office of Workers' Compensation						
CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Description
* * *						
71010		Chest x-ray 1 view frontal		$45		
71010	TC	Chest x-ray 1 view frontal		$26		
71010	26	Chest x-ray 1 view frontal		$19		
71015		Chest x-ray stereo frontal		$56		
71015	TC	Chest x-ray stereo frontal		$34		
71015	26	Chest x-ray stereo frontal		$22		
71020		Chest x-ray 2vw frontal&latl		$56		
71020	TC	Chest x-ray 2vw frontal&latl		$34		
71020	26	Chest x-ray 2vw frontal&latl		$22		
71021		Chest x-ray frnt lat lordotc		$68		
71021	TC	Chest x-ray frnt lat lordotc		$40		
71021	26	Chest x-ray frnt lat lordotc		$28		
71022		Chest x-ray frnt lat oblique		$84		
71022	TC	Chest x-ray frnt lat oblique		$50		
71022	26	Chest x-ray frnt lat oblique		$34		
71023		Chest x-ray and fluoroscopy		$127		
71023	TC	Chest x-ray and fluoroscopy		$89		
71023	26	Chest x-ray and fluoroscopy		$39		
71030		Chest x-ray 4/> views		$84		
71030	TC	Chest x-ray 4/> views		$51		
71030	26	Chest x-ray 4/> views		$32		
71034		Chest x-ray&fluoro 4/> views		$167		
71034	TC	Chest x-ray&fluoro 4/> views		$119		
71034	26	Chest x-ray&fluoro 4/> views		$48		
71035		Chest x-ray special views		$66		
71035	TC	Chest x-ray special views		$47		
71035	26	Chest x-ray special views		$19		
71100		X-ray exam ribs uni 2 views		$66		
71100	TC	X-ray exam ribs uni 2 views		$43		
71100	26	X-ray exam ribs uni 2 views		$23		
71101		X-ray exam unilat ribs/chest		$73		
71101	TC	X-ray exam unilat ribs/chest		$45		
71101	26	X-ray exam unilat ribs/chest		$28		
71110		X-ray exam ribs bil 3 views		$75		
71110	TC	X-ray exam ribs bil 3 views		$47		
71110	26	X-ray exam ribs bil 3 views		$28		
71111		X-ray exam ribs/chest4/> vws		$96		
71111	TC	X-ray exam ribs/chest4/> vws		$62		
71111	26	X-ray exam ribs/chest4/> vws		$34		
71120		X-ray exam breastbone 2/>vws		$59		
71120	TC	X-ray exam breastbone 2/>vws		$39		
71120	26	X-ray exam breastbone 2/>vws		$21		
71130		X-ray strenoclavic jt 3/>vws		$72		
71130	TC	X-ray strenoclavic jt 3/>vws		$49		
71130	26	X-ray strenoclavic jt 3/>vws		$23		
71250		Ct thorax w/o dye		$363		
71250	TC	Ct thorax w/o dye		$259		
71250	26	Ct thorax w/o dye		$104		
71260		Ct thorax w/dye		$461		
71260	TC	Ct thorax w/dye		$334		
71260	26	Ct thorax w/dye		$127		
71270		Ct thorax w/o & w/dye		$553		
71270	TC	Ct thorax w/o & w/dye		$413		
71270	26	Ct thorax w/o & w/dye		$141		
* * *						
72020		X-ray exam of spine 1 view		$44		
72020	TC	X-ray exam of spine 1 view		$29		
72020	26	X-ray exam of spine 1 view		$16		
72040		X-ray exam neck spine 2-3 vw		$66		
72040	TC	X-ray exam neck spine 2-3 vw		$44		
72040	26	X-ray exam neck spine 2-3 vw		$23		
72050		X-ray exam neck spine 4/5vws		$90		
72050	TC	X-ray exam neck spine 4/5vws		$58		
72050	26	X-ray exam neck spine 4/5vws		$32		

Maximum Fee Allowance Schedule Office of Workers' Compensation						
CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Description
72052		X-ray exam neck spine 6/>vws		$113		
72052	TC	X-ray exam neck spine 6/>vws		$76		
72052	26	X-ray exam neck spine 6/>vws		$37		
72070		X-ray exam thorac spine 2vws		$68		
72070	TC	X-ray exam thorac spine 2vws		$45		
72070	26	X-ray exam thorac spine 2vws		$23		
72072		X-ray exam thorac spine 3vws		$69		
72072	TC	X-ray exam thorac spine 3vws		$47		
72072	26	X-ray exam thorac spine 3vws		$22		
72074		X-ray exam thorac spine4/>vw		$79		
72074	TC	X-ray exam thorac spine4/>vw		$56		
72074	26	X-ray exam thorac spine4/>vw		$22		
72080		X-ray exam thoracolmb 2/> vw		$61		
72080	TC	X-ray exam trunk spine 2 vws		$39		
72080	26	X-ray exam trunk spine 2 vws		$22		
72081		X-ray exam entire spi 1 vw		$78		
72081	TC	X-ray exam entire spi 1 vw		$51		
72081	26	X-ray exam entire spi 1 vw		$27		
72082		X-ray exam entire spi 2/3 vw		$125		
72082	TC	X-ray exam entire spi 2/3 vw		$92		
72082	26	X-ray exam entire spi 2/3 vw		$33		
72083		X-ray exam entire spi 4/5 vw		$136		
72083	TC	X-ray exam entire spi 4/5 vw		$100		
72083	26	X-ray exam entire spi 4/5 vw		$36		
72084		X-ray exam entire spi 6/> vw		$162		
72084	TC	X-ray exam entire spi 6/> vw		$121		
72084	26	X-ray exam entire spi 6/> vw		$41		
72100		X-ray exam l-s spine 2/3 vws		$70		
72100	TC	X-ray exam l-s spine 2/3 vws		$47		
72100	26	X-ray exam l-s spine 2/3 vws		$23		
72110		X-ray exam l-2 spine 4/>vws		$98		
72110	TC	X-ray exam l-2 spine 4/>vws		$66		
72110	26	X-ray exam l-2 spine 4/>vws		$32		
72114		X-ray exam l-s spine bending		$125		
72114	TC	X-ray exam l-s spine bending		$92		
72114	26	X-ray exam l-s spine bending		$34		
72120		X-ray bend only l-s spine		$81		
72120	TC	X-ray bend only l-s spine		$58		
72120	26	X-ray bend only l-s spine		$23		
72125		Ct neck spine w/o dye		$371		
72125	TC	Ct neck spine w/o dye		$262		
72125	26	Ct neck spine w/o dye		$109		
72126		Ct neck spine w/dye		$460		
72126	TC	Ct neck spine w/dye		$336		
72126	26	Ct neck spine w/dye		$124		
72127		Ct neck spine w/o & w/dye		$545		
72127	TC	Ct neck spine w/o & w/dye		$415		
72127	26	Ct neck spine w/o & w/dye		$129		
72128		Ct chest spine w/o dye		$363		
72128	TC	Ct chest spine w/o dye		$260		
72128	26	Ct chest spine w/o dye		$102		
72129		Ct chest spine w/dye		$461		
72129	TC	Ct chest spine w/dye		$337		
72129	26	Ct chest spine w/dye		$124		
72130		Ct chest spine w/o & w/dye		$548		
72130	TC	Ct chest spine w/o & w/dye		$419		
72130	26	Ct chest spine w/o & w/dye		$129		
72131		Ct lumbar spine w/o dye		$361		
72131	TC	Ct lumbar spine w/o dye		$259		
72131	26	Ct lumbar spine w/o dye		$102		
72132		Ct lumbar spine w/dye		$460		
72132	TC	Ct lumbar spine w/dye		$335		

Maximum Fee Allowance Schedule Office of Workers' Compensation						
CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Description
72132	26	Ct lumbar spine w/dye		$124		
72133		Ct lumbar spine w/o & w/dye		$544		
72133	TC	Ct lumbar spine w/o & w/dye		$415		
72133	26	Ct lumbar spine w/o & w/dye		$129		
72141		Mri neck spine w/o dye		$450		
72141	TC	Mri neck spine w/o dye		$299		
72141	26	Mri neck spine w/o dye		$152		
72142		Mri neck spine w/dye		$654		
72142	TC	Mri neck spine w/dye		$470		
72142	26	Mri neck spine w/dye		$183		
72146		Mri chest spine w/o dye		$450		
72146	TC	Mri chest spine w/o dye		$299		
72146	26	Mri chest spine w/o dye		$152		
72147		Mri chest spine w/dye		$646		
72147	TC	Mri chest spine w/dye		$465		
72147	26	Mri chest spine w/dye		$182		
72148		Mri lumbar spine w/o dye		$448		
72148	TC	Mri lumbar spine w/o dye		$297		
72148	26	Mri lumbar spine w/o dye		$152		
72149		Mri lumbar spine w/dye		$646		
72149	TC	Mri lumbar spine w/dye		$463		
72156		Mri neck spine w/o & w/dye		$763		
72156	TC	Mri neck spine w/o & w/dye		$529		
72156	26	Mri neck spine w/o & w/dye		$234		
72157		Mri chest spine w/o & w/dye		$764		
72157	TC	Mri chest spine w/o & w/dye		$531		
72157	26	Mri chest spine w/o & w/dye		$234		
72158		Mri lumbar spine w/o & w/dye		$761		
72158	TC	Mri lumbar spine w/o & w/dye		$528		
72158	26	Mri lumbar spine w/o & w/dye		$234		
72159		MR angio spine w/o&w/dye		$838		
72159	TC	MR angio spine w/o&w/dye		$654		
72159	26	MR angio spine w/o&w/dye		$184		
72170		X-ray exam of pelvis		$64		
72190		X-ray exam of pelvis		$77		
72190	TC	X-ray exam of pelvis		$54		
72190	26	X-ray exam of pelvis		$22		
* * *						

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), LR 27:314 (March 2001), amended by the Workforce Commission, Office of Workers' Compensation, LR 39:1854 (July 2013), LR 40:379 (February 2014), LR 42:

Inquiries concerning the proposed enactment may be sent to Sheral Kellar, OWC-Administration, 1001 North Twenty-third Street, Baton Rouge, LA 70802.

Ava Dejoie
Executive Director

1607#013

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.613)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System*: §613, Calculating a Graduation Index. In April 2015, BESE approved policy that created a pathway to a diploma for students assessed on the Louisiana Alternate Assessment Level 1 (LAA 1). This change updates language regarding the graduation index calculation to include high school diplomas earned through the pathway for students assessed on the LAA 1, awarding accountability points to schools and districts whose students are successful in earning these diplomas.

Title 28
EDUCATION
Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System
Chapter 6. Graduation Cohort, Index, and Rate
§613. Calculating a Graduation Index

A. - B. …

* * *

C. Beginning in 2016-2017 (2015-2016 graduates), points shall be assigned for each member of a cohort according to the following table.

Student Result	Points
HS Diploma plus (a). AP score of 3 or higher, IB Score of 4 or higher, or CLEP score of 50 or higher OR (b). Advanced statewide Jump Start credential *Students achieving both (a) and (b) will generate 160 points.	150
HS Diploma plus (a). At least one passing course grade for TOPS core curriculum credit of the following type: AP**, college credit, dual enrollment, or IB** OR (b). Basic statewide Jump Start credential *Students achieving both (a) and (b) will generate 115 points. **Students must take the AP/IB exam and pass the course to earn 110 points.	110
Four-year graduate (includes Career Diploma student with a regional Jump Start credential)	100
HS Diploma earned through pathway for students assessed on the LAA1	100
Five-year graduate with any diploma *Five-year graduates who earn an AP score of 3 or higher, an IB score of 4 or higher, or a CLEP score of 50 or higher will generate 140 points.	75
Six-year graduate with any diploma	50
HiSET	25
Non-graduate without HiSET	0

D. The graduation index of a school shall be the average number of points earned by cohort members, except that students assessed using the LAA 1 shall be included in the graduation index for the year in which they graduated or the year in which they exited after at least four years in high school with no subsequent re-enrollment by October 1 of the following academic year. Students who are not exited will be counted in the year that they reach the age of 22.

1. Starting with the graduating class of 2017-2018 (2019 SPS), only WIC-approved industry based certifications (IBCs) will be included as basic statewide credentials.

E.1. The diploma must be earned no later than the third administration of the summer retest following the fourth year of high school of the students' cohort.

a. For example, a student who finishes the fourth year of high school in 2012 must complete the assessment requirements before or during the 2014 summer test administration.

2. When related to awarding fifth-year graduate points, the enrollment must be continuous and consist of at least 45 calendar days.

F. To ensure the accuracy of data used to calculate the graduation index, the calculation shall lag one year behind the collection of the data. (The index earned by the graduating class of 2012 will be used for 2013 accountability calculations.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1025 (June 2006), amended LR 33:2031 (October 2007), LR 33:2594 (December 2007), LR 35:1472 (August 2009), LR 36:1769 (August 2010), repromulgated LR 36:1994 (September 2010), LR 36:2243 (October 2010), LR 37:3201 (November 2011), LR 38:1391 (June 2012), LR 38:3109 (December 2012), LR 39:306 (February 2013), LR 39:2444 (September 2013), LR 40:1317 (July 2014), LR 41:615 (April 2015), LR 42:1017 (July 2016).

Shan N. Davis
Executive Director

1607#003

RULE

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools—Definitions; Charter School Recruitment and Enrollment (LAC 28:CXXXIX.103 and 2701)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 126—Charter Schools*: §103, Definitions; and §2701, Students Eligible to Attend. The revisions provide for the implementation of a uniform policy to require type 2 charter schools to collect and verify

student residency information. Additionally, the revisions contain a list of documents that will be acceptable as evidence of residency.

Title 28
EDUCATION
Part CXXXIX. Bulletin 126—Charter Schools
Chapter 1. General Provisions
§103. Definitions

A. The words defined in this Section shall have the meanings set forth below whenever they appear in this policy, unless:

1. the context in which they are used clearly requires a different meaning; or

2. a different definition is prescribed for a particular provision.

* * *

Domicile—the place where the student predominantly sleeps, takes meals, and maintains personal belongings.

* * *

Legal Custody—the legal status created by a court order which establishes in a custodian the right to have physical custody of the child. Custody for educational purposes only or provisional custody by mandate will not be accepted.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3973.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1357 (July 2008), amended LR 37:867 (March 2011), LR 37:2383 (August 2011), LR 38:37 (January 2012), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:1583 (July 2012), LR 39:3062 (November 2013), LR 40:1321 (July 2014), LR 42:1018 (July 2016).

Chapter 27. Charter School Recruitment and Enrollment
§2701. Students Eligible to Attend

A. Type 2 Charter Schools. Students meeting residency requirements established in a type 2 charter school's charter are eligible to attend a type 2 charter school. A type 2 charter school may establish residency requirements for students living within the state or may establish residency requirements restricted to a particular parish or parishes.

1. Type 2 charter schools shall collect and verify documents substantiating the residency of each student prior to submitting residency information to statewide student information system. Acceptable documents shall be as follows:

a. mortgage (if owned);

b. tax assessor's bill (if owned);

c. homestead exemption bill (if owned);

d. current lease of residence for the school year (if leased);

e. current rent receipt (if leased);

f. previous two months utility bill (Disconnect notices are not acceptable:

i. gas;

ii. water or sewer;

iii. telephone (land line only);

iv. cable or satellite television bill;

v. internet service;

g. current driver's license or government-issued identification;

h. current official letter from a government agency such as Department of Children and Family Services or Department of Health regarding services provided; or

i. current bank statements.

2. The name of the parent or legal custodians must appear on each document and the addresses must match on all documents. The residency information must be updated annually prior to the start of school for the student to be enrolled in that school year.

3. If the parent or legal custodian neither owns nor rents a residence and is therefore living with another individual, the parent or legal custodian must provide a notarized affidavit of residency signed by the parent or legal custodian of the student as well as the individual with whom the parent or legal custodian is living. The affidavit of residency must attest to the following:

a. student's name;

b. name of parent or legal custodian;

c. address of parent or legal custodian;

d. name of the person with whom the parent or legal custodian is living;

e. a statement of attestation by the parent or legal custodian that the student is living with him at the address recorded on the affidavit and that the student has no other residence or domicile; and

f. a statement of attestation by the person with whom the parent or legal custodian is living that these persons in fact live with the individual listed.

4. The person with whom the parent or legal custodian and student are living (who has signed the notarized affidavit) must provide three forms of evidence of residency from the acceptable list of documents outlined above.

5. If parents are separated, divorced or if the legal custodian is other than the biological parents, legal custody documents, signed by a judge with a docket number, indicating the legal custodian or domiciliary parent must be provided.

6. The residency requirements must also be included in the application requirements section contained in exhibit D of the type 2 charter school contracts.

7. Nothing in this policy shall prohibit the admission or readmission to school of a student who meets the definition of homeless under the federal McKinney-Vento Act (42 U.S.C. 11431 et seq.).

B. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:10.5, R.S. 17:10.7, and R.S. 17:1990.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008), amended LR 37:875 (March 2011), LR 37:2390 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 42:1018 (July 2016).

Shan N. Davis
Executive Director

1607#005

RULE

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools—State Funding
(LAC 28:CXXXIX.2301)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 126—Charter Schools*: §2301, State Funding. This action removes language that was deleted by Act 467 of the 2015 Regular Legislative Session and references the policy containing requirements related to allocation of funds for certain charter schools.

Title 28
EDUCATION
Part CXXXIX. Bulletin 126—Charter Schools
Chapter 23. Charter School Funding
§2301. State Funding

A. - D. …

E. Beginning on July 1, 2016, for allocations in a school district with one or more type 3B charter schools in a parish that contains a municipality with a population of 300,000 or more persons according to the latest federal decennial census, refer to *Bulletin 129—The Recovery School District*, §1111.

F. - G.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1371 (July 2008), amended LR 37:874 (March 2011), LR 39:3250 (December 2013), LR 40:1324 (July 2014), LR 42:1019 (July 2016).

Shan N. Davis
Executive Director

1607#004

RULE

Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District
(LAC 28:CXLV.1111)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 129—The Recovery School District*: §1111, Allocation of Funds. This action is required by Act 467 of the 2015 Regular Legislative Session which directs BESE to determine the student characteristics or needs used for the district-level allocation policy in Orleans Parish.

Title 28
EDUCATION
Part CXLV. Bulletin 129—The Recovery School District
Chapter 11. Fiscal Management
§1111. Allocation of Funds

A. - F. …

G. District-Level Allocations Provided by Statute

1. For allocations in a school district with one or more type 3B charter schools in a parish that contains a municipality with a population of 300,000 or more persons according to the latest federal decennial census, the total amount of minimum foundation program formula funds allocated to the local school board and to type 1, 1B, 3, 3B, 4, and 5 charter schools that are located within the district shall be allocated using a district-level computation based on student characteristics or needs as determined by BESE.

2. The LDE shall facilitate a collaborative process that includes representatives from the RSD, the Louisiana Association of Public Charter Schools, any affected local school board and any organization representing its authorized charter schools, and advocates for students with disabilities in the development of the district-level allocation policy that shall take effect on July 1, 2016.

AUTHORITY NOTE:Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), and 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:311 (January 2011), amended LR 42:1019 (July 2016).

Shan N. Davis
Executive Director

1607#006

RULE

Board of Elementary and Secondary Education

Bulletin 141—Louisiana Student Standards for English Language Arts (LAC 28:CLXIX.Chapters 1-23)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education (BESE) adopted *Bulletin 141—Louisiana Student Standards for English Language Arts*. R.S. 17:24.4 requires BESE to develop state content standards for required subjects to be taught in the public elementary and secondary schools of this state. State content standards are statements that define what a student should know or be able to accomplish at the end of a specific time period or grade level or at the completion of a course. Act 329 of the 2015 Regular Session provided for the review and development of state content standards for English language arts (ELA) and mathematics. This bulletin contains the revised Louisiana student standards for English language arts.

Title 28
EDUCATION
Part CLXIX. Bulletin 141—Louisiana Student Standards for English Language Arts
Chapter 1. Introduction
§101. Introduction

A. The Louisiana student standards define what a public school student should know or be able to accomplish at the end of a specific time period or grade level or at the completion of a course. They represent the knowledge and skills needed for students to successfully transition from each grade and ultimately to postsecondary education and the workplace, as determined by content experts, elementary and secondary educators and school leaders, postsecondary education leaders, and business and industry leaders. The standards set forth what learning should be taught; local education agencies, their school leaders and classroom educators should determine how the standards should be taught, including the curricula and instructional materials

that should be used to meet students' individual needs in mastering the standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1019 (July 2016).

Chapter 3. Kindergarten

§301. Reading Literature

A. With prompting and support, ask and answer questions about key details in a text.

B. With prompting and support, retell familiar stories, including key details.

C. With prompting and support, identify characters, settings, and major events in a story.

D. Ask and answer questions about unknown words in a text.

E. Recognize common types of texts (e.g., storybooks, poems).

F. With prompting and support, define the role of the author and the illustrator of a story in telling the story.

G. With prompting and support, make connections between the illustrations in the story and the text.

H. With prompting and support, compare and contrast the adventures and experiences of characters in familiar stories.

I. Actively engage in group reading activities with purpose and understanding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1020 (July 2016).

§303. Reading Informational Text

A. With prompting and support, ask and answer questions about key details in a text.

B. With prompting and support, identify the main topic and retell key details of a text.

C. With prompting and support, describe the connection between two individuals, events, ideas, or pieces of information in a text.

D. With prompting and support, ask and answer questions about unknown words in a text.

E. Identify the front cover, back cover, and title page of a book.

F. With prompting and support, define the role of the author and the illustrator of a text and present the ideas or information in a text.

G. With prompting and support, make connections between the illustrations and the text.

H. With prompting and support, identify the reason(s) an author gives to support point(s) in a text.

I. With prompting and support, identify similarities and differences between two texts on the same topic.

J. Actively engage in group reading activities with purpose and understanding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1020 (July 2016).

§305. Reading Foundations

A. Demonstrate understanding of the organization and basic features of print.

1. Follow words from left to right, top to bottom, and page by page.

2. Recognize that spoken words are represented in written language by specific sequences of letters.

3. Understand that words are separated by spaces in print.

4. Recognize and name all upper- and lowercase letters of the alphabet.

B. Demonstrate understanding of spoken words, syllables, and sounds (phonemes).

1. Recognize and produce rhyming words.

2. Count, pronounce, blend, and segment syllables in spoken words.

3. Blend and segment onsets and rimes of single-syllable spoken words.

4. Isolate and pronounce the initial, medial vowel, and final sounds (phonemes) in three-phoneme (consonant-vowel-consonant, or CVC) words. (This does not include CVCs ending with /l/, /r/, or /x/.)

5. Add or substitute individual sounds (phonemes) in simple, one-syllable words to make new words.

C. Know and apply grade-level phonics and word analysis skills in decoding words.

1. Demonstrate basic knowledge of one-to-one letter-sound correspondences by producing the primary or many of the most frequent sounds for each consonant.

2. Associate the long and short sounds with common spellings (graphemes) for the five major vowels.

3. Read common high-frequency words by sight (e.g., the, of, to, you, she, my, is, are, do, does).

4. Distinguish between similarly spelled words by identifying the sounds of the letters that differ.

D. Read emergent-reader texts with purpose and understanding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1020 (July 2016).

§307. Writing

A. Use a combination of drawing, dictating, and writing to compose opinion pieces in which they tell a reader the topic or the name of the book they are writing about and state an opinion or preference about the topic or book (e.g., My favorite book is ...).

B. Use a combination of drawing, dictating, and writing to compose informative/explanatory texts in which they name what they are writing about and supply some information about the topic.

C. Use a combination of drawing, dictating, and writing to narrate a single event or several loosely linked events, tell about the events in the order in which they occurred, and provide a reaction to what happened.

D. With guidance and support, orally respond to questions and suggestions from adults and peers and add details to strengthen writing as needed.

E. With guidance and support from adults and peers, explore a variety of digital tools by participating in the production of a published writing.

F. With guidance and support from adults, participate in shared research and writing projects (e.g., explore a number of books by a favorite author and express opinions about them).

G. With guidance and support from adults, recall information from experiences or gather information from provided sources to answer a question.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1020 (July 2016).

§309. Speaking and Listening

A. Participate in collaborative conversations with diverse partners about kindergarten topics and texts with peers and adults in small and larger groups.

1. Follow agreed-upon rules for discussions (e.g., listening to others and taking turns speaking about the topics and texts under discussion).

2. Continue a conversation through multiple exchanges.

B. Confirm understanding of a text read aloud or information presented orally or through other media by asking and answering questions about key details and requesting clarification if something is not understood.

C. Ask and answer questions in order to seek help, get information, or clarify something that is not understood.

D. Describe familiar people, places, things, and events and, with prompting and support, provide additional detail.

E. Add drawings or other visual displays to descriptions as desired to provide additional detail.

F. Speak audibly and express thoughts, feelings, and ideas clearly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1021 (July 2016).

§311. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Print many upper and lowercase letters.

2. Use frequently occurring nouns and verbs.

3. Form regular plural nouns orally by adding /s/ or /es/ (e.g., dog, dogs; wish, wishes).

4. Understand and use question words (interrogatives) (e.g., who, what, where, when, why, how).

5. Use the most frequently occurring prepositions (e.g., to, from, in, out, on, off, for, of, by, with).

6. Produce and expand complete sentences in shared language activities.

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Capitalize the first word in a sentence and the pronoun I.

2. Recognize and name end punctuation.

3. Write a letter or letters for most consonant and short-vowel sounds (phonemes).

4. Spell simple words phonetically, drawing on knowledge of sound-letter relationships.

C. Determine or clarify the meaning of unknown and multiple-meaning words and phrases based on kindergarten reading and content.

1. With guidance and support, identify new meanings for familiar words and apply them accurately (e.g., knowing a duck is a bird and learning the verb to duck).

2. With guidance and support, use the most frequently occurring inflections and affixes as a clue to the meaning of an unknown word (e.g., /-ed/, /-s/, /re-/, /un-/, /pre-/, /-ful/, /-less/).

D. With guidance and support from adults, explore word relationships and nuances in word meanings.

1. Sort common objects into categories (e.g., shapes, foods) to gain a sense of the concepts the categories represent.

2. Demonstrate understanding of frequently occurring verbs and adjectives by relating them to their opposites (antonyms).

3. Identify real-life connections between words and their use (e.g., note places at school that are colorful).

4. Distinguish shades of meaning among verbs describing the same general action (e.g., walk, march, strut, prance) by acting out the meanings.

E. Use words and phrases acquired through conversations, reading and being read to, and responding to texts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1021 (July 2016).

Chapter 5. Grade 1

§501. Reading Literature

A. Ask and answer questions about key details in a text.

B. Retell stories, including key details.

C. Recognize and understand the central message or lesson.

D. Describe characters, settings, and major events in a story, using key details.

E. Identify words and phrases in stories or poems that suggest feelings or appeal to the senses.

F. Explain major differences between books that tell stories and books that give information, drawing on a wide reading of a range of text types.

G. Identify who is telling the story at various points in a text.

H. Use illustrations and details in a story to describe its characters, setting, or events.

I. Compare and contrast the adventures and experiences of characters in stories.

J. With prompting and support, read prose and poetry of appropriate complexity for grade 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1021 (July 2016).

§503. Reading Informational Text

A. Ask and answer questions about key details in a text.

B. Identify the main topic and retell key details of a text.

C. Describe the connection between two individuals, events, ideas, or pieces of information in a text.

D. Ask and answer questions to help determine or clarify the meaning of words and phrases in a text.

E. Know and use various text features (e.g., headings, tables of contents, glossaries, electronic menus, icons) to locate key facts or information in a text.

F. Distinguish between information provided by pictures or other illustrations and information provided by the words in a text.

G. Use the illustrations and details in a text to describe its key ideas.

H. Identify the reasons an author gives to support points in a text.

I. Identify basic similarities in and differences between two texts on the same topic (e.g., in illustrations, descriptions, or procedures).

J. With prompting and support, read informational texts appropriately complex for grade 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1021 (July 2016).

§505. Reading Foundations

A. Demonstrate understanding of the organization and basic features of print.

1. Recognize the distinguishing features of a sentence (e.g., first word, capitalization, ending punctuation).

B. Demonstrate understanding of spoken words, syllables, and sounds (phonemes).

1. Distinguish long from short vowel sounds in spoken single-syllable words.

2. Orally produce single-syllable words by blending sounds (phonemes), including consonant blends.

3. Isolate and pronounce initial, medial vowel, and final sounds (phonemes) in spoken single-syllable words.

4. Segment spoken single-syllable words into their complete sequence of individual sounds (phonemes).

C. Know and apply grade-level phonics and word analysis skills in decoding words.

1. Know the spelling-sound correspondences for common consonant digraphs.

2. Decode regularly spelled one-syllable words.

3. Know final /-e/ and common vowel team conventions for representing long vowel sounds.

4. Use knowledge that every syllable must have a vowel sound to determine the number of syllables in a printed word.

5. Decode two-syllable words following basic patterns by breaking the words into syllables.

6. Read words with inflectional endings.

7. Recognize and read grade-appropriate irregularly spelled words.

D. Read with sufficient accuracy and fluency to support comprehension.

1. Read on-level text with purpose and understanding.

2. Read on-level text orally with accuracy, appropriate rate, and expression on successive readings.

3. Use context to confirm or self-correct word recognition and understanding, rereading as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1022 (July 2016).

§507. Writing

A. Write opinion pieces in which they introduce the topic or name the book they are writing about, state an opinion, supply a reason for the opinion, and provide some sense of closure.

B. Write informative/explanatory texts in which they name a topic, supply some facts about the topic, and provide some sense of closure.

C. Write narratives in which they recount two or more appropriately sequenced events, include some details regarding what happened, use temporal words to signal event order, and provide some sense of closure.

D. With guidance and support from adults, focus on a topic, respond to questions and suggestions from peers, and add details to strengthen writing as needed.

E. With guidance and support from adults, use a variety of digital tools to produce and publish writing, including in collaboration with peers.

F. Participate in shared research and writing projects (e.g., explore a number of how-to books on a given topic and use them to write a sequence of instructions).

G. With guidance and support from adults, recall information from experiences or gather information from provided sources to answer a question.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

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§509. Speaking and Listening

A. Participate in collaborative conversations with diverse partners about grade 1 topics and texts with peers and adults in small and larger groups.

1. Follow agreed-upon rules for discussions (e.g., listening to others with care, speaking one at a time about the topics and texts under discussion).

2. Build on others' talk in conversations by responding to the comments of others through multiple exchanges.

3. Ask questions to clear up any confusion about the topics and texts under discussion.

B. Ask and answer questions about key details in a text read aloud or information presented orally or through other media.

C. Ask and answer questions about what a speaker says in order to gather additional information or clarify something that is not understood.

D. Describe people, places, things, and events with relevant details, expressing ideas and feelings clearly.

E. Add drawings or other visual displays to descriptions when appropriate to clarify ideas, thoughts, and feelings.

F. Produce complete sentences when appropriate to task, audience, and situation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1022 (July 2016).

§511. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Legibly print all upper- and lowercase letters.

2. Use common, proper, and possessive nouns.

3. Use singular and plural nouns with matching verbs in basic sentences (e.g., He hops; We hop).

4. Use personal and possessive pronouns (e.g., I, me, my; they, them, their).

5. Use verbs to convey a sense of past, present, and future (e.g., Yesterday I walked home; Today I walk home; Tomorrow I will walk home).

6. Use frequently occurring adjectives.

7. Use frequently occurring conjunctions (e.g., and, but, or, so, because).

8. Use determiners (e.g., articles, demonstratives).

9. Use frequently occurring prepositions (e.g., during, beyond, toward).

10. Produce and expand complete simple and compound declarative, interrogative, imperative, and exclamatory sentences in response to prompts.

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Capitalize dates and names of people.

2. Use end punctuation for sentences.

3. Use commas in dates and to separate single words in a series.

4. Use conventional spelling for words with common spelling patterns and for frequently occurring irregular words.

5. Spell untaught words phonetically, drawing on phonemic awareness and spelling conventions.

C. Determine or clarify the meaning of unknown and multiple-meaning words and phrases based on grade 1 reading and content, choosing flexibly from an array of strategies.

1. Use sentence-level context as a clue to the meaning of a word or phrase.

2. Use knowledge of frequently occurring affixes (prefixes and suffixes) to interpret meaning of a word.

3. Identify frequently occurring root words (e.g., look) and their inflectional forms (e.g., looks, looked, looking).

D. With guidance and support from adults, demonstrate understanding of word relationships and nuances in word meanings.

1. Sort words into categories (e.g., colors, clothing) to gain a sense of the concepts the categories represent.

2. Define words by category and by one or more key attributes (e.g., a duck is a bird that swims; a tiger is a large cat with stripes).

3. Identify real-life connections between words and their use (e.g., note places at home that are cozy).

4. Distinguish shades of meaning among verbs differing in manner (e.g., look, peek, glance, stare, glare, scowl) and adjectives differing in intensity (e.g., large, gigantic) by defining or choosing them or by acting out the meanings.

E. Use words and phrases acquired through conversations, reading and being read to, and responding to texts, including using frequently occurring conjunctions to signal simple relationships (e.g., because).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1022 (July 2016).

Chapter 7. Grade 2

§701. Reading Literature

A. Ask and answer such questions as who, what, where, when, why, and how to demonstrate understanding of key details in a text.

B. Recount stories, including fables and folktales from diverse culture; determine their central message, lesson, or more.

C. Describe how characters in a story respond to major events and challenges.

D. Describe how words and phrases supply rhythm and rhyme in a poem or song; determine the meaning of words and phrases as they are used in text.

E. Describe the overall structure of a story, including describing how the beginning introduces the story and the ending concludes the action.

F. Acknowledge differences in the points of view of characters, including by speaking in a different voice for each character when reading dialogue aloud.

G. Use information gained from the illustrations and words in a print or digital text to demonstrate understanding of its characters, setting, or plot.

H. Compare and contrast two or more versions of the same story (e.g., Cinderella stories) by different authors or from different cultures.

I. By the end of the year, read and comprehend literature, including stories and poetry, in the grades 2-3 text complexity band proficiently, with scaffolding as needed at the high end of the range.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1023 (July 2016).

§703. Reading Informational Text

A. Ask and answer such questions as who, what, where, when, why, and how to demonstrate understanding of key details in a text.

B. Identify the main topic of a multi-paragraph text as well as the focus of specific paragraphs within the text.

C. Describe the connection between a series of historical events, scientific ideas or concepts, or steps in technical procedures in a text.

D. Determine the meaning of words and phrases in a text relevant to a grade 2 topic or subject area.

E. Know and use various text features (e.g., captions, bold print, subheadings, glossaries, indexes, electronic menus, icons) to locate key facts or information in a text efficiently.

F. Identify the main purpose of a text, including what the author wants to answer, explain, or describe.

G. Explain how specific images (e.g., a diagram showing how a machine works) contribute to and clarify a text.

H. Describe how reasons or evidence support specific points the author makes in a text.

I. Compare and contrast the most important points presented by two texts on the same topic.

J. By the end of year, read and comprehend informational texts, including history/social studies, science, and technical texts, in the grades 2-3 text complexity band proficiently, with scaffolding as needed at the high end of the range.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1023 (July 2016).

§705. Reading Foundations

A. Know and apply grade-level phonics and word analysis skills in decoding words.

1. Distinguish long and short vowels when reading regularly spelled one-syllable words.

2. Know spelling-sound correspondences for additional common vowel teams.

3. Decode regularly spelled two-syllable words with long vowels.

4. Decode words with common prefixes and suffixes.

5. Identify words with inconsistent but common spelling-sound correspondences.

6. Recognize and read grade-appropriate irregularly spelled words.

B. Read with sufficient accuracy and fluency to support comprehension.

1. Read on-level text with purpose and understanding.

2. Read on-level text orally with accuracy, appropriate rate, and expression on successive readings.

3. Use context to confirm or self-correct word recognition and understanding, rereading as necessary.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1023 (July 2016).

§707. Writing

A. Write opinion pieces in which they introduce the topic or book they are writing about, state an opinion, supply reasons that support the opinion, use linking words (e.g., because, and, also) to connect opinion and reasons, and provide a concluding statement or section.

B. Write informative/explanatory texts in which they introduce a topic, use facts and definitions to develop points, and provide a concluding statement or section.

C. Write narratives in which they recount a well-elaborated event or short sequence of events, include details to describe actions, thoughts, and feelings, use temporal words to signal event order, and provide a sense of closure.

D. With guidance and support from adults and peers, focus on a topic and strengthen writing as needed by revising and editing.

E. With guidance and support from adults, use a variety of digital tools to produce and publish writing, including in collaboration with peers.

F. Participate in shared research and writing projects (e.g., read a number of books on a single topic to produce a report; record science observations).

G. Recall information from experiences or gather information from provided sources to answer a question.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1024 (July 2016).

§709. Speaking and Listening

A. Participate in collaborative conversations with diverse partners about grade 2 topics and texts with peers and adults in small and larger groups.

1. Follow agreed-upon rules for discussions (e.g., gaining the floor in respectful ways, listening to others with care, speaking one at a time about the topics and texts under discussion).

2. Build on others' talk in conversations by linking their comments to the remarks of others.

3. Ask for clarification and further explanation as needed about the topics and texts under discussion.

B. Recount or describe key ideas or details from a text read aloud or information presented orally or through other media.

C. Ask and answer questions about what a speaker says in order to clarify comprehension, gather additional information, or deepen understanding of a topic or issue.

D. Tell a story or recount an experience with appropriate facts and relevant, descriptive details, speaking audibly in coherent sentences.

E. Create audio recordings of stories or poems with guidance and support from adults and/or peers; add drawings or other visual displays to stories or recounts of experiences when appropriate to clarify ideas, thoughts, and feelings.

F. Produce complete sentences when appropriate to task, audience, and situation in order to provide requested detail or clarification.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1024 (July 2016).

§711. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Use collective nouns (e.g., group).

2. Form and use frequently occurring irregular plural nouns (e.g., feet, children, teeth, mice, fish).

3. Use reflexive pronouns (e.g., *myself, ourselves*) and indefinite pronouns (e.g., anyone, everything).

4. Form and use the past tense of frequently occurring irregular verbs (e.g., sat, hid, told).

5. Use adjectives and adverbs, and choose between them depending on what is to be modified.

6. Produce, expand, and rearrange complete simple and compound sentences (e.g., The boy watched the movie; The little boy watched the movie; The action movie was watched by the little boy).

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Capitalize holidays, product names, and geographic names.

2. Use commas in greetings and closings of letters.

3. Use an apostrophe to form contractions and frequently occurring possessives.

4. Generalize learned spelling patterns when writing words (e.g., cage → badge; boy → boil).

5. Consult reference materials, including beginning dictionaries, as needed to check and correct spellings.

C. Use knowledge of language and its conventions when writing, speaking, reading, or listening.

1. Compare formal and informal uses of English.

D. Determine or clarify the meaning of unknown and multiple-meaning words and phrases based on grade 2 reading and content, choosing flexibly from an array of strategies.

1. Use sentence-level context as a clue to the meaning of a word or phrase.

2. Determine the meaning of the new word formed when a known prefix is added to a known word (e.g., happy/unhappy, tell/retell).

3. Use a known root word as a clue to the meaning of an unknown word with the same root (e.g., addition, additional).

4. Use knowledge of the meaning of individual words to predict the meaning of compound words (e.g., birdhouse, lighthouse, housefly; bookshelf, notebook, bookmark).

5. Use glossaries and beginning dictionaries, both print and digital, to determine or clarify the meaning of words and phrases.

E. Demonstrate understanding of word relationships and nuances in word meanings.

1. Identify real-life connections between words and their use (e.g., describe foods that are spicy or juicy).

2. Distinguish shades of meaning among closely related verbs (e.g., toss, throw, hurl) and closely related adjectives (e.g., thin, slender, skinny, scrawny).

F. Use words and phrases acquired through conversations, reading and being read to, and responding to texts, including using adjectives and adverbs to describe (e.g., When other kids are happy that makes me happy).

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1024 (July 2016).

Chapter 9. Grade 3

§901. Reading Literature

A. Ask and answer questions to demonstrate understanding of a text, referring explicitly to the text as the basis for the answers.

B. Recount stories, including fables, folktales, and myths from diverse cultures; determine the central message, lesson, or moral and explain how it is conveyed through key details in the text.

C. Describe characters in a story (e.g., their traits, motivations, or feelings) and explain how their actions contribute to the sequence of events.

D. Determine the meaning of words and phrases as they are used in a text, distinguishing literal from nonliteral language.

E. Refer to parts of stories, dramas, and poems when writing or speaking about a text, using terms such as chapter, scene, and stanza; describe how each successive part builds on earlier sections.

F. Distinguish the student's point of view from that of the narrator or those of the characters.

G. Explain how specific aspects of a text's illustrations contribute to what is conveyed by the words in a story (e.g., create mood, emphasize aspects of a character or setting).

H. Compare and contrast the themes, settings, and plots of stories written by the same author about the same or similar characters (e.g., in books from a series).

I. By the end of the year, read and comprehend literature, including stories, dramas, and poetry, at the high end of the grades 2-3 text complexity band independently and proficiently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1025 (July 2016).

§903. Reading Informational Text

A. Ask and answer questions to demonstrate understanding of a text, referring explicitly to the text as the basis for the answers.

B. Determine the main idea of a text; recount the key details and explain how they support the main idea.

C. Describe the relationship between a series of historical events, scientific ideas or concepts, or steps in technical procedures in a text, using language that pertains to time, sequence, and cause/effect.

D. Determine the meaning of general academic and domain-specific words and phrases in a text relevant to a grade 3 topic or subject area.

E. Use text features and search tools (e.g., key words, sidebars, hyperlinks) to efficiently locate information relevant to a given topic.

F. Distinguish the student's point of view from that of the author of a text.

G. Use information gained from illustrations (e.g., maps, photographs) and the words in a text to demonstrate understanding of the text (e.g., where, when, why, and how key events occur).

H. Describe the logical connection between particular sentences and paragraphs in a text (e.g., comparison, cause/effect, first/second/third in a sequence).

I. Compare and contrast the most important points and key details presented in two texts on the same topic.

J. By the end of the year, read and comprehend informational texts, including history/social studies, science, and technical texts, at the high end of the grades 2-3 text complexity band independently and proficiently.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1025 (July 2016).

§905. Reading Foundations

A. Know and apply grade-level phonics and word analysis skills in decoding words.

1. Identify and know the meaning of the most common prefixes and derivational suffixes.

2. Decode words with common Latin suffixes.

3. Decode multisyllable words.

4. Read grade-appropriate irregularly spelled words.

B. Read with sufficient accuracy and fluency to support comprehension.

1. Read on-level text with purpose and understanding.

2. Decode words with common Latin suffixes.

3. Decode multisyllable words.

4. Read grade-appropriate irregularly spelled words.

C. Read with sufficient accuracy and fluency to support comprehension.

1. Read on-level text with purpose and understanding.

2. Read on-level prose and poetry orally with accuracy, appropriate rate, and expression on successive readings.

3. Use context to confirm or self-correct word recognition and understanding, rereading as necessary.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1025 (July 2016).

§907. Writing

A. Write opinion pieces on topics or texts, supporting a point of view with reasons.

1. Introduce the topic or text they are writing about, state an opinion, and create an organizational structure that lists reasons.

2. Provide reasons that support the opinion.

3. Use linking words and phrases (e.g., because, therefore, since, for example) to connect opinion and reasons.

4. Provide a concluding statement or section.

B. Write informative/explanatory texts to examine a topic and convey ideas and information clearly.

1. Introduce a topic and group related information together; include illustrations when useful to aiding comprehension.

2. Develop the topic with facts, definitions, and details.

3. Use linking words and phrases (e.g., also, another, and, more, but) to connect ideas within categories of information.

4. Provide a concluding statement or section.

C. Write narratives to develop real or imagined experiences or events using effective technique, descriptive details, and clear event sequences.

1. Establish a situation and introduce a narrator and/or characters; organize an event sequence that unfolds naturally.

2. Use dialogue and descriptions of actions, thoughts, and feelings to develop experiences and events or show the response of characters to situations.

3. Use temporal words and phrases to signal event order.

4. Provide a sense of closure.

D. With guidance and support from adults, produce writing in which the development and organization are appropriate to task and purpose.

E. With guidance and support from peers and adults, develop and strengthen writing as needed by planning, revising, and editing.

F. With guidance and support from adults, produce and publish grade-appropriate writing using technology, either independently or in collaboration with others.

G. Conduct short research projects that build knowledge about a topic.

H. Recall information from experiences or gather information from print and digital sources; take brief notes on sources and sort evidence into provided categories.

I. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1025 (July 2016).

§909. Speaking and Listening

A. Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grade 3 topics and texts, building on others' ideas and expressing their own clearly.

1. Come to discussions prepared, having read or studied required material; explicitly draw on that preparation and other information known about the topic to explore ideas under discussion.

2. Follow agreed-upon rules for discussions (e.g., gaining the floor in respectful ways, listening to others with care, speaking one at a time about the topics and texts under discussion).

3. Ask questions to check understanding of information presented, stay on topic, and link their comments to the remarks of others.

4. Explain their own ideas and understanding in light of the discussion.

B. Determine the main ideas and supporting details of a text read aloud or information presented in diverse media and formats, including visually, quantitatively, and orally.

C. Ask and answer questions about information from a speaker, offering appropriate elaboration and detail.

D. Report on a topic or text, tell a story, or recount an experience with appropriate facts and relevant, descriptive details, speaking clearly at an understandable pace.

E. Create engaging audio recordings of stories or poems that demonstrate fluid reading at an understandable pace; add visual displays when appropriate to emphasize or enhance certain facts or details.

F. Speak in complete sentences when appropriate to task, audience, and situation in order to provide requested detail or clarification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1026 (July 2016).

§911. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Explain the function of nouns, pronouns, verbs, adjectives, and adverbs in general and their functions in particular sentences.

2. Form and use regular and irregular plural nouns.

3. Use abstract nouns (e.g., childhood).

4. Form and use regular and irregular verbs.

5. Form and use the simple verb tenses (e.g., I walked; I walk; I will walk).

6. Ensure subject-verb and pronoun-antecedent agreement.

7. Form and use comparative and superlative adjectives and adverbs, and choose between them depending on what is to be modified.

8. Use coordinating and subordinating conjunctions.

9. Produce simple, compound, and complex sentences.

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Capitalize appropriate words in titles.

2. Use commas in addresses.

3. Use commas and quotation marks in dialogue.

4. Form and use possessives.

5. Use conventional spelling for high-frequency and other studied words and for adding suffixes to base words (e.g., sitting, smiled, cries, happiness).

6. Use spelling patterns and generalizations (e.g., word families, position-based spellings, syllable patterns, ending rules, meaningful word parts) in writing words.

7. Consult reference materials, including beginning dictionaries, as needed to check and correct spellings.

C. Use knowledge of language and its conventions when writing, speaking, reading, or listening.

1. Choose words and phrases for effect.

2. Recognize and observe differences between the conventions of spoken and written standard English.

D. Determine or clarify the meaning of unknown and multiple-meaning word and phrases based on grade 3 reading and content, choosing flexibly from a range of strategies.

1. Use sentence-level context as a clue to the meaning of a word or phrase.

2. Determine the meaning of the new word formed when a known affix is added to a known word (e.g., agreeable/disagreeable, comfortable/uncomfortable, care/careless, heat/preheat).

3. Use a known root word as a clue to the meaning of an unknown word with the same root (e.g., company, companion).

4. Use glossaries or beginning dictionaries, both print and digital, to determine or clarify the precise meaning of key words and phrases.

E. Demonstrate understanding of word relationships and nuances in word meanings.

1. Distinguish the literal and nonliteral meanings of words and phrases in context (e.g., take steps).

2. Identify real-life connections between words and their use (e.g., describe people who are friendly or helpful).

3. Distinguish shades of meaning among related words that describe states of mind or degrees of certainty (e.g., knew, believed, suspected, heard, wondered).

F. Acquire and use accurately grade-appropriate conversational, general academic, and domain-specific words and phrases, including those that signal spatial and temporal relationships (e.g., After dinner that night we went looking for them).

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1026 (July 2016).

Chapter 11. Grade 4

§1101. Reading Literature

A. Refer to details and examples in a text when explaining what the text says explicitly and when drawing inferences from the text.

B. Determine a theme of a story, drama, or poem from details in the text; summarize the text.

C. Describe in-depth a character, setting, or event in a story or drama, drawing on specific details in the text (e.g., a character's thoughts, words, or actions).

D. Determine the meaning of words and phrases as they are used in a text, including figurative language such as metaphors and similes.

E. Explain major differences between poems, drama, and prose, and refer to the structural elements of poems (e.g., verse, rhythm, meter) and drama (e.g., casts of characters, settings, descriptions, dialogue, stage directions) when writing or speaking about a text.

F. Compare and contrast the point of view from which different stories are narrated, including the difference between first- and third-person narrations.

G. Make connections between the text of a story or drama and a visual or oral presentation of the text.

H. Compare and contrast the treatment of similar themes and topics (e.g., opposition of good and evil) and patterns of events (e.g., the quest) in stories, myths, and traditional literature from different cultures.

I. By the end of the year, read and comprehend literature, including stories, dramas, and poetry, in the grades 4-5 text complexity band proficiently, with scaffolding as needed at the high end of the range.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1027 (July 2016).

§1103. Reading Informational Text

A. Refer to details and examples in a text when explaining what the text says explicitly and when drawing inferences from the text.

B. Determine the main idea of a text and explain how it is supported by key details; summarize the text.

C. Explain events, procedures, ideas, or concepts in a historical, scientific, or technical text, including what happened and why, based on specific information in the text.

D. Determine the meaning of general academic and domain-specific words or phrases in a text relevant to a grade 4 topic or subject area.

E. Describe the overall structure (e.g., chronology, comparison, cause/effect, problem/solution) of events, ideas, concepts, or information in a text or part of a text.

F. Compare and contrast a firsthand and secondhand account of the same event or topic; describe the differences in focus and the information provided.

G. Interpret information presented visually, orally, or quantitatively (e.g., in charts, graphs, diagrams, timelines, animations, or interactive elements on Web pages) and explain how the information contributes to an understanding of the text in which it appears.

H. Explain how an author uses reasons and evidence to support particular points in a text.

I. Integrate information from two texts on the same topic in order to write or speak about the subject knowledgeably.

J. By the end of year, read and comprehend informational texts, including history/social studies, science, and technical texts, in the grades 4-5 text complexity band proficiently, with scaffolding as needed at the high end of the range.

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§1105. Reading Foundations

A. Know and apply grade-level phonics and word analysis skills in decoding words.

1. Use combined knowledge of letter-sound correspondences, syllabication patterns, and morphology (e.g., roots and affixes) to read accurately unfamiliar multisyllabic words in context and out of context.

B. Read with sufficient accuracy and fluency to support comprehension.

1. Read on-level text with purpose and understanding.

2. Read on-level prose and poetry orally with accuracy, appropriate rate, and expression on successive readings.

3. Use context to confirm or self-correct word recognition and understanding, rereading as necessary.

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§1107. Writing

A. Write opinion pieces on topics or texts, supporting a point of view with reasons and information.

1. Introduce a topic or text clearly, state an opinion, and create an organizational structure in which related ideas are grouped to support the writer's purpose.

2. Provide reasons that are supported by facts and details.

3. Link opinion and reasons using words and phrases (e.g., for instance, in order to, in addition).

4. Provide a concluding statement or section related to the opinion presented.

B. Write informative/explanatory texts to examine a topic and convey ideas and information clearly.

1. Introduce a topic clearly and group related information in paragraphs and sections; include formatting (e.g., headings), illustrations, and multimedia when useful to aiding comprehension.

2. Develop the topic with facts, definitions, concrete details, quotations, or other information and examples related to the topic.

3. Link ideas within categories of information using words and phrases (e.g., another, for example, also, because).

4. Use precise language and domain-specific vocabulary to inform about or explain the topic.

5. Provide a concluding statement or section related to the information or explanation presented.

C. Write narratives to develop real or imagined experiences or events using effective technique, descriptive details, and clear event sequences.

1. Orient the reader by establishing a situation and introducing a narrator and/or characters; organize an event sequence that unfolds naturally.

2. Use dialogue and description to develop experiences and events or show the responses of characters to situations.

3. Use a variety of transitional words and phrases to manage the sequence of events.

4. Use concrete words and phrases and sensory details to convey experiences and events precisely.

5. Provide a conclusion that follows from the narrated experiences or events.

D. Produce clear and coherent writing in which the development and organization are appropriate to task, purpose, and audience.

E. With guidance and support from peers and adults, develop and strengthen writing as needed by planning, revising, and editing.

F. With guidance and support from adults, produce and publish grade-appropriate writing using technology, either independently or in collaboration with others.

G. Conduct short research projects that build knowledge through investigation of different aspects of a topic.

H. Recall relevant information from experiences or gather relevant information from print and digital sources; take notes and categorize information, and provide a list of sources.

I. Draw relevant evidence from grade-appropriate literary or informational texts to support analysis, reflection, and research.

1. Apply grade 4 reading standards to literature (e.g., "Describe in-depth a character, setting, or event in a story or drama, drawing on specific details in the text [e.g., a character's thoughts, words, or actions]").

2. Apply grade 4 reading standards to informational texts (e.g., "Explain how an author uses reasons and evidence to support particular points in a text").

J. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1028 (July 2016).

§1109. Speaking and Listening

A. Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grade 4 topics and texts, building on others' ideas and expressing their own clearly.

1. Come to discussions prepared, having read or studied required material; explicitly draw on that preparation and other information known about the topic to explore ideas under discussion.

2. Follow agreed-upon rules for discussions and carry out assigned roles.

3. Pose and respond to specific questions to clarify or follow up on information, and make comments that contribute to the discussion and link to the remarks of others.

4. Review the key ideas expressed and explain their own ideas and understanding in light of the discussion.

B. Paraphrase portions of a text read aloud or information presented in diverse media and formats, including visually, quantitatively, and orally.

C. Identify the reasons and evidence a speaker provides to support particular points.

D. Report on a topic or text, tell a story, or recount an experience in an organized manner, using appropriate facts and relevant, descriptive details to support main ideas or themes; speak clearly at an understandable pace.

E. Add audio recordings and visual displays to presentations when appropriate to enhance the development of main ideas or themes.

F. Differentiate between contexts that call for formal English (e.g., presenting ideas) and situations where informal discourse is appropriate (e.g., small-group discussion); use formal English when appropriate to task, audience, and situation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1028 (July 2016).

§1111. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Use relative pronouns (who, whose, whom, which, that) and relative adverbs (where, when, why).

2. Form and use the progressive verb tenses (e.g., I was walking; I am walking; I will be walking).

3. Use modal auxiliaries (e.g., can, may, must) to convey various conditions.

4. Order adjectives within sentences according to conventional patterns (e.g., a small red bag rather than a red small bag).

5. Form and use prepositional phrases.

6. Produce complete sentences, recognizing and correcting inappropriate fragments and run-ons.

7. Correctly use frequently confused words (e.g., to, too, two; there, their).

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Use correct capitalization.

2. Use commas and quotation marks to mark direct speech and quotations from a text.

3. Use a comma before a coordinating conjunction in a compound sentence.

4. Spell grade-appropriate words correctly, consulting references as needed.

C. Use knowledge of language and its conventions when writing, speaking, reading, or listening.

1. Choose words and phrases to convey ideas precisely.

2. Choose punctuation for effect.

3. Differentiate between contexts that call for formal English (e.g., presenting ideas) and situations where informal discourse is appropriate (e.g., small-group discussions).

D. Determine or clarify the meaning of unknown and multiple-meaning words and phrases based on grade 4 reading and content, choosing flexibly from a range of strategies.

1. Use context (e.g., definitions, examples, or restatements in text) as a clue to the meaning of a word or phrase.

2. Use common, grade-appropriate Greek and Latin affixes and roots as clues to the meaning of a word (e.g., telegraph, photograph, autograph).

3. Consult reference materials (e.g., dictionaries, glossaries, thesauruses), both print and digital, to find the pronunciation and determine or clarify the precise meaning of key words and phrases.

E. Demonstrate understanding of figurative language, word relationships, and nuances in word meanings.

1. Explain the meaning of simple similes and metaphors (e.g., as pretty as a picture) in context.

2. Recognize and explain the meaning of common idioms, adages, and proverbs.

3. Demonstrate understanding of words by relating them to their opposites (antonyms) and to words with similar but not identical meanings (synonyms).

F. Acquire and use accurately grade-appropriate general academic and domain-specific words and phrases, including those that signal precise actions, emotions, or states of being (e.g., quizzed, whined, stammered) and that are basic to a particular topic (e.g., wildlife, conservation, and endangered when discussing animal preservation).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1028 (July 2016).

Chapter 13. Grade 5

§1301. Reading Literature

A. Quote accurately from a text when explaining what the text says explicitly and when drawing inferences from the text.

B. Determine a theme of a story, drama, or poem from details in the text, including how characters in a story or drama respond to challenges or how the speaker in a poem reflects upon a topic; summarize the text.

C. Compare and contrast two or more characters, settings, or events in a story or drama, drawing on specific details in the text (e.g., how characters interact).

D. Determine the meaning of words and phrases as they are used in a text, including figurative and connotative meanings.

E. Explain how a series of chapters, scenes, or stanzas fits together to provide the overall structure of a particular story, drama, or poem.

F. Describe how a narrator's or speaker's point of view influences how events are described.

G. Analyze how visual and multimedia elements contribute to the meaning, tone, or aesthetics of a text (e.g., graphic novel, multimedia presentation of fiction, folktale, myth, poem).

H. Compare and contrast stories in the same genre (e.g., mysteries and adventure stories) on their approaches to similar themes and topics.

I. By the end of the year, read and comprehend literature, including stories, dramas, and poetry, at the high end of the grades 4-5 text complexity band independently and proficiently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1029 (July 2016).

§1303. Reading Informational Text

A. Quote accurately from a text when explaining what the text says explicitly and when drawing inferences from the text.

B. Determine two or more main ideas of a text and explain how they are supported by key details; summarize the text.

C. Explain the relationships or interactions between two or more individuals, events, ideas, or concepts in a historical, scientific, or technical text based on specific information in the text.

D. Determine the meaning of general academic and domain-specific words and phrases in a text relevant to a grade 5 topic or subject area.

E. Compare and contrast the overall structure (e.g., chronology, comparison, cause/effect, problem/solution) of events, ideas, concepts, or information in two texts.

F. Analyze multiple accounts of the same event or topic, noting important similarities and differences in the point of view they represent.

G. Utilize information from multiple print or digital sources, demonstrating the ability to locate an answer to a question or to solve a problem efficiently.

H. Explain how an author uses reasons and evidence to support particular points in a text, identifying which reasons and evidence support which point(s).

I. Integrate information from several texts on the same topic in order to write or speak about the subject knowledgeably.

J. By the end of the year, read and comprehend informational texts, including history/social studies, science, and technical texts, at the high end of the grades 4-5 text complexity band independently and proficiently.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1029 (July 2016).

§1305. Reading Foundations

A. Know and apply grade-level phonics and word analysis skills in decoding words.

B. Use combined knowledge of letter-sound correspondences, syllabication patterns, and morphology (e.g., roots and affixes) to read accurately unfamiliar multisyllabic words in context and out of context.

C. Read with sufficient accuracy and fluency to support comprehension.

1. Read on-level text with purpose and understanding.

2. Read on-level prose and poetry orally with accuracy, appropriate rate, and expression on successive readings.

3. Use context to confirm or self-correct word recognition and understanding, rereading as necessary.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1030 (July 2016).

§1307. Writing

A. Write opinion pieces on topics or texts, supporting a point of view with reasons and information.

1. Introduce a topic or text clearly, state an opinion, and create an organizational structure in which ideas are logically grouped to support the writer's purpose.

2. Provide logically ordered reasons that are supported by facts and details.

3. Link opinion and reasons using words, phrases, and clauses (e.g., consequently, specifically).

4. Provide a concluding statement or section related to the opinion presented.

B. Write informative/explanatory texts to examine a topic and convey ideas and information clearly.

1. Introduce a topic clearly, provide a general observation and focus, and group related information logically; include formatting (e.g., headings), illustrations, and multimedia when useful to aiding comprehension.

2. Develop the topic with facts, definitions, concrete details, quotations, or other information and examples related to the topic.

3. Link ideas within and across categories of information using words, phrases, and clauses (e.g., in contrast, especially).

4. Use precise language and domain-specific vocabulary to inform about or explain the topic.

5. Provide a concluding statement or section related to the information or explanation presented.

C. Write narratives to develop real or imagined experiences or events using effective technique, descriptive details, and clear event sequences.

1. Orient the reader by establishing a situation and introducing a narrator and/or characters; organize an event sequence that unfolds naturally.

2. Use narrative techniques, such as dialogue, description, and pacing, to develop experiences and events or show the responses of characters to situations.

3. Use a variety of transitional words, phrases, and clauses to manage the sequence of events.

4. Use concrete words and phrases and sensory details to convey experiences and events precisely.

5. Provide a conclusion that follows from the narrated experiences or events.

D. Produce clear and coherent writing in which the development and organization are appropriate to task, purpose, and audience.

E. With guidance and support from peers and adults, develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a different approach.

F. With guidance and support from adults, produce and publish grade-appropriate writing using technology, either independently or in collaboration with others.

G. Conduct short research projects that use several sources to build knowledge through investigation of different aspects of a topic.

H. Recall relevant information from experiences or gather relevant information from print and digital sources; summarize or paraphrase information in notes and finished work, and provide a list of sources.

I. Draw relevant evidence from grade-appropriate literary or informational texts to support analysis, reflection, and research.

1. Apply grade 5 reading standards to literature (e.g., "Compare and contrast two or more characters, settings, or events in a story or a drama, drawing on specific details in the text [e.g., how characters interact]").

2. Apply grade 5 reading standards to informational texts (e.g., "Explain how an author uses reasons and evidence to support particular points in a text, identifying which reasons and evidence support which point[s]").

J. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1030 (July 2016).

§1309. Speaking and Listening

A. Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grade 5 topics and texts, building on others' ideas and expressing their own clearly.

1. Come to discussions prepared, having read or studied required material; explicitly draw on that preparation and other information known about the topic to explore ideas under discussion.

2. Follow agreed-upon rules for discussions and carry out assigned roles.

3. Pose and respond to specific questions by making comments that contribute to the discussion and elaborate on the remarks of others.

4. Review the key ideas expressed and draw conclusions in light of information and knowledge gained from the discussions.

B. Summarize a written text read aloud or information presented in diverse media and formats, including visually, quantitatively, and orally.

C. Summarize the points a speaker makes and explain how each claim is supported by reasons and evidence.

D. Report on a topic or text or present an opinion, sequencing ideas logically and using appropriate facts and relevant, descriptive details to support main ideas or themes; speak clearly at an understandable pace.

E. Include multimedia components (e.g., graphics, sound) and visual displays in presentations when appropriate to enhance the development of main ideas or themes.

F. Adapt speech to a variety of contexts and tasks, using formal English when appropriate to task, audience, and situation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1030 (July 2016).

§1311. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Explain the function of conjunctions, prepositions, and interjections in general and their function in particular sentences.

2. Form and use the perfect verb tenses (e.g., I had walked; I have walked; I will have walked).

3. Use verb tense to convey various times, sequences, states, and conditions.

4. Recognize and correct inappropriate shifts in verb tense.

5. Use correlative conjunctions (e.g., either/or, neither/nor).

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Use punctuation to separate items in a series.

2. Use a comma to separate an introductory element from the rest of the sentence.

3. Use a comma to set off the words yes and no (e.g., Yes, thank you), to set off a tag question from the rest of the sentence (e.g., It's true, isn't it?), and to indicate direct address (e.g., Is that you, Steve?).

4. Use underlining, quotation marks, or italics to indicate titles of works.

5. Spell grade-appropriate words correctly, consulting references as needed.

C. Use knowledge of language and its conventions when writing, speaking, reading, or listening.

1. Expand, combine, and reduce sentences for meaning, reader/listener interest, and style.

2. Compare and contrast the varieties of English (e.g., dialects, registers) used in stories, dramas, or poems.

D. Determine or clarify the meaning of unknown and multiple-meaning words and phrases based on grade 5 reading and content, choosing flexibly from a range of strategies.

1. Use context (e.g., cause/effect relationships and comparisons in text) as a clue to the meaning of a word or phrase.

2. Use common, grade-appropriate Greek and Latin affixes and roots as clues to the meaning of a word (e.g., photograph, photosynthesis).

3. Consult reference materials (e.g., dictionaries, glossaries, thesauruses), both print and digital, to find the pronunciation and determine or clarify the precise meaning of key words and phrases.

E. Demonstrate understanding of figurative language, word relationships, and nuances in word meanings.

1. Interpret figurative language, including similes and metaphors, in context.

2. Recognize and explain the meaning of common idioms, adages, and proverbs.

3. Use the relationship between particular words (e.g., synonyms, antonyms, homographs) to better understand each of the words.

4. Acquire and use accurately grade-appropriate general academic and domain-specific words and phrases, including those that signal contrast, addition, and other logical relationships (e.g., however, although, nevertheless, similarly, moreover, in addition).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1031 (July 2016).

Chapter 15. Grade 6

§1501. Reading Literature

A. Cite relevant textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text.

B. Determine a theme or central idea of a text and how it is conveyed through particular details; provide a summary of the text distinct from personal opinions or judgments.

C. Describe how a particular story or drama's plot unfolds in a series of episodes as well as how the characters respond or change as the plot moves toward a resolution.

D. Determine the meaning of words and phrases as they are used in a text, including figurative and connotative meanings; analyze the impact of a specific word choice on meaning and tone.

E. Analyze how a particular sentence, chapter, scene, or stanza fits into the overall structure of a text and contributes to the development of the theme, setting, or plot.

F. Compare and contrast the experience of reading a story, drama, or poem to listening to or viewing an audio, video, or live version of the text, including contrasting what they "see" and "hear" when reading the text to what they perceive when they listen or watch.

G. Compare and contrast texts in different forms or genres (e.g., stories and poems; historical novels and fantasy stories) in terms of their approaches to similar themes and topics.

H. By the end of the year, read and comprehend literature, including stories, dramas, and poems, in the grades 6-8 text complexity band proficiently, with scaffolding as needed at the high end of the range.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1031 (July 2016).

§1503. Reading Informational Text

A. Cite relevant textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text.

B. Determine a central idea of a text and how it is conveyed through particular details; provide a summary of the text distinct from personal opinions or judgments.

C. Analyze in detail how a key individual, event, or idea is introduced, illustrated, and elaborated in a text (e.g., through examples or anecdotes).

D. Determine the meaning of words and phrases as they are used in a text, including figurative, connotative, and technical meanings.

E. Analyze how a particular sentence, paragraph, chapter, or section fits into the overall structure of a text and contributes to the development of the ideas.

F. Determine an author's point of view or purpose in a text and explain how it is conveyed in the text.

G. Integrate information presented in different media or formats (e.g., visually, quantitatively) as well as in words to develop a coherent understanding of a topic or issue.

H. Trace and evaluate the argument and specific claims in a text, distinguishing claims that are supported by reasons and evidence from claims that are not.

I. Compare and contrast one author's presentation of events with that of another (e.g., a memoir written by and a biography on the same person).

J.By the end of the year, read and comprehend literary nonfiction in the grades 6-8 text complexity band proficiently, with scaffolding as needed at the high end of the range.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1032 (July 2016).

§1505. Writing

A. Write arguments to support claims with clear reasons and relevant evidence.

1. Introduce claim(s) and organize the reasons and evidence clearly.

2. Support claim(s) with clear reasons and relevant evidence, using credible sources and demonstrating an understanding of the topic or text.

3. Use words, phrases, and clauses to clarify the relationships among claim(s) and reasons.

4. Establish and maintain a formal style.

5. Provide a concluding statement or section that follows from the argument presented.

B. Write informative/explanatory texts to examine a topic and convey ideas, concepts, and information through the selection, organization, and analysis of relevant content.

1. Introduce a topic; organize ideas, concepts, and information, using strategies such as definition, classification, comparison/contrast, and cause/effect; include formatting (e.g., headings), graphics (e.g., charts, tables), and multimedia when useful to aiding comprehension.

2. Develop the topic with relevant facts, definitions, concrete details, quotations, or other information and examples.

3. Use appropriate transitions to clarify the relationships among ideas and concepts.

4. Use precise language and domain-specific vocabulary to inform about or explain the topic.

5. Establish and maintain a formal style.

6. Provide a concluding statement or section that follows from the information or explanation presented.

C. Write narratives to develop real or imagined experiences or events using effective technique, relevant descriptive details, and well-structured event sequences.

1. Engage and orient the reader by establishing a context and introducing a narrator and/or characters; organize an event sequence that unfolds naturally and logically.

2. Use narrative techniques, such as dialogue, pacing, and description, to develop experiences, events, and/or characters.

3. Use a variety of transition words, phrases, and clauses to convey sequence and signal shifts from one time frame or setting to another.

4. Use precise words and phrases, relevant descriptive details, and sensory language to convey experiences and events.

5. Provide a conclusion that follows from the narrated experiences or events.

D. Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

E. With some guidance and support from peers and adults, develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a different approach.

F. Produce and publish grade-appropriate writing using technology, either independently or in collaboration with others.

G. Conduct short research projects to answer a question, drawing on several sources and refocusing the inquiry when appropriate.

H. Gather relevant information from multiple print and digital sources; assess the credibility of each source; and quote or paraphrase the data and conclusions of others while avoiding plagiarism and providing basic bibliographic information for sources.

I. Draw relevant evidence from grade-appropriate literary or informational texts to support analysis, reflection, and research.

1. Apply grade 6 reading standards to literature (e.g., "Compare and contrast texts in different forms or genres [e.g., stories and poems; historical novels and fantasy stories] in terms of their approaches to similar themes and topics").

2. Apply grade 6 reading standards to literary nonfiction (e.g., "Trace and evaluate the argument and specific claims in a text, distinguishing claims that are supported by reasons and evidence from claims that are not").

J. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1032 (July 2016).

§1507. Speaking and Listening

A. Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grade 6 topics, texts, and issues, building on others' ideas and expressing their own clearly.

1. Come to discussions prepared, having read or studied required material; explicitly draw on that preparation by referring to evidence on the topic, text, or issue to probe and reflect on ideas under discussion.

2. Follow rules for collegial discussions, set specific goals and deadlines, and define individual roles as needed.

3. Pose and respond to specific questions with elaboration and detail by making comments that contribute to the topic, text, or issue under discussion.

4. Review the key ideas expressed and demonstrate understanding of multiple perspectives through reflection and paraphrasing.

B. Interpret information presented in diverse media and formats (e.g., visually, quantitatively, orally) and explain how it contributes to a topic, text, or issue under study.

C. Delineate a speaker's argument and specific claims, distinguishing claims that are supported by reasons and evidence from claims that are not.

D. Present claims and findings, sequencing ideas logically and using pertinent descriptions, facts, and details to accentuate

E. Include multimedia components (e.g., graphics, images, music, sound) and visual displays in presentations to clarify information.

F. Adapt speech to a variety of contexts, audiences, and tasks, demonstrating command of formal English when indicated or appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1033 (July 2016).

§1509. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Ensure that pronouns are in the proper case (subjective, objective, possessive).

2. Use intensive pronouns (e.g., myself, ourselves).

3. Recognize and correct inappropriate shifts in pronoun number and person.

4. Recognize and correct vague pronouns (i.e., ones with unclear or ambiguous antecedents).

5. Recognize variations from standard English in their own and others' writing and speaking, and identify and use strategies to improve expression in conventional language.

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Use punctuation (commas, parentheses, dashes) to set off nonrestrictive/parenthetical elements.

2. Spell correctly.

C. Use knowledge of language and its conventions when writing, speaking, reading, or listening.

1. Vary sentence patterns for meaning, reader/listener interest, and style.

2. Maintain consistency in style and tone.

D. Determine or clarify the meaning of unknown and multiple-meaning words and phrases based on grade 6 reading and content, choosing flexibly from a range of strategies.

1. Use context (e.g., the overall meaning of a sentence or paragraph; a word's position or function in a sentence) as a clue to the meaning of a word or phrase.

2. Use common, grade-appropriate Greek or Latin affixes and roots as clues to the meaning of a word (e.g., audience, auditory, audible).

3. Consult reference materials (e.g., dictionaries, glossaries, thesauruses), both print and digital, to find the pronunciation of a word or determine or clarify its precise meaning or its part of speech.

4. Verify the preliminary determination of the meaning of a word or phrase (e.g., by checking the inferred meaning in context or in a dictionary).

E. Demonstrate understanding of figurative language, word relationships, and nuances in word meanings.

1. Interpret figures of speech (e.g., personification) in context.

2. Use the relationship between particular words (e.g., cause/effect, part/whole, item/category) to better understand each of the words.

3. Distinguish among the connotations (associations) of words with similar denotations (definitions) (e.g., stingy, scrimping, economical, unwasteful, thrifty).

F. Acquire and use accurately grade-appropriate general academic and domain-specific words and phrases; gather vocabulary knowledge when considering a word or phrase important to comprehension or expression.

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Chapter 17. Grade 7

§1701. Reading Literature

A. Cite several pieces of relevant textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text.

B. Determine a theme or central idea of a text and analyze its development over the course of the text; provide an objective summary of the text.

C. Analyze how particular elements of a story or drama interact (e.g., how setting shapes the characters or plot).

D. Determine the meaning of words and phrases as they are used in a text, including figurative and connotative meanings; analyze the impact of rhymes and other repetitions of sounds (e.g., alliteration) on a specific verse or stanza of a poem or section of a story or drama.

E. Analyze how the overall form or structure of a text (e.g., drama, poetry, narrative, short story) contributes to its meaning.

F. Analyze how an author develops and contrasts the points of view of different characters or narrators in a text.

G. Compare and contrast a written story, drama, or poem to its audio, filmed, staged, or multimedia version, analyzing the effects of techniques unique to each medium (e.g., lighting, sound, color, or camera focus and angles in a film).

H. Compare and contrast a fictional portrayal of a time, place, or character and a historical account of the same period as a means of understanding how authors of fiction use or alter history.

I. By the end of the year, read and comprehend literature, including stories, dramas, and poems, in the grades 6-8 text complexity band proficiently, with scaffolding as needed at the high end of the range.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1033 (July 2016).

§1703. Reading Informational Text

A. Cite several pieces of relevant textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text.

B. Determine two or more central ideas in a text and analyze their development over the course of the text; provide an objective summary of the text.

C. Analyze the interactions between individuals, events, and ideas in a text (e.g., how ideas influence individuals or events, or how individuals influence ideas or events).

D. Determine the meaning of words and phrases as they are used in a text, including figurative, connotative, and technical meanings; analyze the impact of a specific word choice on meaning and tone.

E. Analyze the structure an author uses to organize a text, including how the major sections contribute to the whole and to the development of the ideas.

F. Determine an author's point of view or purpose in a text and analyze how the author distinguishes his or her position from that of others.

G. Compare and contrast a text to an audio, video, or multimedia version of the text, analyzing each medium's portrayal of the subject (e.g., how the delivery of a speech affects the impact of the words).

H. Trace and evaluate the argument and specific claims in a text, assessing whether the reasoning is sound and the evidence is relevant and sufficient to support the claims.

I. Analyze how two or more authors writing about the same topic shape their presentations of key information by emphasizing different evidence or advancing different interpretations of facts.

J. By the end of the year, read and comprehend literary nonfiction in the grades 6-8 text complexity band proficiently, with scaffolding as needed at the high end of the range.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1034 (July 2016).

§1705. Writing

A. Write arguments to support claims with clear reasons and relevant evidence.

1. Introduce claim(s), acknowledge alternate or opposing claims, and organize the reasons and evidence logically.

2. Support claim(s) with logical reasoning and relevant evidence, using accurate, credible sources and demonstrating an understanding of the topic or text.

3. Use words, phrases, and clauses to create cohesion and clarify the relationships among claim(s), reasons, and evidence.

4. Establish and maintain a formal style.

5. Provide a concluding statement or section that follows from and supports the argument presented.

B. Write informative/explanatory texts to examine a topic and convey ideas, concepts, and information through the selection, organization, and analysis of relevant content.

1. Introduce a topic clearly, previewing what is to follow; organize ideas, concepts, and information, using strategies such as definition, classification, comparison/contrast, and cause/effect; include formatting (e.g., headings), graphics (e.g., charts, tables), and multimedia when useful to aiding comprehension.

2. Develop the topic with relevant facts, definitions, concrete details, quotations, or other information and examples.

3. Use appropriate transitions to create cohesion and clarify the relationships among ideas and concepts.

4. Use precise language and domain-specific vocabulary to inform about or explain the topic.

5. Establish and maintain a formal style.

6. Provide a concluding statement or section that follows from and supports the information or explanation presented.

C. Write narratives to develop real or imagined experiences or events using effective technique, relevant descriptive details, and well-structured event sequences.

1. Engage and orient the reader by establishing a context and point of view and introducing a narrator and/or characters; organize an event sequence that unfolds naturally and logically.

2. Use narrative techniques, such as dialogue, pacing, and description, to develop experiences, events, and/or characters.

3. Use a variety of transition words, phrases, and clauses to convey sequence and signal shifts from one time frame or setting to another.

4. Use precise words and phrases, relevant descriptive details, and sensory language to capture the action and convey experiences and events.

5. Provide a conclusion that follows from and reflects on the narrated experiences or events.

D. Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

E. With some guidance and support from peers and adults, develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a different approach, focusing on how well purpose and audience have been addressed.

F. Use technology, including the Internet, to produce and publish writing and link to and cite sources as well as to interact and collaborate with others, including linking to and citing sources.

G. Conduct short research projects to answer a question, drawing on several sources and generating additional related, focused questions for further research and investigation.

H. Gather relevant information from multiple print and digital sources, using search terms effectively; assess the credibility and accuracy of each source; and quote or paraphrase the data and conclusions of others while avoiding plagiarism and following a standard format for citation.

I. Draw relevant evidence from grade-appropriate literary or informational texts to support analysis, reflection, and research.

1. Apply grade 7 reading standards to literature (e.g., "Compare and contrast a fictional portrayal of a time, place, or character and a historical account of the same period as a means of understanding how authors of fiction use or alter history").

2. Apply grade 7 reading standards to literary nonfiction (e.g., "Trace and evaluate the argument and specific claims in a text, assessing whether the reasoning is sound and the evidence is relevant and sufficient to support the claims").

3. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1034 (July 2016).

§1707. Speaking and Listening

A. Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grade 7 topics, texts, and issues, building on others' ideas and expressing their own clearly.

1. Come to discussions prepared, having read or researched material under study; explicitly draw on that preparation by referring to evidence on the topic, text, or issue to probe and reflect on ideas under discussion.

2. Follow rules for collegial discussions, track progress toward specific goals and deadlines, and define individual roles as needed.

3. Pose questions that elicit elaboration, and respond to others' questions and comments with relevant observations and ideas that bring the discussion back on topic as needed.

4. Acknowledge new information expressed by others and, when warranted, modify their own views.

B. Analyze the main ideas and supporting details presented in diverse media and formats (e.g., visually, quantitatively, orally) and explain how the ideas clarify a topic, text, or issue under study.

C. Delineate a speaker's argument and specific claims, evaluating the soundness of the reasoning and the relevance and sufficiency of the evidence.

D. Present claims and findings, emphasizing salient points in a focused, coherent manner with pertinent descriptions, facts, details, and examples; use appropriate eye contact, adequate volume, and clear pronunciation.

E. Include multimedia components and visual displays in presentations to clarify claims and findings and emphasize salient points.

F. Adapt speech to a variety of contexts, audiences, and tasks, demonstrating command of formal English when indicated or appropriate.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1035 (July 2016).

§1709. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Explain the function of phrases and clauses in general and their function in specific sentences.

2. Choose among simple, compound, complex, and compound-complex sentences to signal differing relationships among ideas.

3. Place phrases and clauses within a sentence, recognizing and correcting misplaced and dangling modifiers.

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Use a comma to separate coordinate adjectives (e.g., "It was a fascinating, enjoyable movie", but not "He wore an old[,] green shirt".).

2. Spell correctly.

C. Use knowledge of language and its conventions when writing, speaking, reading, or listening.

1. Choose language that expresses ideas precisely and concisely, recognizing and eliminating wordiness and redundancy.

D. Determine or clarify the meaning of unknown and multiple-meaning words and phrases based on grade 7 reading and content, choosing flexibly from a range of strategies.

1. Use context (e.g., the overall meaning of a sentence or paragraph; a word's position or function in a sentence) as a clue to the meaning of a word or phrase.

2. Use common, grade-appropriate Greek or Latin affixes and roots as clues to the meaning of a word (e.g., belligerent, bellicose, rebel).

3. Consult general and specialized reference materials (e.g., dictionaries, glossaries, thesauruses), both print and digital, to find the pronunciation of a word or determine or clarify its precise meaning or its part of speech.

4. Verify the preliminary determination of the meaning of a word or phrase (e.g., by checking the inferred meaning in context or in a dictionary).

E. Demonstrate understanding of figurative language, word relationships, and nuances in word meanings.

1. Interpret figures of speech (e.g., literary, biblical, and mythological allusions) in context.

2. Use the relationship between particular words (e.g., synonym/antonym, analogy) to better understand each of the words.

3. Distinguish among the connotations (associations) of words with similar denotations (definitions) (e.g., refined, respectful, polite, diplomatic, condescending).

F. Acquire and use accurately grade-appropriate general academic and domain-specific words and phrases; gather vocabulary knowledge when considering a word or phrase important to comprehension or expression.

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Chapter 19. Grade 8

§1901. Reading Literature

A. Cite the relevant textual evidence that most strongly supports an analysis of what the text says explicitly as well as inferences drawn from the text.

B. Determine a theme or central idea of a text and analyze its development over the course of the text, including its relationship to the characters, setting, and plot; provide an objective summary of the text.

C. Analyze how particular lines of dialogue or incidents in a story or drama propel the action, reveal aspects of a character, or provoke a decision.

D. Determine the meaning of words and phrases as they are used in a text, including figurative and connotative meanings; analyze the impact of specific word choices on meaning and tone, including analogies or allusions to other texts.

E. Compare and contrast the structure of two or more texts and analyze how the differing structure of each text contributes to its meaning and style.

F. Analyze how differences in the points of view of the characters and the audience or reader (e.g., created through the use of dramatic irony) create such effects as suspense or humor.

G. Analyze the extent to which non-print media (e.g., film, drama, live production, art) connects to or departs from the text or script, evaluating artistic choices.

H. Analyze how a modern work of fiction draws on themes, patterns of events, or character types from myths, traditional stories, or foundational religious works; describe how the material is rendered new.

I. By the end of the year, read and comprehend literature, including stories, dramas, and poems, at the high end of grades 6-8 text complexity band independently and proficiently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1035 (July 2016).

§1903. Reading Informational Text

A. Cite the relevant textual evidence that most strongly supports an analysis of what the text says explicitly as well as inferences drawn from the text.

B. Determine a central idea of a text and analyze its development over the course of the text, including its relationship to supporting ideas; provide an objective summary of the text.

C. Analyze how a text makes connections among and distinctions between individuals, ideas, or events (e.g., through comparisons, analogies, or categories).

D. Determine the meaning of words and phrases as they are used in a text, including figurative, connotative, and technical meanings; analyze the impact of specific word choices on meaning and tone, including analogies or allusions to other texts.

E. Analyze in detail the structure of a specific paragraph in a text, including the role of particular sentences in developing and refining a key concept.

F. Determine an author's point of view or purpose in a text and analyze how the author acknowledges and responds to conflicting evidence or viewpoints.

G. Evaluate the advantages and disadvantages of using different mediums (e.g., print or digital text, video, multimedia) to present a particular topic or idea.

H. Delineate and evaluate the argument and specific claims in a text, assessing whether the reasoning is sound and the evidence is relevant and sufficient; recognize when irrelevant evidence is introduced.

I. Analyze a case in which two or more texts provide conflicting information on the same topic, and identify where the texts disagree on matters of fact or interpretation.

J. By the end of the year, read and comprehend literary nonfiction at the high end of the grades 6-8 text complexity band independently and proficiently.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1036 (July 2016).

§1905. Writing

A. Write arguments to support claims with clear reasons and relevant evidence.

1. Introduce claim(s), acknowledge and distinguish the claim(s) from alternate or opposing claims, and organize the reasons and evidence logically.

2. Support claim(s) with logical reasoning and relevant evidence, using accurate, credible sources and demonstrating an understanding of the topic or text.

3. Use words, phrases, and clauses to create cohesion and clarify the relationships among claim(s), counterclaims, reasons, and evidence.

4. Establish and maintain a formal style.

5. Provide a concluding statement or section that follows from and supports the argument presented.

B. Write informative/explanatory texts to examine a topic and convey ideas, concepts, and information through the selection, organization, and analysis of relevant content.

1. Introduce a topic clearly, previewing what is to follow; organize ideas, concepts, and information into broader categories; include formatting (e.g., headings), graphics (e.g., charts, tables), and multimedia when useful to aiding comprehension.

2. Develop the topic with relevant, well-chosen facts, definitions, concrete details, quotations, or other information and examples.

3. Use appropriate and varied transitions to create cohesion and clarify the relationships among ideas and concepts.

4. Use precise language and domain-specific vocabulary to inform about or explain the topic.

5. Establish and maintain a formal style.

6. Provide a concluding statement or section that follows from and supports the information or explanation presented.

C. Write narratives to develop real or imagined experiences or events using effective technique, relevant descriptive details, and well-structured event sequences.

1. Engage and orient the reader by establishing a context and point of view and introducing a narrator and/or characters; organize an event sequence that unfolds naturally and logically.

2. Use narrative techniques, such as dialogue, pacing, description, and reflection, to develop experiences, events, and/or characters.

3. Use a variety of transition words, phrases, and clauses to convey sequence, signal shifts from one time frame or setting to another, and show the relationships among experiences and events.

4. Use precise words and phrases, relevant descriptive details, and sensory language to capture the action and convey experiences and events.

5. Provide a conclusion that follows from and reflects on the narrated experiences or events.

D. Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

E. With some guidance and support from peers and adults, develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a different approach, focusing on how well purpose and audience have been addressed.

F. Use technology, including the Internet, to produce and publish writing and present the relationships between information and ideas efficiently as well as to interact and collaborate with others.

G. Conduct short research projects to answer a question (including a self-generated question), drawing on several sources and generating additional related, focused questions that allow for multiple avenues of exploration.

H. Gather relevant information from multiple print and digital sources, using search terms effectively; assess the credibility and accuracy of each source; and quote or paraphrase the data and conclusions of others while avoiding plagiarism and following a standard format for citation.

I. Draw relevant evidence from grade-appropriate literary or informational texts to support analysis, reflection, and research.

1. Apply grade 8 reading standards to literature (e.g., "Analyze how a modern work of fiction draws on themes, patterns of events, or character types from myths, traditional stories, historical fiction, or foundational religious works, including describing how the material is rendered new").

2. Apply grade 8 reading standards to literary nonfiction (e.g., "Delineate and evaluate the argument and specific claims in a text, assessing whether the reasoning is sound and the evidence is relevant and sufficient; recognize when irrelevant evidence is introduced").

J. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

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§1907. Speaking and Listening

A. Engage effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grade 8 topics, texts, and issues, building on others' ideas and expressing their own clearly.

1. Come to discussions prepared, having read or researched material under study; explicitly draw on that preparation by referring to evidence on the topic, text, or issue to probe and reflect on ideas under discussion.

2. Follow rules for collegial discussions and decision-making, track progress toward specific goals and deadlines, and define individual roles as needed.

3. Pose questions that connect the ideas of several speakers and respond to others' questions and comments with relevant evidence, observations, and ideas.

4. Acknowledge new information expressed by others, and, when warranted, qualify or justify their own views in light of the evidence presented.

B. Analyze the purpose of information presented in diverse media and formats (e.g., visually, quantitatively, orally) and evaluate the motives (e.g., social, commercial, political) behind its presentation.

C. Delineate a speaker's argument and specific claims, evaluating the soundness of the reasoning and relevance and sufficiency of the evidence and identifying when irrelevant evidence is introduced.

D. Present claims and findings, emphasizing salient points in a focused, coherent manner with relevant evidence, sound valid reasoning, and well-chosen details; use appropriate eye contact, adequate volume, and clear pronunciation.

E. Integrate multimedia and visual displays into presentations to clarify information, strengthen claims and evidence, and add interest.

F. Adapt speech to a variety of contexts, audiences, and tasks, demonstrating command of formal English when indicated or appropriate.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1037 (July 2016).

§1909. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Explain the function of verbals (gerunds, participles, infinitives) in general and their function in particular sentences.

2. Form and use verbs in the active and passive voice.

3. Form and use verbs in the indicative, imperative, interrogative, conditional, and subjunctive mood.

4. Recognize and correct inappropriate shifts in verb voice and mood.

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Use punctuation (comma, ellipsis, dash) to indicate a pause or break.

2. Use an ellipsis to indicate an omission.

3. Spell correctly.

C. Use knowledge of language and its conventions when writing, speaking, reading, or listening.

1. Use verbs in the active and passive voice and in the conditional and subjunctive mood to achieve particular effects (e.g., emphasizing the actor or the action; expressing uncertainty or describing a state contrary to fact).

D. Determine or clarify the meaning of unknown and multiple-meaning words or phrases based on grade 8 reading and content, choosing flexibly from a range of strategies.

1. Use context (e.g., the overall meaning of a sentence or paragraph; a word's position or function in a sentence) as a clue to the meaning of a word or phrase.

2. Use common, grade-appropriate Greek or Latin affixes and roots as clues to the meaning of a word (e.g., precede, recede, secede).

3. Consult general and specialized reference materials (e.g., dictionaries, glossaries, thesauruses), both print and digital, to find the pronunciation of a word or determine or clarify its precise meaning or its part of speech.

4. Verify the preliminary determination of the meaning of a word or phrase (e.g., by checking the inferred meaning in context or in a dictionary).

E. Demonstrate understanding of figurative language, word relationships, and nuances in word meanings.

1. Interpret figures of speech (e.g., verbal irony, puns) in context.

2. Use the relationship between particular words to better understand each of the words.

3. Distinguish among the connotations (associations) of words with similar denotations (definitions) (e.g., bullheaded, willful, firm, persistent, resolute).

F. Acquire and use accurately grade-appropriate general academic and domain-specific words and phrases; gather vocabulary knowledge when considering a word or phrase important to comprehension or expression.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1037 (July 2016).

Chapter 21. Grades 9 and 10

§2101. Reading Literature

A. Cite relevant and thorough textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text.

B. Determine a theme or central idea of a text and analyze in detail its development over the course of the text, including how it emerges and is shaped and refined by specific details; provide an objective summary of the text.

C. Analyze how complex characters (e.g., those with multiple or conflicting motivations) develop over the course of a text, interact with other characters, and advance the plot or develop the theme.

D. Determine the meaning of words and phrases as they are used in the text, including figurative and connotative meanings; analyze the cumulative impact of specific word choices on meaning and tone (e.g., how the language evokes a sense of time and place; how it sets a formal or informal tone).

E. Analyze how an author's choices concerning how to structure a text, order events within it (e.g., parallel plots), and manipulate time (e.g., pacing, flashbacks) create such effects as mystery, tension, or surprise.

F. Analyze a particular point of view or cultural experience reflected in works of literature, drawing on a wide reading of world literature.

G. Analyze the representation of a subject or a key scene in two different artistic mediums, including what is emphasized or absent in each treatment (e.g., Auden's poem "Musée des Beaux Arts" and Breughel's painting "Landscape with the Fall of Icarus").

H. Analyze how an author draws on and transforms source material in a specific work (e.g., how Shakespeare treats a theme or topic from Ovid or the Bible or how a later author draws on a play by Shakespeare).

I. By the end of grade 9, read and comprehend literature, including stories, dramas, and poems, in the grades 9-10 text complexity band proficiently, with scaffolding as needed at the high end of the range.

J. By the end of grade 10, read and comprehend literature, including stories, dramas, and poems, at the high end of the grades 9-10 text complexity band independently and proficiently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1038 (July 2016).

§2103. Reading Informational Text

A. Determine a central idea of a text and analyze its development over the course of the text, including how it emerges and is shaped and refined by specific details; provide an objective summary of the text.

B. Analyze how the author unfolds an analysis or series of ideas or events, including the order in which the points are made, how they are introduced and developed, and the connections that are drawn between them.

C. Determine the meaning of words and phrases as they are used in a text, including figurative, connotative, and technical meanings; analyze the cumulative impact of specific word choices on meaning and tone (e.g., how the language of a court opinion differs from that of a newspaper).

D. Analyze in detail how an author's ideas or claims are developed and refined by particular sentences, paragraphs, or larger portions of a text (e.g., a section or chapter).

E. Determine an author's point of view or purpose in a text and analyze how an author uses rhetoric to advance that point of view or purpose.

F. Analyze various accounts of a subject told in different mediums (e.g., a person's life story in both print and multimedia), determining which details are emphasized in each account.

G. Delineate and evaluate the argument and specific claims in a text, assessing whether the reasoning is valid and the evidence is relevant and sufficient; identify false statements and fallacious reasoning.

H. Analyze seminal U.S. documents of historical and literary significance (e.g., Washington's Farewell Address, the Gettysburg Address, Roosevelt's Four Freedoms speech, King's "Letter from Birmingham Jail"), including how they address related themes and concepts.

I. By the end of grade 9, read and comprehend literary nonfiction in the grades 9-10 text complexity band proficiently, with scaffolding as needed at the high end of the range.

J. By the end of grade 10, read and comprehend literary nonfiction at the high end of the grades 9-10 text complexity band independently and proficiently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1038 (July 2016).

§2105. Writing

A. Write arguments to support claims in an analysis of substantive topics or texts, using valid reasoning and relevant and sufficient evidence.

1. Introduce precise claim(s), distinguish the claim(s) from alternate or opposing claims, and create an organization that establishes clear relationships among claim(s), counterclaims, reasons, and evidence.

2. Develop claim(s) and counterclaims fairly, supplying evidence for each while pointing out the strengths and limitations of both in a manner that anticipates the audience's knowledge level and concerns.

3. Use words, phrases, and clauses to link the major sections of the text, create cohesion, and clarify the

relationships between claim(s) and reasons, between reasons and evidence, and between claim(s) and counterclaims.

4. Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.

5. Provide a concluding statement or section that follows from and supports the argument presented.

B. Write informative/explanatory texts to examine and convey complex ideas, concepts, and information clearly and accurately through the effective selection, organization, and analysis of content.

1. Introduce a topic; organize complex ideas, concepts, and information to make important connections and distinctions; include formatting (e.g., headings), graphics (e.g., figures, tables), and multimedia when useful to aiding comprehension.

2. Develop the topic with well-chosen, relevant, and sufficient facts, extended definitions, concrete details, quotations, or other information and examples appropriate to the audience's knowledge of the topic.

3. Use appropriate and varied transitions to link the major sections of the text, create cohesion, and clarify the relationships among complex ideas and concepts.

4. Use precise language and domain-specific vocabulary to manage the complexity of the topic.

5. Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.

6. Provide a concluding statement or section that follows from and supports the information or explanation presented (e.g., articulating implications or the significance of the topic).

C. Write narratives to develop real or imagined experiences or events using effective technique, well-chosen details, and well-structured event sequences.

1. Engage and orient the reader by setting out a problem, situation, or observation, establishing one or multiple point(s) of view, and introducing a narrator and/or characters; create a smooth progression of experiences or events.

2. Use narrative techniques, such as dialogue, pacing, description, reflection, and multiple plot lines, to develop experiences, mood, tone, events, and/or characters.

3. Use a variety of techniques to sequence events so that they build on one another to create a coherent whole.

4. Use precise words and phrases, telling details, and sensory language to convey a vivid picture of the experiences, events, setting, and/or characters.

5. Provide a conclusion (when appropriate to the genre) that follows from and reflects on what is experienced, observed, or resolved over the course of the narrative.

D. Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

E. Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a different approach, focusing on addressing what is most significant for a specific purpose and audience.

F. Use technology, including the Internet, to produce, publish, and update individual or shared writing products, taking advantage of technology's capacity to link to other information and to display information flexibly and dynamically.

G. Conduct short as well as more sustained research projects to answer a question (including a self-generated question) or solve a problem; narrow or broaden the inquiry when appropriate; synthesize multiple sources on the subject, demonstrating understanding of the subject under investigation.

H. Gather relevant information from multiple authoritative sources, using advanced searches effectively; assess the strengths and limitations of each source in terms of the task, purpose, and audience; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and overreliance on any one source and following a standard format for citation.

I. Draw relevant evidence from grade-appropriate literary or informational texts to support analysis, reflection, and research.

1. Apply grades 9-10 reading standards to literature (e.g., "Analyze how an author draws on and transforms source material in a specific work [e.g., how Shakespeare treats a theme or topic from Ovid or the Bible or how a later author draws on a play by Shakespeare]").

2. Apply grades 9-10 reading standards to literary nonfiction (e.g., "Delineate and evaluate the argument and specific claims in a text, assessing whether the reasoning is valid and the evidence is relevant and sufficient; identify false statements and fallacious reasoning").

J. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of tasks, purposes, and audiences.

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§2107. Speaking and Listening

A. Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grades 9-10 topics, texts, and issues, building on others' ideas and expressing their own clearly and persuasively.

1. Come to discussions prepared, having read and researched material under study; explicitly draw on that preparation by referring to evidence from texts and other research on the topic or issue to stimulate a thoughtful, well-reasoned exchange of ideas.

2. Work with peers to set rules for collegial discussions and decision-making (e.g., informal consensus, taking votes on key issues, presentation of alternate views), clear goals and deadlines, and individual roles as needed.

3. Propel conversations by posing and responding to questions that relate the current discussion to broader themes or larger ideas; actively incorporate others into the discussion; and clarify, verify, or challenge ideas and conclusions.

4. Respond thoughtfully to diverse perspectives, summarize points of agreement and disagreement, and, when warranted, qualify or justify their own views and understanding and make new connections in light of the evidence and reasoning presented.

B. Integrate multiple sources of information presented in diverse media or formats (e.g., visually, quantitatively, orally) evaluating the credibility and accuracy of each source.

C. Evaluate a speaker's point of view, reasoning, and use of evidence and rhetoric, identifying any fallacious reasoning or exaggerated or distorted evidence.

D. Present information, findings, and supporting evidence clearly, concisely, and logically such that listeners can follow the line of reasoning, and the organization, development, substance, and style are appropriate to purpose, audience, and task.

E. Make strategic use of digital media (e.g., textual, graphical, audio, visual, and interactive elements) in presentations to enhance understanding of findings, reasoning, and evidence and to add interest.

F. Adapt speech to a variety of contexts, audiences, and tasks, demonstrating command of formal English when indicated or appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1039 (July 2016).

§2109. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Use parallel structure.

2. Use various types of phrases (noun, verb, adjectival, adverbial, participial, prepositional, absolute) and clauses (independent, dependent; noun, relative, adverbial) to convey specific meanings and add variety and interest to writing or presentations.

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Use a semicolon (and perhaps a conjunctive adverb) to link two or more closely related independent clauses.

2. Use a colon to introduce a list or quotation.

3. Spell correctly.

C. Apply knowledge of language to understand how language functions in different contexts, to make effective choices for meaning or style, and to comprehend more fully when reading or listening.

1. Write and edit work so that it conforms to the guidelines in a style manual (e.g., *MLA Handbook*, *Publication Manual of the American Psychological Association* (APA), Turabian's *A Manual for Writers*) appropriate for the discipline and writing type.

D. Determine or clarify the meaning of unknown and multiple-meaning words and phrases based on grades 9-10 reading and content, choosing flexibly from a range of strategies.

1. Use context (e.g., the overall meaning of a sentence, paragraph, or text; a word's position or function in a sentence) as a clue to the meaning of a word or phrase.

2. Identify and correctly use patterns of word changes that indicate different meanings or parts of speech (e.g., analyze, analysis, analytical; advocate, advocacy).

3. Consult general and specialized reference materials (e.g., dictionaries, glossaries, thesauruses), both print and digital, to find the pronunciation of a word or determine or clarify its precise meaning, its part of speech, or its etymology.

4. Verify the preliminary determination of the meaning of a word or phrase (e.g., by checking the inferred meaning in context or in a dictionary).

E. Demonstrate understanding of figurative language, word relationships, and nuances in word meanings.

1. Interpret figures of speech (e.g., euphemism, oxymoron) in context and analyze their role in the text.

2. Analyze nuances in the meaning of words with similar denotations.

F. Acquire and use accurately general academic and domain-specific words and phrases, sufficient for reading, writing, speaking, and listening at the college- and career-readiness (CCR) level; demonstrate independence in gathering vocabulary knowledge when considering a word or phrase important to comprehension or expression.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1040 (July 2016).

Chapter 23. Grades 11 and 12

§2301. Reading Literature

A. Cite strong, thorough, and relevant textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text, including determining where the text leaves matters uncertain.

B. Determine two or more themes or central ideas of a text and analyze their development over the course of the text, including how they interact and build on one another to produce a complex account; provide an objective summary of the text.

C. Analyze the impact of the author's choices regarding how to develop and relate elements of a story or drama, including how the author develops characters and setting, builds the plot and subplots, creates themes, and develops mood/atmosphere.

D. Determine the meaning of words and phrases as they are used in the text, including figurative and connotative meanings; analyze the impact of specific word choices on meaning and tone, including words with multiple meanings or language that could be considered particularly fresh, engaging, or beautiful.

E. Analyze how an author's choices concerning how to structure specific parts of a text (e.g., the choice of where to begin or end a story, the choice to provide a comedic or tragic resolution) contribute to its overall structure and meaning as well as its aesthetic impact.

F. Analyze a case in which grasping point of view requires distinguishing what is directly stated in a text from what is really meant (e.g., satire, sarcasm, irony, or understatement).

G. Analyze multiple interpretations of a story, drama, or poem (e.g., recorded or live production of a play or recorded novel or poetry), evaluating how each version interprets the source text.

H. Demonstrate knowledge of foundational works of U.S. and world literature, including how two or more texts from the same period treat similar themes or topics.

I. By the end of grade 11, read and comprehend literature, including stories, dramas, and poems, in the grades 11-CCR text complexity band proficiently, with scaffolding as needed at the high end of the range.

J. By the end of grade 12, read and comprehend literature, including stories, dramas, and poems, at the high end of the grades 11-CCR text complexity band independently and proficiently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1040 (July 2016).

§2303. Reading Informational Text

A. Cite strong, thorough, and relevant textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text, including determining where the text leaves matters uncertain.

B. Determine two or more central ideas of a text and analyze their development over the course of the text, including how they interact and build on one another to provide a complex analysis; provide an objective summary of the text.

C. Analyze a complex set of ideas or sequence of events and explain how specific individuals, ideas, or events interact and develop over the course of the text.

D. Determine the meaning of words and phrases as they are used in a text, including figurative, connotative, and technical meanings; analyze how an author uses and refines the meaning of a key term or terms over the course of a text (e.g., how Madison defines faction in "Federalist No. 10").

E. Analyze and evaluate the effectiveness of the structure an author uses in his or her exposition or argument, including whether the structure makes points clear, convincing, and engaging.

F. Determine an author's point of view or purpose in a text in which the rhetoric is considered particularly effective, analyzing how style and content contribute to the student interpretation of power, persuasiveness, or beauty of the text.

G. Integrate and evaluate multiple sources of information presented in different media or formats (e.g., visually, quantitatively) as well as in words in order to address a question or solve a problem.

H. Delineate and evaluate the reasoning in seminal U.S. texts, including the application of constitutional principles and use of legal reasoning (e.g., in U.S. Supreme Court majority opinions and dissents) and the premises, purposes, and arguments in works of public advocacy (e.g., *The Federalist*, presidential addresses).

I. Analyze foundational U.S. and world documents of historical and literary significance for their themes, purposes, and rhetorical features.

J. By the end of grade 11, read and comprehend literary nonfiction in the grades 11-CCR text complexity band proficiently, with scaffolding as needed at the high end of the range.

K. By the end of grade 12, read and comprehend literary nonfiction at the high end of the grades 11-CCR text complexity band independently and proficiently.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17: 24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1041 (July 2016).

§2305. Writing Standards

A. Write arguments to support claims in an analysis of substantive topics or texts, using valid reasoning and relevant and sufficient evidence.

1. Introduce precise, knowledgeable claim(s), establish the significance of the claim(s), distinguish the claim(s) from alternate or opposing claims, and create an organization that logically sequences claim(s), counterclaims, reasons, and evidence.

2. Develop claim(s) and counterclaims fairly and thoroughly, supplying the most relevant evidence for each while pointing out the strengths and limitations of both in a manner that anticipates the audience's knowledge level, concerns, values, and possible biases.

3. Use words, phrases, and clauses as well as varied syntax to link the major sections of the text, create cohesion, and clarify the relationships between claim(s) and reasons, between reasons and evidence, and between claim(s) and counterclaims.

4. Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.

5. Provide a concluding statement or section that follows from and supports the argument presented.

B. Write informative/explanatory texts to examine and convey complex ideas, concepts, and information clearly and accurately through the effective selection, organization, and analysis of content.

1. Introduce a topic; organize complex ideas, concepts, and information so that each new element builds on that which precedes it to create a unified whole; include formatting (e.g., headings), graphics (e.g., figures, tables), and multimedia when useful to aiding comprehension.

2. Develop the topic thoroughly by selecting the most significant and relevant facts, extended definitions, concrete details, quotations, or other information and examples appropriate to the audience's knowledge of the topic.

3. Use appropriate and varied transitions and syntax to link the major sections of the text, create cohesion, and clarify the relationships among complex ideas and concepts.

4. Use precise language, domain-specific vocabulary, and techniques such as metaphor, simile, and analogy to manage the complexity of the topic.

5. Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.

6. Provide a concluding statement or section that follows from and supports the information or explanation presented (e.g., articulating implications or the significance of the topic).

C. Write narratives to develop real or imagined experiences or events using effective technique, well-chosen details, and well-structured event sequences.

1. Engage and orient the reader by setting out a problem, situation, or observation and its significance, establishing one or multiple point(s) of view, and introducing a narrator and/or characters; create a smooth progression of experiences or events.

2. Use narrative techniques, such as dialogue, pacing, description, reflection, and multiple plot lines, to develop experiences, mood, tone, events, and/or characters.

3. Use a variety of techniques to sequence events so that they build on one another to create a coherent whole and build toward a particular tone and outcome (e.g., a sense of mystery, suspense, growth, or resolution).

4. Use precise words and phrases, telling details, and figurative and sensory language to convey a vivid picture of the experiences, events, setting, mood, tone and/or characters.

5. Provide a conclusion (when appropriate to the genre) that follows from and reflects on what is experienced, observed, or resolved over the course of the narrative.

D. Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

E. Develop and strengthen writing as needed by planning, revising, editing, rewriting, or trying a new approach, focusing on addressing what is most significant for a specific purpose and audience.

F. Use technology, including the Internet, to produce, publish, and update individual or shared writing products in response to ongoing feedback, including new arguments or information.

G. Conduct short as well as more sustained research projects to answer a question (including a self-generated question) or solve a problem; narrow or broaden the inquiry when appropriate; synthesize multiple sources on the subject, demonstrating understanding of the subject under investigation.

H. Gather relevant information from multiple authoritative sources, using advanced searches effectively; assess the strengths and limitations of each source in terms of the task, purpose, and audience; integrate information into the text selectively to maintain the flow of ideas, avoiding plagiarism and overreliance on any one source and following a standard format for citation (e.g., MLA, APA).

I. Draw relevant evidence from grade-appropriate literary or informational texts to support analysis, reflection, and research.

1. Apply grades 11-12 reading standards to literature (e.g., "Demonstrate knowledge of foundational works of literature, including how two or more texts from the same period treat similar themes or topics").

2. Apply grades 11-12 reading standards to literary nonfiction (e.g., "Delineate and evaluate the reasoning in seminal U.S. and world texts, including the application of constitutional principles and use of legal reasoning and the premises, purposes, and arguments in works of public advocacy").

J. Write routinely over extended time frames (time for research, reflection, and revision) and shorter time frames (a single sitting or a day or two) for a range of tasks, purposes, and audiences.

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§2307. Speaking and Listening

A. Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grades 11-12 topics, texts, and issues, building on others' ideas and expressing their own clearly and persuasively.

1. Come to discussions prepared, having read and researched material under study; explicitly draw on that preparation by referring to evidence from texts and other research on the topic or issue to stimulate a thoughtful, well-reasoned exchange of ideas.

2. Work with peers to promote civil, democratic discussions and decision-making, set clear goals and deadlines, and establish individual roles as needed.

3. Propel conversations by posing and responding to questions that probe reasoning and evidence; ensure a hearing for a full range of positions on a topic or issue; clarify, verify, or challenge ideas and conclusions; and promote divergent and creative perspectives.

4. Respond thoughtfully to diverse perspectives; synthesize comments, claims, and evidence made on all sides of an issue; resolve contradictions when possible; and determine what additional information or research is required to deepen the investigation or complete the task.

B. Integrate multiple sources of information presented in diverse formats and media (e.g., visually, quantitatively, orally) in order to make informed decisions and solve problems, evaluating the credibility and accuracy of each source and noting any discrepancies among the data.

C. Evaluate a speaker's point of view, reasoning, and use of evidence and rhetoric, assessing the stance, premises, links among ideas, word choice, points of emphasis, and tone used.

D. Present information, findings, and supporting evidence, while respecting intellectual property; convey a clear and distinct perspective, such that listeners can follow the line of reasoning; address alternative or opposing perspectives; and use organization, development, substance, and style that are appropriate to purpose, audience, and a range of formal and informal tasks.

E. Make strategic use of digital media (e.g., textual, graphical, audio, visual, and interactive elements) in presentations to enhance understanding of findings, reasoning, and evidence and to add interest.

F. Adapt speech to a variety of contexts, audiences, and tasks, demonstrating a command of formal English when indicated or appropriate.

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§2309. Language

A. Demonstrate command of the conventions of standard English grammar and usage when writing or speaking.

1. Apply the understanding that usage is a matter of convention, can change over time, and is sometimes contested.

2. Resolve issues of complex or contested usage, consulting references (e.g., Merriam-Webster's Dictionary of English Usage, Garner's Modern American Usage) as needed.

B. Demonstrate command of the conventions of standard English capitalization, punctuation, and spelling when writing.

1. Observe hyphenation conventions.

2. Spell correctly.

C. Apply knowledge of language to understand how language functions in different contexts, to make effective choices for meaning or style, and to comprehend more fully when reading or listening.

1. Vary syntax for effect, consulting references (e.g., Tufte's Artful Sentences) for guidance as needed; apply an understanding of syntax to the study of complex texts when reading.

D. Determine or clarify the meaning of unknown and multiple-meaning words and phrases based on grades 11-12 reading and content, choosing flexibly from a range of strategies.

1. Use context (e.g., the overall meaning of a sentence, paragraph, or text; a word's position or function in a sentence) as a clue to the meaning of a word or phrase.

2. Identify and correctly use patterns of word changes that indicate different meanings or parts of speech (e.g., conceive, conception, conceivable).

3. Consult general and specialized reference materials (e.g., dictionaries, glossaries, thesauruses), both print and digital, to find the pronunciation of a word or determine or clarify its precise meaning, its part of speech, its etymology, or its standard usage.

4. Verify the preliminary determination of the meaning of a word or phrase (e.g., by checking the inferred meaning in context or in a dictionary).

E. Demonstrate understanding of figurative language, word relationships, and nuances in word meanings.

1. Interpret figures of speech (e.g., hyperbole, paradox) in context and analyze their role in the text.

2. Analyze nuances in the meaning of words with similar denotations.

F. Acquire and use accurately general academic and domain-specific words and phrases, sufficient for reading, writing, speaking, and listening at the college and career readiness level; demonstrate independence in gathering vocabulary knowledge when considering a word or phrase important to comprehension or expression.

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1607#019

RULE

Board of Elementary and Secondary Education

Bulletin 142—Louisiana Student Standards for Mathematics
(LAC 28:CLXXI.Chapters 1-25)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted *Bulletin 142—Louisiana Student Standards for Mathematics*. R.S. 17:24.4 requires BESE to develop state content standards for required subjects to be taught in the public elementary and secondary schools of this state. State content standards are statements that define what a student should know or be able to accomplish at the end of a specific time period or grade level or at the completion of a course. Act 329 of the 2015 Regular Session provided for the review and development of state content standards for English language arts (ELA) and mathematics. This bulletin contains the revised Louisiana student standards for mathematics.

Title 28
EDUCATION
Part CLXXI. Bulletin 142—Louisiana Student Standards for Mathematics

Chapter 1. General

§101. Introduction

A. The Louisiana student standards define what a public school student should know or be able to accomplish at the end of a specific time period or grade level or at the completion of a course. They represent the knowledge and skills needed for students to successfully transition from each grade and ultimately to postsecondary education and the workplace, as determined by content experts, elementary and secondary educators and school leaders, postsecondary education leaders, and business and industry leaders. The standards set forth what learning should be taught; local education agencies, their school leaders and classroom educators should determine how the standards should be taught, including the curricula and instructional materials that should be used to meet students' individual needs in mastering the standards.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1043 (July 2016).

Chapter 3. Kindergarten

§301. Counting and Cardinality

A. Count to 100 by ones and by tens.

B. Count forward beginning from a given number within the known sequence (instead of having to begin at 1).

C. Write numbers from 0 to 20. Represent a number of objects with a written numeral 0-20 (with 0 representing a count of no objects).

D. Understand the relationship between numbers and quantities; connect counting to cardinality.

1. When counting objects in standard order, say the number names as they relate to each object in the group, demonstrating one-to-one correspondence.

2. Understand that the last number name said tells the number of objects counted. The number of objects is the same regardless of their arrangement or the order in which they were counted.

3. Understand that each successive number name refers to a quantity that is one larger.

E. Count to answer "How many?" questions.

1. Count objects up to 20, arranged in a line, a rectangular array, or a circle.

2. Count objects up to 10 in a scattered configuration.

3. When given a number from 1-20, count out that many objects.

F. Identify whether the number of objects in one group is greater than, less than, or equal to the number of objects in another group, e.g., by using matching and counting strategies.

G. Compare two numbers between 1 and 10 presented as written numerals.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1043 (July 2016).

§303. Operations and Algebraic Thinking

A. Represent addition and subtraction with objects, fingers, mental images, drawings, sounds (e.g., claps), acting out situations, verbal explanations, expressions, or equations.

B. Solve addition and subtraction word problems, and add and subtract within 10 (e.g., by using objects or drawings to represent the problem).

C. Decompose numbers less than or equal to 10 into pairs in more than one way (e.g., by using objects or drawings), and record each decomposition by a drawing or equation (e.g., 5 = 2 + 3 and 5 = 4 + 1).

D. For any number from 1 to 9, find the number that makes 10 when added to the given number (e.g., by using objects or drawings), and record the answer with a drawing or equation.

E. Fluently add and subtract within 5.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1044 (July 2016).

§305. Number and Operations in Base Ten

A. Gain understanding of place value.

1. Understand that the numbers 11-19 are composed of 10 ones and 1, 2, 3, 4, 5, 6, 7, 8, or 9 ones.

2. Compose and decompose numbers 11 to 19 using place value (e.g., by using objects or drawings).

3. Record each composition or decomposition using a drawing or equation (e.g., 18 is 1 ten and 8 ones, 18 = 1 ten + 8 ones, 18 = 10 + 8).

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1044 (July 2016).

§307. Measurement and Data

A. Describe measurable attributes of objects, such as length or weight. Describe several measurable attributes of a single object

B. Directly compare two objects with a measurable attribute in common to see which object has "more of"/"less of" the attribute, and describe the difference.

Example: Directly compare the heights of two children and describe one child as taller/shorter.

C. Classify objects into given categories based on their attributes; count the number of objects in each category; sort categories by quantity.

D. Recognize pennies, nickels, dimes, and quarters by name and value (e.g., This is a nickel and it is worth 5 cents.)

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1044 (July 2016).

§309. Geometry

A. Describe objects in the environment using names of shapes, and describe the relative positions of these objects using terms such as above, below, beside, in front of, behind, and next to.

B. Correctly name shapes regardless of their orientations or overall size.

C. Identify shapes as two-dimensional (lying in a plane, "flat") or three-dimensional ("solid").

D. Analyze and compare two- and three-dimensional shapes, in different sizes and orientations, using informal language to describe their similarities, differences, parts (e.g., number of sides and vertices/"corners"), and other attributes (e.g., having sides of equal length).

E. Model shapes in the world by building shapes from components (e.g., sticks and clay balls) and drawing shapes.

F. Compose simple shapes to form larger shapes.

Example: "Can you join these two triangles with full sides touching to make a rectangle?"

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1044 (July 2016).

Chapter 5. Grade 1

§501. Operations and Algebraic Thinking

A. Use addition and subtraction within 20 to solve word problems involving situations of adding to, taking from, putting together, taking apart, and comparing, with unknowns in all positions (e.g., by using objects, drawings, and equations with a symbol for the unknown number to represent the problem).

B. Solve word problems that call for addition of three whole numbers whose sum is less than or equal to 20, e.g., by using objects, drawings, and equations with a symbol for the unknown number to represent the problem.

C. Apply properties of operations to add and subtract.

Examples: If 8 + 3 = 11 is known, then 3 + 8 = 11 is also known (commutative property of addition). To add 2 + 6 + 4, the second two numbers can be added to make a 10, so 2 + 6 + 4 = 2 + 10 = 12 (associative property of addition).

D. Understand subtraction as an unknown-addend problem.

Example: Subtract 10 - 8 by finding the number that makes 10 when added to 8.

E. Relate counting to addition and subtraction (e.g., by counting on 2 to add 2).

F. Add and subtract within 20, demonstrating fluency for addition and subtraction within 10. Use mental strategies such as counting on; making ten (e.g., 8 + 6 = 8 + 2 + 4 = 10 + 4 = 14); decomposing a number leading to a ten (e.g., 13 - 4 = 13 - 3 - 1 = 10 - 1 = 9); using the relationship between addition and subtraction (e.g., knowing that 8 + 4 = 12, one knows 12 - 8 = 4); and creating equivalent but easier or known sums (e.g., adding 6 + 7 by creating the known equivalent 6 + 6 + 1 = 12 + 1 = 13).

G. Understand the meaning of the equal sign, and determine if equations involving addition and subtraction are true or false.

Example, which of the following equations are true and which are false? 6 = 6, 7 = 8 - 1, 5 + 2 = 2 + 5, 4 + 1 = 5 + 2.

H. Determine the unknown whole number in an addition or subtraction equation relating three whole numbers.

Example: Determine the unknown number that makes the equation true in each of the equations 8 + ? = 11, 5 = □ - 3, 6 + 6 = □)

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1044 (July 2016).

§503. Number and Operations in Base Ten

A. Count to 120, starting at any number less than 120. In this range, read and write numerals and represent a number of objects with a written numeral.

B. Understand that the two digits of a two-digit number represent amounts of tens and ones. Understand the following as special cases.

1. Ten can be thought of as a bundle of 10 ones, called a "ten."

2. The numbers from 11 to 19 are composed of a 10 and 1, 2, 3, 4, 5, 6, 7, 8, or 9 ones.

3. The numbers 10, 20, 30, 40, 50, 60, 70, 80, 90 refer to 1, 2, 3, 4, 5, 6, 7, 8, or 9 tens (and 0 ones).

C. Compare two two-digit numbers based on meanings of the tens and ones digits, recording the results of comparisons with the symbols >, =, and <.

D. Add within 100, including adding a two-digit number and a one-digit number, and adding a two-digit number and a multiple of 10.

1. Use concrete models or drawings and strategies based on place value, properties of operations, and/or the relationship between addition and subtraction; relate the strategy to a number sentence; justify the reasoning used with a written explanation.

2. Understand that in adding two-digit numbers, one adds tens and tens, ones and ones; and sometimes it is necessary to compose a ten.

E. Given a two-digit number, mentally find 10 more or 10 less than the number, without having to count; explain the reasoning used.

F. Subtract multiples of 10 in the range 10-90 from multiples of 10 in the range 10-90 (positive or zero differences), using concrete models or drawings and strategies based on place value, properties of operations, and/or the relationship between addition and subtraction; relate the strategy to a written method and explain the reasoning used.

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§505. Measurement and Data

A. Order three objects by length; compare the lengths of two objects indirectly by using a third object.

B. Express the length of an object as a whole number of length units, by laying multiple copies of a shorter object (the length unit) end to end; understand that the length measurement of an object is the number of same-size length units that span it with no gaps or overlaps. (Limit to contexts where the object being measured is spanned by a whole number of length units with no gaps or overlaps.)

C. Tell and write time in hours and half-hours using analog and digital clocks.

D. Organize, represent, and interpret data with up to three categories; ask and answer questions about the total number of data points, how many in each category, and how many more or less are in one category than in another.

E. Determine the value of a collection of coins up to $0.50 (pennies, nickels, dimes, and quarters in isolation; not to include a combination of different coins).

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1045 (July 2016).

§507. Geometry

A. Distinguish between defining attributes (e.g., triangles are closed and three-sided) versus non-defining attributes (e.g., color, orientation, overall size); build and draw shapes that possess defining attributes.

B. Compose two-dimensional shapes (rectangles, squares, trapezoids, triangles, half-circles, and quarter-circles) and three-dimensional shapes (cubes, right rectangular prisms, right circular cones, and right circular cylinders) to create a composite shape, and compose new shapes from the composite shape.

C. Partition circles and rectangles into two and four equal shares, describe the shares using the words halves, fourths, and quarters, and use the phrases half of, fourth of, and quarter of. Describe the whole as two of or four of the shares. Understand for these examples that decomposing into more equal shares creates smaller shares.

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Chapter 7. Grade 2

§701. Operations and Algebraic Thinking

A. Use addition and subtraction within 100 to solve one- and two-step word problems involving situations of adding to, taking from, putting together, taking apart, and comparing, with unknowns in all positions, e.g., by using drawings and equations with a symbol for the unknown number to represent the problem

B. Fluently add and subtract within 20 using mental strategies. By end of grade 2, know from memory all sums of two one-digit numbers.

C. Determine whether a group of objects (up to 20) has an odd or even number of members, e.g., by pairing objects or counting them by twos; write an equation to express an even number as a sum of two equal addends.

D. Use addition to find the total number of objects arranged in rectangular arrays with up to five rows and up to five columns; write an equation to express the total as a sum of equal addends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1045 (July 2016).

§703. Numbers and Operations in Base Ten

A. Understand that the three digits of a three-digit number represent amounts of hundreds, tens, and ones; e.g., 706 equals 7 hundreds, 0 tens, and 6 ones. Understand the following as special cases.

1. 100 can be thought of as a bundle of 10 tens, called a "hundred."

2. The numbers 100, 200, 300, 400, 500, 600, 700, 800, 900 refer to 1, 2, 3, 4, 5, 6, 7, 8, or 9 hundreds (and 0 tens and 0 ones).

B. Count within 1000; skip-count by fives, tens, and hundreds.

C. Read and write numbers to 1000 using base-ten numerals, number names, and expanded form.

D. Compare two three-digit numbers based on meanings of the hundreds, tens, and ones digits, using >, =, and < symbols to record the results of comparisons.

E. Fluently add and subtract within 100 using strategies based on place value, properties of operations, and/or the relationship between addition and subtraction.

F. Add up to four two-digit numbers using strategies based on place value and properties of operations.

G. Add and subtract within 1000 using concrete models or drawings and strategies based on place value, properties of operations, and/or the relationship between addition and subtraction; justify the reasoning used with a written explanation. Understand that in adding or subtracting three-digit numbers, one adds or subtracts hundreds and hundreds, tens and tens, ones and ones; and sometimes it is necessary to compose or decompose tens or hundreds.

H. Mentally add 10 or 100 to a given number 100-900, and mentally subtract 10 or 100 from a given number 100-900.

I. Explain why addition and subtraction strategies work, using place value and the properties of operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1045 (July 2016).

§705. Measurement and Data

A. Measure the length of an object by selecting and using appropriate tools such as rulers, yardsticks, meter sticks, and measuring tapes.

B. Measure the length of an object twice, using length units of different lengths for the two measurements; describe how the two measurements relate to the size of the unit chosen.

C. Estimate lengths using units of inches, feet, centimeters, and meters.

D. Measure to determine how much longer one object is than another, expressing the length difference in terms of a standard length unit.

E. Use addition and subtraction within 100 to solve word problems involving lengths that are given in the same units, e.g., by using drawings (such as drawings of rulers) and equations with a symbol for the unknown number to represent the problem.

F. Represent whole numbers as lengths from 0 on a number line diagram with equally spaced points corresponding to the numbers 0, 1, 2…, and represent whole-number sums and differences within 100 on a number line diagram.

G. Tell and write time from analog and digital clocks to the nearest five minutes, using a.m. and p.m.

H. Solve word problems involving dollar bills, quarters, dimes, nickels, and pennies, using $ and ¢ symbols appropriately.

Example: If you have 2 dimes and 3 pennies, how many cents do you have?

I. Generate measurement data by measuring lengths of several objects to the nearest whole unit, or by making repeated measurements of the same object. Show the measurements by making a line plot, where the horizontal scale is marked off in whole-number units.

J. Draw a picture graph and a bar graph (with single-unit scale) to represent a data set with up to four categories. Solve simple put-together, take-apart, and compare problems using information presented in a bar graph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1046 (July 2016).

§707. Geometry

A. Recognize and draw shapes having specified attributes, such as a given number of angles or a given number of equal faces. Identify triangles, quadrilaterals, pentagons, hexagons, and cubes.

B. Partition a rectangle into rows and columns of same-size squares, and count to find the total number of them.

C. Partition circles and rectangles into two, three, or four equal shares, describe the shares using the words halves, thirds, half of, a third of, etc., and describe the whole as two halves, three thirds, four fourths. Recognize that equal shares of identical wholes need not have the same shape.

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Chapter 9. Grade 3

§901. Operations and Algebraic Thinking

A. Interpret products of whole numbers, e.g., interpret 5 × 7 as the total number of objects in 5 groups of 7 objects each.

Example: describe a context in which a total number of objects can be expressed as 5 × 7.

B. Interpret whole-number quotients of whole numbers, e.g., interpret 56 ÷ 8 as the number of objects in each share when 56 objects are partitioned equally into 8 shares, or as a number of shares when 56 objects are partitioned into equal shares of 8 objects each.

Example: Describe a context in which a number of shares or a number of groups can be expressed as 56 ÷ 8.

C. Use multiplication and division within 100 to solve word problems in situations involving equal groups, arrays, and measurement quantities, e.g., by using drawings and equations with a symbol for the unknown number to represent the problem.

D. Determine the unknown whole number in a multiplication or division equation relating three whole numbers.

Example: Determine the unknown number that makes the equation true in each of the equations 8 × ? = 48, 5 = □ ÷ 3, 6 × 6 = ?.

E. Apply properties of operations as strategies to multiply and divide.

Examples: If 6 × 4 = 24 is known, then 4 × 6 = 24 is also known (commutative property of multiplication). 3 × 5 × 2 can be found by 3 × 5 = 15, then 15 × 2 = 30, or by 5 × 2 = 10, then 3 × 10 = 30 (associative property of multiplication). Knowing that 8 × 5 = 40 and 8 × 2 = 16, one can find 8 × 7 as 8 × (5 + 2) = (8 × 5) + (8 × 2) = 40 + 16 = 56 (distributive property).

F. Understand division as an unknown-factor problem.

Example: Find 32 ÷ 8 by finding the number that makes 32 when multiplied by 8.

G. Fluently multiply and divide within 100, using strategies such as the relationship between multiplication and division (e.g., knowing that 8 × 5 = 40, one knows 40 ÷ 5 = 8) or properties of operations. By the end of grade 3, know from memory all products of two one-digit numbers.

H. Solve two-step word problems using the four operations. Represent these problems using equations with a letter standing for the unknown quantity. Assess the reasonableness of answers using mental computation and estimation strategies, including rounding.

I. Identify arithmetic patterns (including patterns in the addition table or multiplication table), and explain them using properties of operations.

Example: Observe that 4 times a number is always even, and explain why 4 times a number can be decomposed into two equal addends.

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§903. Number and Operations in Base Ten

A. Use place value understanding to round whole numbers to the nearest 10 or 100.

B. Fluently add and subtract within 1000 using strategies and algorithms based on place value, properties of operations, and/or the relationship between addition and subtraction.

C. Multiply one-digit whole numbers by multiples of 10 in the range 10-90 (e.g., 9 × 80, 5 × 60) using strategies based on place value and properties of operations.

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§905. Number and Operations—Fractions

A. Understand a fraction 1/*b*, with denominators 2, 3, 4, 6, and 8, as the quantity formed by 1 part when a whole is partitioned into *b* equal parts; understand a fraction *a/b* as the quantity formed by *a* parts of size 1/*b*.

B. Understand a fraction with denominators 2, 3, 4, 6, and 8 as a number on a number line diagram.

1. Represent a fraction 1/b on a number line diagram by defining the interval from 0 to 1 as the whole and partitioning it into *b* equal parts. Recognize that each part has size 1/*b* and that the endpoint of the part based at 0 locates the number 1/*b* on the number line.

2. Represent a fraction *a/b* on a number line diagram by marking off *a* lengths 1/*b* from 0. Recognize that the resulting interval has size *a/b* and that its endpoint locates the number *a/b* on the number line.

C. Explain equivalence of fractions with denominators 2, 3, 4, 6 and 8 in special cases, and compare fractions by reasoning about their size.

1. Understand two fractions as equivalent (equal) if they are the same size, or the same point on a number line.

2. Recognize and generate simple equivalent fractions, e.g., 1/2 = 2/4, 4/6 = 2/3. Explain why the fractions are equivalent, e.g., by using a visual fraction model.

3. Express whole numbers as fractions, and recognize fractions that are equivalent to whole numbers.

Examples: Express 3 in the form 3 = 3/1; recognize that 6/1 = 6; locate 4/4 and 1 at the same point of a number line diagram.

4. Compare two fractions with the same numerator or the same denominator by reasoning about their size. Recognize that comparisons are valid only when the two fractions refer to the same whole. Record the results of comparisons with the symbols >, =, or <, and justify the conclusions, e.g., by using a visual fraction model.

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§907. Measurement and Data

A. Understand time to the nearest minute.

1. Tell and write time to the nearest minute and measure time intervals in minutes, within 60 minutes, on an analog and digital clock.

2. Calculate elapsed time greater than 60 minutes to the nearest quarter and half hour on a number line diagram.

3. Solve word problems involving addition and subtraction of time intervals in minutes, e.g., by representing the problem on a number line diagram.

B. Measure and estimate liquid volumes and masses of objects using standard units of grams (g), kilograms (kg), and liters (l). Add, subtract, multiply, or divide to solve one-step word problems involving masses or volumes that are given in the same units, e.g., by using drawings (such as a beaker with a measurement scale) to represent the problem

C. Draw a scaled picture graph and a scaled bar graph to represent a data set with several categories. Solve one- and two-step "how many more" and "how many less" problems using information presented in scaled bar graphs.

Example: Draw a bar graph in which each square in the bar graph might represent 5 pets.

D. Generate measurement data by measuring lengths using rulers marked with halves and fourths of an inch. Show the data by making a line plot, where the horizontal scale is marked off in appropriate units: whole numbers, halves, or quarters.

E. Recognize area as an attribute of plane figures and understand concepts of area measurement.

1. A square with side length 1 unit, called "a unit square," is said to have "1 square unit" of area, and can be used to measure area.

2. A plane figure that can be covered without gaps or overlaps by *n* unit squares is said to have an area of *n* square units.

F. Measure areas by counting unit squares (square cm, square m, square in, square ft, and improvised units).

G. Relate area to the operations of multiplication and addition.

1. Find the area of a rectangle with whole-number side lengths by tiling it, and show that the area is the same as would be found by multiplying the side lengths.

2. Multiply side lengths to find areas of rectangles with whole-number side lengths in the context of solving real-world and mathematical problems, and represent whole-number products as rectangular areas in mathematical reasoning.

3. Use tiling to show in a concrete case that the area of a rectangle with whole-number side lengths a and $b + c$ is the sum of $a \times b$ and $a \times c$. Use area models to represent the distributive property in mathematical reasoning.

H. Solve real-world and mathematical problems involving perimeters of polygons, including finding the perimeter given the side lengths, finding an unknown side length, and exhibiting rectangles with the same perimeter and different areas or with the same area and different perimeters.

I. Solve word problems involving pennies, nickels, dimes, quarters, and bills greater than one dollar, using the dollar and cent symbols appropriately.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1047 (July 2016).

§909. Geometry

A. Understand that shapes in different categories (e.g., rhombuses, rectangles, and others) may share attributes (e.g.,

having four sides), and that the shared attributes can define a larger category (e.g., quadrilaterals). Recognize rhombuses, rectangles, and squares as examples of quadrilaterals, and draw examples of quadrilaterals that do not belong to any of these subcategories.

B. Partition shapes into parts with equal areas. Express the area of each part as a unit fraction of the whole.

Example: Partition a shape into 4 parts with equal area, and describe the area of each part as 1/4 of the area of the shape.

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Chapter 11. Grade 4

§1101. Operations and Algebraic Thinking

A. Interpret a multiplication equation as a comparison and represent verbal statements of multiplicative comparisons as multiplication equations, e.g., interpret 35 = 5 × 7 as a statement that 35 is 5 times as many as 7, and 7 times as many as 5.

B. Multiply or divide to solve word problems involving multiplicative comparison, e.g., by using drawings and/or equations with a symbol for the unknown number to represent the problem, distinguishing multiplicative comparison from additive comparison.

Example: 6 times as many vs. 6 more than

C. Solve multistep word problems posed with whole numbers and having whole-number answers using the four operations, including problems in which remainders must be interpreted. Represent these problems using equations with a letter standing for the unknown quantity. Assess the reasonableness of answers using mental computation and estimation strategies including rounding.

Example: Twenty-five people are going to the movies. Four people fit in each car. How many cars are needed to get all 25 people to the theater at the same time?

D. Using Whole Numbers in the Range 1-100

1. Find all factor pairs for a given whole number.

2. Recognize that a given whole number is a multiple of each of its factors.

3. Determine whether a given whole number is a multiple of a given one-digit number.

4. Determine whether a given whole number is prime or composite.

E. Generate a number or shape pattern that follows a given rule. Identify apparent features of the pattern that were not explicit in the rule itself.

Example: Given the rule "Add 3" and the starting number 1, generate terms in the resulting sequence and observe that the terms appear to alternate between odd and even numbers. Explain informally why the numbers will continue to alternate in this way.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1048 (July 2016).

§1103. Number and Operations in Base Ten

A. Recognize that in a multi-digit whole number less than or equal to 1,000,000, a digit in one place represents 10 times what it represents in the place to its right.

Examples: Recognize that 700 ÷ 70 = 10; in the number 7,246, the 2 represents 200, but in the number 7,426 the 2 represents 20, recognizing that 200 is 10 times as large as 20, by applying concepts of place value and division.

B. Read and write multi-digit whole numbers less than or equal to 1,000,000 using base-ten numerals, number names, and expanded form. Compare two multi-digit numbers less than 1,000,000 based on meanings of the digits in each place, using >, =, and < symbols to record the results of comparisons.

C. Use place value understanding to round multi-digit whole numbers, less than or equal to 1,000,000, to any place.

D. Fluently add and subtract multi-digit whole numbers with sums less than or equal to 1,000,000, using the standard algorithm.

E. Multiply a whole number of up to four digits by a one-digit whole number, and multiply two two-digit numbers. Illustrate and explain the calculation by using equations, rectangular arrays, and/or area models.

F. Find whole-number quotients and remainders with up to four-digit dividends and one-digit divisors, using strategies based on place value, the properties of operations, and/or the relationship between multiplication and division. Illustrate and explain the calculation by using equations, rectangular arrays, and/or area models.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1048 (July 2016).

§1105. Number and Operations—Fractions

A. Explain why a fraction a/b is equivalent to a fraction $(n \times a)/(n \times b)$ by using visual fraction models, with attention to how the number and size of the parts differ even though the two fractions themselves are the same size. Use this principle to recognize and generate equivalent fractions. (Denominators are limited to 2, 3, 4, 5, 6, 8, 10, 12, and 100.)

B. Compare two fractions with different numerators and different denominators, e.g., by creating common denominators or numerators, or by comparing to a benchmark fraction such as 1/2. Recognize that comparisons are valid only when the two fractions refer to the same whole. Record the results of comparisons with symbols >, =, or <, and justify the conclusions, e.g., by using a visual fraction model. (Denominators are limited to 2, 3, 4, 5, 6, 8, 10, 12, and 100.)

C. Understand a fraction a/b with $a > 1$ as a sum of fractions $1/b$. (Denominators are limited to 2, 3, 4, 5, 6, 8, 10, 12, and 100.)

1. Understand addition and subtraction of fractions as joining and separating parts referring to the same whole.

Example: 3/4 = 1/4 + 1/4 + 1/4

2. Decompose a fraction into a sum of fractions with the same denominator in more than one way, recording each decomposition by an equation. Justify decompositions, e.g., by using a visual fraction model.

Examples: 3/8 = 1/8 + 1/8 + 1/8; 3/8 = 1/8 + 2/8; 2 1/8 = 1 + 1 + 1/8 = 8/8 + 8/8 + 1/8.

3. Add and subtract mixed numbers with like denominators, e.g., by replacing each mixed number with an equivalent fraction, and/or by using properties of operations and the relationship between addition and subtraction.

4. Solve word problems involving addition and subtraction of fractions referring to the same whole and having like denominators, e.g., by using visual fraction models and equations to represent the problem.

D. Multiply a fraction by a whole number. (Denominators are limited to 2, 3, 4, 5, 6, 8, 10, 12, and 100.)

1. Understand a fraction *a/b* as a multiple of *1/b*.

Example: Use a visual fraction model to represent 5/4 as the product 5 × (1/4), recording the conclusion by the equation 5/4 = 5 × (1/4).)

2. Understand a multiple of *a/b* as a multiple of 1/*b*, and use this understanding to multiply a fraction by a whole number.

Example: Use a visual fraction model to express 3 × (2/5) as 6 × (1/5), recognizing this product as 6/5. (In general, $n \times (a/b) = (n \times a)/b$.)

3. Solve word problems involving multiplication of a fraction by a whole number, e.g., by using visual fraction models and equations to represent the problem.

Example: If each person at a party will eat 3/8 of a pound of roast beef, and there will be 5 people at the party, how many pounds of roast beef will be needed? Between what two whole numbers does your answer lie?

E. Express a fraction with denominator 10 as an equivalent fraction with denominator 100, and use this technique to add two fractions with respective denominators 10 and 100.

Example: Express 3/10 as 30/100, and add 3/10 + 4/100 = 34/100.

F. Use decimal notation for fractions with denominators 10 or 100.

Example: Rewrite 0.62 as 62/100; describe a length as 0.62 meters; locate 0.62 on a number line diagram; represent 62/100 of a dollar as $0.62.

G. Compare two decimals to hundredths by reasoning about their size. Recognize that comparisons are valid only when the two decimals refer to the same whole. Record the results of comparisons with the symbols >, =, or <, and justify the conclusions, e.g., by using a visual model.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1048 (July 2016).

§1107. Measurement and Data

A. Know relative sizes of measurement units within one system of units, including: ft, in; km, m, cm; kg, g; lb, oz.; l, ml; hr, min, sec. Within a single system of measurement, express measurements in a larger unit in terms of a smaller unit. (Conversions are limited to one-step conversions.)

Example: Know that 1 ft is 12 times as long as 1 in. Express the length of a 4 ft snake as 48 in. Generate a conversion table for feet and inches listing the number pairs (1, 12), (2, 24), (3, 36), …

B. Use the four operations to solve word problems involving distances, intervals of time, liquid volumes, masses of objects, and money, including problems involving whole numbers and/or simple fractions (addition and subtraction of fractions with like denominators and multiplying a fraction times a fraction or a whole number), and problems that require expressing measurements given in a larger unit in terms of a smaller unit. Represent measurement quantities using diagrams such as number line diagrams that feature a measurement scale.

C. Apply the area and perimeter formulas for rectangles in real-world and mathematical problems.

Example: Find the width of a rectangular room given the area of the flooring and the length, by viewing the area formula as a multiplication equation with an unknown factor.

D. Make a line plot to display a data set of measurements in fractions of a unit (1/2, 1/4, 1/8). Solve problems involving addition and subtraction of fractions by using information presented in line plots.

Example: From a line plot find and interpret the difference in length between the longest and shortest specimens in an insect collection.

E. Recognize angles as geometric shapes that are formed wherever two rays share a common endpoint, and understand concepts of angle measurement.

1. An angle is measured with reference to a circle with its center at the common endpoint of the rays, by considering the fraction of the circular arc between the points where two rays intersect the circle.

2. An angle that turns through 1/360 of a circle is called a "one-degree angle," and can be used to measure angles.

3. An angle that turns through *n* one-degree angles is said to have an angle measure of *n* degrees.

F. Measure angles in whole-number degrees using a protractor. Sketch angles of specified measure.

G. Recognize angle measure as additive. When an angle is decomposed into non-overlapping parts, the angle measure of the whole is the sum of the angle measures of the parts. Solve addition and subtraction problems to find unknown angles on a diagram in real-world and mathematical problems, e.g., by using an equation with a letter for the unknown angle measure.

H. Recognize area as additive. Find areas of rectilinear figures by decomposing them into non-overlapping rectangles and adding the areas of the non-overlapping parts, applying this technique to solve real-world problems.

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§1109. Geometry

A. Draw points, lines, line segments, rays, angles (right, acute, obtuse), and perpendicular and parallel lines. Identify these in two-dimensional figures.

B. Classify two-dimensional figures based on the presence or absence of parallel or perpendicular lines, or the presence or absence of angles of a specified size. Recognize right triangles as a category, and identify right triangles.

C. Recognize a line of symmetry for a two-dimensional figure as a line across the figure such that the figure can be folded along the line into matching parts. Identify line-symmetric figures and draw lines of symmetry.

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Chapter 13. Grade 5

§1301. Operations and Algebraic Thinking

A. Use parentheses or brackets in numerical expressions, and evaluate expressions with these symbols.

B. Write simple expressions that record calculations with whole numbers, fractions, and decimals, and interpret numerical expressions without evaluating them.

Example: Express the calculation "add 8 and 7, then multiply by 2" as 2 × (8 + 7). Recognize that 3 × (18,932 + 9.21) is three times as large as 18,932 + 9.21, without having to calculate the indicated sum or product.

C. Generate two numerical patterns using two given rules. Identify apparent relationships between corresponding terms. Form ordered pairs consisting of corresponding terms from the two patterns, and graph the ordered pairs on a coordinate plane.

Example: Given the rule "Add 3" and the starting number 0, and given the rule "Add 6" and the starting number 0, generate terms in the resulting sequences, and observe that the terms in one sequence are twice the corresponding terms in the other sequence. Explain informally why this is so.

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§1303. Number and Operations in Base Ten

A. Recognize that in a multi-digit number, a digit in one place represents 10 times as much as it represents in the place to its right and 1/10 of what it represents in the place to its left.

B. Explain and apply patterns in the number of zeros of the product when multiplying a number by powers of 10. Explain and apply patterns in the values of the digits in the product or the quotient, when a decimal is multiplied or divided by a power of 10. Use whole-number exponents to denote powers of 10.

Example: 100 = 1, 101 = 10 ... and 2.1 x 102 = 210.

C. Read, write, and compare decimals to thousandths.

1. Read and write decimals to thousandths using base-ten numerals, number names, and expanded form, e.g., $347.392 = 3 \times 100 + 4 \times 10 + 7 \times 1 + 3 \times (1/10) + 9 \times (1/100) + 2 \times (1/1000)$.

2. Compare two decimals to thousandths based on meanings of the digits in each place, using >, =, and < symbols to record the results of comparisons.

D. Use place value understanding to round decimals to any place.

E. Fluently multiply multi-digit whole numbers using the standard algorithm.

F. Find whole-number quotients of whole numbers with up to four-digit dividends and two-digit divisors, using strategies based on place value, the properties of operations, subtracting multiples of the divisor, and/or the relationship between multiplication and division. Illustrate and/or explain the calculation by using equations, rectangular arrays, area models, or other strategies based on place value.

G. Add, subtract, multiply, and divide decimals to hundredths, using concrete models or drawings and strategies based on place value, properties of operations, and/or the relationship between addition and subtraction; justify the reasoning used with a written explanation.

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§1305. Number and Operations—Fractions

A. Add and subtract fractions with unlike denominators (including mixed numbers) by replacing given fractions with equivalent fractions in such a way as to produce an equivalent sum or difference of fractions with like denominators.

Example: $2/3 + 5/4 = 8/12 + 15/12 = 23/12$. In general, $a/b + c/d = (ad + bc)/bd$.

B. Solve word problems involving addition and subtraction of fractions.

1. Solve word problems involving addition and subtraction of fractions referring to the same whole, including cases of unlike denominators, e.g., by using visual fraction models or equations to represent the problem.

2. Use benchmark fractions and number sense of fractions to estimate mentally and justify the reasonableness of answers.

Example: Recognize an incorrect result $2/5 + 1/2 = 3/7$, by observing that $3/7 < 1/2$.

C. Interpret a fraction as division of the numerator by the denominator ($a/b = a \div b$). Solve word problems involving division of whole numbers leading to answers in the form of fractions or mixed numbers, e.g., by using visual fraction models or equations to represent the problem.

Example: Interpret 3/4 as the result of dividing 3 by 4, noting that 3/4 multiplied by 4 equals 3, and that when 3 wholes are shared equally among 4 people each person has a share of size 3/4. If 9 people want to share a 50-pound sack of rice equally by weight, how many pounds of rice should each person get? Between what two whole numbers does your answer lie?

D. Apply and extend previous understandings of multiplication to multiply a fraction or whole number by a fraction.

1. Interpret the product $(m/n) \times q$ as m parts of a partition of q into n equal parts; equivalently, as the result of a sequence of operations, $m \times q \div n$.

Example: Use a visual fraction model to show understanding, and create a story context for $(m/n) \times q$.

2. Construct a model to develop understanding of the concept of multiplying two fractions and create a story context for the equation. (In general, $(m/n) \times (c/d) = (mc)/(nd)$)

3. Find the area of a rectangle with fractional side lengths by tiling it with unit squares of the appropriate unit fraction side lengths, and show that the area is the same as would be found by multiplying the side lengths.

4. Multiply fractional side lengths to find areas of rectangles, and represent fraction products as rectangular areas.

E. Interpret multiplication as scaling (resizing), by:

1. comparing the size of a product to the size of one factor on the basis of the size of the other factor, without performing the indicated multiplication;

2. explaining why multiplying a given number by a fraction greater than 1 results in a product greater than the given number (recognizing multiplication by whole numbers greater than 1 as a familiar case);

3. explaining why multiplying a given number by a fraction less than 1 results in a product smaller than the given number; and

4. relating the principle of fraction equivalence $a/b = (n \times a)/(n \times b)$ to the effect of multiplying a/b by 1.

F. Solve real-world problems involving multiplication of fractions and mixed numbers, e.g., by using visual fraction models or equations to represent the problem.

G. Apply and extend previous understandings of division to divide unit fractions by whole numbers and whole numbers by unit fractions.

1. Interpret division of a unit fraction by a non-zero whole number, and compute such quotients.

Example: Create a story context for (1/3) ÷ 4, and use a visual fraction model to show the quotient. Use the relationship between multiplication and division to explain that (1/3) ÷ 4 = 1/12 because (1/12) × 4 = 1/3.

2. Interpret division of a whole number by a unit fraction, and compute such quotients.

Example: Create a story context for 4 ÷ (1/5), and use a visual fraction model to show the quotient. Use the relationship between multiplication and division to explain that 4 ÷ (1/5) = 20 because 20 × (1/5) = 4.

3. Solve real-world problems involving division of unit fractions by non-zero whole numbers and division of whole numbers by unit fractions, e.g., by using visual fraction models and equations to represent the problem.

Example: How much chocolate will each person get if 3 people share 1/2 lb of chocolate equally? How many 1/3-cup servings are in 2 cups of raisins?)

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§1307. Measurement and Data

A. Convert among different-sized standard measurement units within a given measurement system, and use these conversions in solving multi-step, real-world problems (e.g., convert 5 cm to 0.05 m; 9 ft to 108 in).

B. Make a line plot to display a data set of measurements in fractions of a unit (1/2, 1/4, 1/8). Use operations on fractions for this grade to solve problems involving information presented in line plots.

Example: Given different measurements of liquid in identical beakers, find the amount of liquid each beaker would contain if the total amount in all the beakers were redistributed equally.

C. Recognize volume as an attribute of solid figures and understand concepts of volume measurement.

1. A cube with side length 1 unit, called a "unit cube," is said to have "one cubic unit" of volume, and can be used to measure volume.

2. A solid figure which can be packed without gaps or overlaps using n unit cubes is said to have a volume of n cubic units.

D. Measure volumes by counting unit cubes, using cubic cm, cubic in, cubic ft, and improvised units.

E. Relate volume to the operations of multiplication and addition and solve real world and mathematical problems involving volume.

1. Find the volume of a right rectangular prism with whole-number side lengths by packing it with unit cubes, and show that the volume is the same as would be found by multiplying the edge lengths, equivalently by multiplying the height by the area of the base. Represent threefold whole-number products as volumes, e.g., to represent the associative property of multiplication.

2. Apply the formulas $V = l \times w \times h$ and $V = b \times h$ for rectangular prisms to find volumes of right rectangular prisms with whole-number edge lengths in the context of solving real world and mathematical problems.

3. Recognize volume as additive. Find volumes of solid figures composed of two non-overlapping right rectangular prisms by adding the volumes of the non-overlapping parts, applying this technique to solve real-world problems.

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§1309. Geometry

A. Use a pair of perpendicular number lines, called axes, to define a coordinate system, with the intersection of the lines (the origin) arranged to coincide with the 0 on each line and a given point in the plane located by using an ordered pair of numbers, called its coordinates. Understand that the first number in the ordered pair indicates how far to travel from the origin in the direction of one axis, and the second number in the ordered pair indicates how far to travel in the direction of the second axis, with the convention that the names of the two axes and the coordinates correspond (e.g., x-axis and x-coordinate, y-axis and y-coordinate).

B. Represent real world and mathematical problems by graphing points in the first quadrant of the coordinate plane, and interpret coordinate values of points in the context of the situation.

C. Understand that attributes belonging to a category of two-dimensional figures also belong to all subcategories of that category.

Example: All rectangles have four right angles and squares are rectangles, so all squares have four right angles.

D. Classify two-dimensional figures in a hierarchy based on properties. (Students will define a trapezoid as a quadrilateral with at least one pair of parallel sides.)

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Chapter 15. Grade 6

§1501. Ratios and Proportional Relationships

A. Understand the concept of a ratio and use ratio language to describe a ratio relationship between two quantities.

Example: "The ratio of wings to beaks in the bird house at the zoo was 2:1, because for every 2 wings there was 1 beak." "For every vote candidate A received, candidate C received nearly three votes."

B. Understand the concept of a unit rate a/b associated with a ratio $a:b$ with $b \neq 0$, and use rate language in the context of a ratio relationship.

Example: This recipe has a ratio of 3 cups of flour to 4 cups of sugar, so there is 3/4 cup of flour for each cup of sugar." "We paid $75 for 15 hamburgers, which is a rate of $5 per hamburger.

C. Use ratio and rate reasoning to solve real-world and mathematical problems, e.g., by reasoning about tables of equivalent ratios, tape diagrams, double number line diagrams, or equations.

1. Make tables of equivalent ratios relating quantities with whole-number measurements, find missing values in the tables, and plot the pairs of values on the coordinate plane. Use tables to compare ratios.

2. Solve unit rate problems including those involving unit pricing and constant speed.

Example: If it took 7 hours to mow 4 lawns, then at that rate, how many lawns could be mowed in 35 hours? At what unit rate were lawns being mowed?

3. Find a percent of a quantity as a rate per 100 (e.g., 30 percent of a quantity means 30/100 times the quantity);

solve problems involving finding the whole, given a part and the percent.

4. Use ratio reasoning to convert measurement units; manipulate and transform units appropriately when multiplying or dividing quantities.

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§1503. The Number System

A. Interpret and compute quotients of fractions, and solve word problems involving division of fractions by fractions, e.g., by using visual fraction models and equations to represent the problem.

Example: Create a story context for (2/3) ÷ (3/4) and use a visual fraction model to show the quotient; use the relationship between multiplication and division to explain that (2/3) ÷ (3/4) = 8/9 because 3/4 of 8/9 is 2/3. (In general, $(a/b) \div (c/d) = ad/bc$.) How much chocolate will each person get if 3 people share 1/2 lb of chocolate equally? How many 3/4-cup servings are in 2/3 of a cup of yogurt? How wide is a rectangular strip of land with length 3/4 mi and area 1/2 square mi?)

B. Fluently divide multi-digit numbers using the standard algorithm.

C. Fluently add, subtract, multiply, and divide multi-digit decimals using the standard algorithm for each operation.

D. Find the greatest common factor of two whole numbers less than or equal to 100 and the least common multiple of two whole numbers less than or equal to 12. Use the distributive property to express a sum of two whole numbers 1-100 with a common factor as a multiple of a sum of two whole numbers with no common factor.

Example: Express 36 + 8 as 4 (9 + 2)

E. Understand that positive and negative numbers are used together to describe quantities having opposite directions or values (e.g., temperature above/below zero, elevation above/below sea level, credits/debits, positive/negative electric charge); use positive and negative numbers to represent quantities in real-world contexts, explaining the meaning of zero in each situation.

F. Understand a rational number as a point on the number line. Extend number line diagrams and coordinate axes familiar from previous grades to represent points on the line and in the plane with negative number coordinates.

1. Recognize opposite signs of numbers as indicating locations on opposite sides of 0 on the number line; recognize that the opposite of the opposite of a number is the number itself, e.g., -(-3) = 3, and that 0 is its own opposite.

2. Understand signs of numbers in ordered pairs as indicating locations in quadrants of the coordinate plane; recognize that when two ordered pairs differ only by signs, the locations of the points are related by reflections across one or both axes.

3. Find and position integers and other rational numbers on a horizontal or vertical number line diagram; find and position pairs of integers and other rational numbers on a coordinate plane.

G. Understand ordering and absolute value of rational numbers.

1. Interpret statements of inequality as statements about the relative position of two numbers on a number line diagram.

Example: Interpret -3 > -7 as a statement that -3 is located to the right of -7 on a number line oriented from left to right.

2. Write, interpret, and explain statements of order for rational numbers in real-world contexts.

Example: Write -3 °C > -7 °C to express the fact that -3 °C is warmer than -7 °C.)

3. Understand the absolute value of a rational number as its distance from 0 on the number line; interpret absolute value as magnitude for a positive or negative quantity in a real-world situation.

Example: For an account balance of -30 dollars, write |-30| = 30 to describe the size of the debt in dollars.

4. Distinguish comparisons of absolute value from statements about order.

Example: Recognize that an account balance less than -30 dollars represents a debt greater than 30 dollars.

H. Solve real-world and mathematical problems by graphing points in all four quadrants of the coordinate plane. Include use of coordinates and absolute value to find distances between points with the same first coordinate or the same second coordinate.

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§1505. Expressions and Equations

A. Write and evaluate numerical expressions involving whole-number exponents.

B. Write, read, and evaluate expressions in which letters stand for numbers.

1. Write expressions that record operations with numbers and with letters standing for numbers.

Example: Express the calculation "Subtract y from 5" as $5 - y$.

2. Identify parts of an expression using mathematical terms (sum, term, product, factor, quotient, coefficient); view one or more parts of an expression as a single entity.

Example: Describe the expression 2 (8 + 7) as a product of two factors; view (8 + 7) as both a single entity and a sum of two terms.

3. Evaluate expressions at specific values of their variables. Include expressions that arise from formulas used in real-world problems. Perform arithmetic operations, including those involving whole-number exponents, in the conventional order when there are no parentheses to specify a particular order (order of operations).

Example: Use the formulas $V = s3$ and $A = 6\ s2$ to find the volume and surface area of a cube with sides of length $s = 1/2$.

C. Apply the properties of operations to generate equivalent expressions.

Example: Apply the distributive property to the expression $3\ (2 + x)$ to produce the equivalent expression $6 + 3x$; apply the distributive property to the expression $24x + 18y$ to produce the equivalent expression $6\ (4x + 3y)$; apply properties of operations to $y + y + y$ to produce the equivalent expression $3y$.

D. Identify when two expressions are equivalent (i.e., when the two expressions name the same number regardless of which value is substituted into them).

Example: The expressions $y + y + y$ and $3y$ are equivalent because they name the same number regardless of which number y stands for.

E. Understand solving an equation or inequality as a process of answering a question: which values from a specified set, if any, make the equation or inequality true?

Use substitution to determine whether a given number in a specified set makes an equation or inequality true.

F. Use variables to represent numbers and write expressions when solving a real-world or mathematical problem; understand that a variable can represent an unknown number, or, depending on the purpose at hand, any number in a specified set.

G. Solve real-world and mathematical problems by writing and solving equations and inequalities of the form $x + p = q$ and $px = q$ for cases in which p, q, and x are all nonnegative rational numbers. Inequalities will include <, >, ≤, and ≥.

H. Write an inequality of the form $x > c$ or $x < c$ to represent a constraint or condition in a real-world or mathematical problem. Recognize that inequalities of the form $x > c$ or $x < c$ have infinitely many solutions; represent solutions of such inequalities on number line diagrams.

I. Use variables to represent two quantities in a real-world problem that change in relationship to one another; write an equation to express one quantity, thought of as the dependent variable, in terms of the other quantity, thought of as the independent variable. Analyze the relationship between the dependent and independent variables using graphs and tables, and relate these to the equation.

Example: In a problem involving motion at constant speed, list and graph ordered pairs of distances and times, and write the equation $d = 65t$ to represent the relationship between distance and time.

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§1507. Geometry

A. Find the area of right triangles, other triangles, special quadrilaterals, and polygons by composing into rectangles or decomposing into triangles and other shapes; apply these techniques in the context of solving real-world and mathematical problems.

B. Find the volume of a right rectangular prism with fractional edge lengths by packing it with unit cubes of the appropriate unit fraction edge lengths, and show that the volume is the same as would be found by multiplying the edge lengths of the prism. Apply the formulas $V = lwh$ and $V = bh$ to find volumes of right rectangular prisms with fractional edge lengths in the context of solving real-world and mathematical problems.

C. Draw polygons in the coordinate plane given coordinates for the vertices; use coordinates to find the length of a side joining points with the same first coordinate or the same second coordinate. Apply these techniques in the context of solving real-world and mathematical problems.

D. Represent three-dimensional figures using nets made up of rectangles and triangles, and use the nets to find the surface area of these figures. Apply these techniques in the context of solving real-world and mathematical problems.

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§1509. Statistics and Probability

A. Recognize a statistical question as one that anticipates variability in the data related to the question and accounts for it in the answers.

Example: "How old am I?" is not a statistical question, but "How old are the students in my school?" is a statistical question because one anticipates variability in students' ages.

B. Understand that a set of data collected to answer a statistical question has a distribution that can be described by its center, spread, and overall shape.

C. Recognize that a measure of center for a numerical data set summarizes all of its values with a single number, while a measure of variation describes how its values vary with a single number.

D. Display numerical data in plots on a number line, including dot plots, histograms, and box plots.

E. Summarize numerical data sets in relation to their context, such as by:

1. reporting the number of observations;

2. describing the nature of the attribute under investigation, including how it was measured and its units of measurement;

3. giving quantitative measures of center (median and/or mean) and variability (interquartile range), as well as describing any overall pattern and any striking deviations from the overall pattern with reference to the context in which the data were gathered; and

4. relating the choice of measures of center and variability to the shape of the data distribution and the context in which the data were gathered.

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Chapter 17. Grade 7

§1701. Ratios and Proportional Relationships

A. Compute unit rates associated with ratios of fractions, including ratios of lengths, areas, and other quantities measured in like or different units.

Example: If a person walks 1/2 mile in each 1/4 hour, compute the unit rate as the complex fraction (1/2)/(1/4) miles per hour, equivalently 2 miles per hour.

B. Recognize and represent proportional relationships between quantities.

1. Decide whether two quantities are in a proportional relationship, e.g., by testing for equivalent ratios in a table or graphing on a coordinate plane and observing whether the graph is a straight line through the origin.

2. Identify the constant of proportionality (unit rate) in tables, graphs, equations, diagrams, and verbal descriptions of proportional relationships.

3. Represent proportional relationships by equations.

Example: If total cost t is proportional to the number n of items purchased at a constant price p, the relationship between the total cost and the number of items can be expressed as $t = pn$.

4. Explain what a point (x, y) on the graph of a proportional relationship means in terms of the situation, with special attention to the points (0, 0) and (1, r) where r is the unit rate.

C. Use proportional relationships to solve multistep ratio and percent problems of simple interest, tax, markups and markdowns, gratuities and commissions, fees, percent increase and decrease, and percent error.

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§1703. The Number System

A. Apply and extend previous understandings of addition and subtraction to add and subtract rational numbers; represent addition and subtraction on a horizontal or vertical number line diagram.

1. Describe situations in which opposite quantities combine to make 0.

Example: A hydrogen atom has 0 charge because its two constituents are oppositely charged.

2. Understand $p + q$ as the number located a distance $|q|$ from p, in the positive or negative direction depending on whether q is positive or negative. Show that a number and its opposite have a sum of 0 (are additive inverses). Interpret sums of rational numbers by describing real-world contexts.

3. Understand subtraction of rational numbers as adding the additive inverse, $p - q = p + (-q)$. Show that the distance between two rational numbers on the number line is the absolute value of their difference, and apply this principle in real-world contexts.

4. Apply properties of operations as strategies to add and subtract rational numbers.

B. Apply and extend previous understandings of multiplication and division and of fractions to multiply and divide rational numbers.

1. Understand that multiplication is extended from fractions to rational numbers by requiring that operations continue to satisfy the properties of operations, particularly the distributive property, leading to products such as $(-1)(-1) = 1$ and the rules for multiplying signed numbers. Interpret products of rational numbers by describing real-world contexts.

2. Understand that integers can be divided, provided that the divisor is not zero, and every quotient of integers (with non-zero divisor) is a rational number. If p and q are integers, then $-(p/q) = (-p)/q = p/(-q)$. Interpret quotients of rational numbers by describing real-world contexts.

3. Apply properties of operations as strategies to multiply and divide rational numbers.

4. Convert a rational number to a decimal using long division; know that the decimal form of a rational number terminates in zeros or eventually repeats.

C. Solve real-world and mathematical problems involving the four operations with rational numbers.

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§1705. Expressions and Equations

A. Apply properties of operations as strategies to add, subtract, factor, and expand linear expressions with rational coefficients to include multiple grouping symbols (e.g., parentheses, brackets, and braces).

B. Understand that rewriting an expression in different forms in a problem context can shed light on the problem and how the quantities in it are related.

Example: $a + 0.05a = 1.05a$ means that "increase by 5 percent" is the same as "multiply by 1.05."

C. Solve multistep real-life and mathematical problems posed with positive and negative rational numbers in any form (whole numbers, fractions, and decimals), using tools strategically. Apply properties of operations to calculate with numbers in any form; convert between forms as appropriate; and assess the reasonableness of answers using mental computation and estimation strategies.

Example: If a woman making $25 an hour gets a 10 percent raise, she will make an additional 1/10 of her salary an hour, or $2.50, for a new salary of $27.50. If you want to place a towel bar 9 3/4 inches long in the center of a door that is 27 1/2 inches wide, you will need to place the bar about 9 inches from each edge; this estimate can be used as a check on the exact computation.

D. Use variables to represent quantities in a real-world or mathematical problem, and construct simple equations and inequalities to solve problems by reasoning about the quantities.

1. Solve word problems leading to equations of the form $px + q = r$ and $p(x + q) = r$, where p, q, and r are specific rational numbers. Solve equations of these forms fluently. Compare an algebraic solution to an arithmetic solution, identifying the sequence of the operations used in each approach.

Example: The perimeter of a rectangle is 54 cm. Its length is 6 cm. What is its width?

2. Solve word problems leading to inequalities of the form $px + q > r$, $px + q \geq r$, $px + q < r$, or $px + q \leq r$, where p, q, and r are specific rational numbers. Graph the solution set of the inequality and interpret it in the context of the problem.

Example: As a salesperson, you are paid $50 per week plus $3 per sale. This week you want your pay to be at least $100. Write an inequality for the number of sales you need to make, and describe the solutions.

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§1707. Geometry

A. Solve problems involving scale drawings of geometric figures, such as computing actual lengths and areas from a scale drawing and reproducing a scale drawing at a different scale.

B. Draw (freehand, with ruler and protractor, or with technology) geometric shapes with given conditions. (Focus is on triangles from three measures of angles or sides, noticing when the conditions determine one and only one triangle, more than one triangle, or no triangle.)

C. Describe the two-dimensional figures that result from slicing three-dimensional figures, as in plane sections of right rectangular prisms and right rectangular pyramids.

D. Know the formulas for the area and circumference of a circle and solve problems; give an informal derivation of the relationship between the circumference and area of a circle.

E. Use facts about supplementary, complementary, vertical, and adjacent angles in a multi-step problem to write and use them to solve simple equations for an unknown angle in a figure.

F. Solve real-world and mathematical problems involving area, volume, and surface area of two- and three-dimensional objects composed of triangles, quadrilaterals, polygons, cubes, and right prisms. (Pyramids limited to surface area only.)

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§1709. Statistics and Probability

A. Understand that statistics can be used to gain information about a population by examining a sample of the population; generalizations about a population from a sample are valid only if the sample is representative of that population. Understand that random sampling tends to produce representative samples and support valid inferences.

B. Use data from a random sample to draw inferences about a population with an unknown characteristic of interest. Generate multiple samples (or simulated samples) of the same size to gauge the variation in estimates or predictions.

Example: Estimate the mean word length in a book by randomly sampling words from the book; predict the winner of a school election based on randomly sampled survey data. Gauge how far off the estimate or prediction might be.

C. Informally assess the degree of visual overlap of two numerical data distributions with similar variabilities using quantitative measures of center (median and/or mean) and variability (interquartile range and/or mean absolute deviation), as well as describing any overall pattern and any striking deviations from the overall pattern with reference to the context in which the data were gathered.

D. Use measures of center and measures of variability for numerical data from random samples to draw informal comparative inferences about two populations.

Example: Decide whether the words in a chapter of a seventh-grade science book are generally longer than the words in a chapter of a fourth-grade science book.

E. Understand that the probability of a chance event is a number between 0 and 1 that expresses the likelihood of the event occurring. Larger numbers indicate greater likelihood. A probability near 0 indicates an unlikely event, a probability around 1/2 indicates an event that is neither unlikely nor likely, and a probability near 1 indicates a likely event.

F. Approximate the probability of a chance event by collecting data on the chance process that produces it and observing its long-run relative frequency, and predict the approximate relative frequency given the probability.

Example: When rolling a number cube 600 times, predict that a 3 or 6 would be rolled roughly 200 times, but probably not exactly 200 times.

G. Develop a probability model and use it to find probabilities of events. Compare probabilities from a model to observed frequencies; if the agreement is not good, explain possible sources of the discrepancy.

1. Develop a uniform probability model by assigning equal probability to all outcomes, and use the model to determine probabilities of events.

Example: If a student is selected at random from a class, find the probability that Jane will be selected and the probability that a girl will be selected.

2. Develop a probability model (which may not be uniform) by observing frequencies in data generated from a chance process.

Example: Find the approximate probability that a spinning penny will land heads up or that a tossed paper cup will land open-end down. Do the outcomes for the spinning penny appear to be equally likely, based on the observed frequencies?

H. Find probabilities of compound events using organized lists, tables, tree diagrams, and simulation.

1. Understand that, just as with simple events, the probability of a compound event is the fraction of outcomes in the sample space for which the compound event occurs.

2. Represent sample spaces for compound events using methods such as organized lists, tables, and tree diagrams. For an event described in everyday language (e.g., "rolling double sixes"), identify the outcomes in the sample space that compose the event.

3. Design and use a simulation to generate frequencies for compound events.

Example: Use random digits as a simulation tool to approximate the answer to the question: If 40 percent of donors have type A blood, what is the probability that it will take at least 4 donors to find one with type A blood?

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Chapter 19. Grade 8

§1901. The Number System

A. Know that numbers that are not rational are called irrational. Understand informally that every number has a decimal expansion; for rational numbers, show that the decimal expansion repeats eventually. Convert a decimal expansion that repeats eventually into a rational number by analyzing repeating patterns.

B. Use rational approximations of irrational numbers to compare the size of irrational numbers, locate them approximately on a number line diagram, and estimate the value of expressions (e.g., π^2).

Example: By truncating the decimal expansion of $\sqrt{2}$, show that $\sqrt{2}$ is between 1and 2, then between 1.4 and 1.5, and explain how to continue on to get better approximations.

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§1903. Expressions and Equations

A. Know and apply the properties of integer exponents to generate equivalent numerical expressions.

Example: $3^2 \times 3^{-5} = 3^{-3} = 1/3^3 = 1/27$

B. Use square root and cube root symbols to represent solutions to equations of the form $x^2 = p$ and $x^3 = p$, where p is a positive rational number. Evaluate square roots of small perfect squares and cube roots of small perfect cubes. Know that $\sqrt{2}$ is irrational.

C. Use numbers expressed in the form of a single digit times an integer power of 10 to estimate very large or very small quantities, and to express how many times as much one is than the other.

Example: Estimate the population of the United States as 3×10^8 and the population of the world as 7×10^9, and determine that the world population is more than 20 times larger.

D. Perform operations with numbers expressed in scientific notation, including problems where both decimal and scientific notation are used. Use scientific notation and choose units of appropriate size for measurements of very large or very small quantities (e.g., use millimeters per year for seafloor spreading). Interpret scientific notation that has been generated by technology.

E. Graph proportional relationships, interpreting the unit rate as the slope of the graph. Compare two different proportional relationships represented in different ways.

Example: Compare a distance-time graph to a distance-time equation to determine which of two moving objects has greater speed.

F. Use similar triangles to explain why the slope m is the same between any two distinct points on a non-vertical line

in the coordinate plane; derive the equation $y = mx$ for a line through the origin and the equation $y = mx + b$ for a line intercepting the vertical axis at b.

G. Solve linear equations in one variable.

1. Give examples of linear equations in one variable with one solution, infinitely many solutions, or no solutions. Show which of these possibilities is the case by successively transforming the given equation into simpler forms, until an equivalent equation of the form $x = a$, $a = a$, or $a = b$ results (where a and b are different numbers).

2. Solve systems of two linear equations in two variables algebraically, and estimate solutions by graphing the equations. Solve simple cases by inspection.

Example: $3x + 2y = 5$ and $3x + 2y = 6$ have no solution because $3x + 2y$ cannot simultaneously be 5 and 6.

H. Analyze and solve pairs of simultaneous linear equations.

1. Understand that solutions to a system of two linear equations in two variables correspond to points of intersection of their graphs, because points of intersection satisfy both equations simultaneously.

2. Solve systems of two linear equations in two variables algebraically, and estimate solutions by graphing the equations. Solve simple cases by inspection.

Example: $3x + 2y = 5$ and $3x + 2y = 6$ have no solution because $3x + 2y$ cannot simultaneously be 5 and 6.

3. Solve real-world and mathematical problems leading to two linear equations in two variables.

Example: Given coordinates for two pairs of points, determine whether the line through the first pair of points intersects the line through the second pair.

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§1905. Functions

A. Understand that a function is a rule that assigns to each input exactly one output. The graph of a function is the set of ordered pairs consisting of an input and the corresponding output. (Function notation is not required in this grade level.)

B. Compare properties of two functions each represented in a different way (algebraically, graphically, numerically in tables, or by verbal descriptions).

Example: Given a linear function represented by a table of values and a linear function represented by an algebraic expression, determine which function has the greater rate of change.

C. Interpret the equation $y = mx + b$ as defining a linear function whose graph is a straight line; categorize functions as linear or nonlinear when given equations, graphs, or tables.

Example: The function $A = s^2$ giving the area of a square as a function of its side length is not linear, because its graph contains the points (1,1), (2,4), and (3,9), which are not on a straight line.

D. Construct a function to model a linear relationship between two quantities. Determine the rate of change and initial value of the function from a description of a relationship or from two (x, y) values, including reading these from a table or from a graph. Interpret the rate of change and initial value of a linear function in terms of the situation it models, and in terms of its graph or a table of values.

E. Describe qualitatively the functional relationship between two quantities by analyzing a graph (e.g., where the function is increasing or decreasing, linear or nonlinear). Sketch a graph that exhibits the qualitative features of a function that has been described verbally.

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§1907. Geometry

A. Verify experimentally the properties of rotations, reflections, and translations.

1. Lines are taken to lines, and line segments to line segments of the same length.

2. Angles are taken to angles of the same measure.

3. Parallel lines are taken to parallel lines.

B. Explain that a two-dimensional figure is congruent to another if the second can be obtained from the first by a sequence of rotations, reflections, and translations; given two congruent figures, describe a sequence that exhibits the congruence between them. (Rotations are only about the origin and reflections are only over the y-axis and x-axis in grade 8.)

C. Describe the effect of dilations, translations, rotations, and reflections on two-dimensional figures using coordinates. (Rotations are only about the origin, dilations only use the origin as the center of dilation, and reflections are only over the y-axis and x-axis in grade 8.)

D. Explain that a two-dimensional figure is similar to another if the second can be obtained from the first by a sequence of rotations, reflections, translations, and dilations; given two similar two-dimensional figures, describe a sequence that exhibits the similarity between them. (Rotations are only about the origin, dilations only use the origin as the center of dilation, and reflections are only over the y-axis and x-axis in grade 8.)

E. Use informal arguments to establish facts about the angle sum and exterior angle of triangles, about the angles created when parallel lines are cut by a transversal, and the angle-angle criterion for similarity of triangles.

Example: Arrange three copies of the same triangle so that the sum of the three angles appears to form a line, and give an argument in terms of transversals why this is so.

F. Explain a proof of the Pythagorean Theorem and its converse using the area of squares.

G. Apply the Pythagorean Theorem to determine unknown side lengths in right triangles in real-world and mathematical problems in two and three dimensions.

H. Apply the Pythagorean Theorem to find the distance between two points in a coordinate system.

I. Know the formulas for the volumes of cones, cylinders, and spheres and use them to solve real-world and mathematical problems.

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§1909. Statistics and Probability

A. Construct and interpret scatter plots for bivariate measurement data to investigate patterns of association between two quantities. Describe patterns such as clustering,

outliers, positive or negative association, linear association, and nonlinear association.

B. Know that straight lines are widely used to model relationships between two quantitative variables. For scatter plots that suggest a linear association, informally fit a straight line, and informally assess the model fit by judging the closeness of the data points to the line.

C. Use the equation of a linear model to solve problems in the context of bivariate measurement data, interpreting the slope and intercept.

Example: In a linear model for a biology experiment, interpret a slope of 1.5 cm/hr as meaning that an additional hour of sunlight each day is associated with an additional 1.5 cm in mature plant height.

D. Understand that patterns of association can also be seen in bivariate categorical data by displaying frequencies and relative frequencies in a two-way table. Construct and interpret a two-way table summarizing data on two categorical variables collected from the same subjects. Use relative frequencies calculated for rows or columns to describe possible association between the two variables.

Example: Collect data from students in your class on whether or not they have a curfew on school nights and whether or not they have assigned chores at home. Is there evidence that those who have a curfew also tend to have chores?

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Chapter 21. Algebra I

§2101. Number and Quantity

A. Explain why the sum or product of two rational numbers is rational; that the sum of a rational number and an irrational number is irrational; and that the product of a nonzero rational number and an irrational number is irrational.

B. Use units as a way to understand problems and to guide the solution of multi-step problems; choose and interpret units consistently in formulas; choose and interpret the scale and the origin in graphs and data displays.

C. Define appropriate quantities for the purpose of descriptive modeling.

D. Choose a level of accuracy appropriate to limitations on measurement when reporting quantities.

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§2103. Algebra

A. Interpret expressions that represent a quantity in terms of its context.

1. Interpret parts of an expression, such as terms, factors, and coefficients.

2. Interpret complicated expressions by viewing one or more of their parts as a single entity.

Example: Interpret $P(1+r)n$ as the product of P and a factor not depending on P.

B. Use the structure of an expression to identify ways to rewrite it.

Example: $x^4 - y^4$ as $(x^2)^2 - (y^2)^2$, thus recognizing it as a difference of squares that can be factored as $(x^2 - y^2)(x^2 + y^2)$ or see $2x^2+8x$ as $(2x)(x)+(2x)(4)$, thus recognizing it as a polynomial whose terms are products of monomials and the polynomial can be factored as $2x(x+4)$.

C. Choose and produce an equivalent form of an expression to reveal and explain properties of the quantity represented by the expression.

1. Factor a quadratic expression to reveal the zeros of the function it defines.

2. Complete the square in a quadratic expression to reveal the maximum or minimum value of the function it defines.

3. Use the properties of exponents to transform expressions for exponential functions emphasizing integer exponents.

Example: The growth of bacteria can be modeled by either $f(t) = 3^{(t+2)}$ or $g(t) = 9(3^t)$ because the expression $3^{(t+2)}$ can be rewritten as $(3^t)(3^2) = 9(3^t)$.

D. Understand that polynomials form a system analogous to the integers, namely, they are closed under the operations of addition, subtraction, and multiplication; add, subtract, and multiply polynomials.

E. Identify zeros of quadratic functions and use the zeros to sketch a graph of the function defined by the polynomial.

F. Create equations and inequalities in one variable and use them to solve problems. (Include equations arising from linear, quadratic, and exponential functions.)

G. Create equations in two or more variables to represent relationships between quantities; graph equations on coordinate axes with labels and scales.

H. Represent constraints by equations or inequalities, and by systems of equations and/or inequalities, and interpret solutions as viable or nonviable options in a modeling context.

Example: Represent inequalities describing nutritional and cost constraints on combinations of different foods.

I. Rearrange formulas to highlight a quantity of interest, using the same reasoning as in solving equations.

Example: Rearrange Ohm's law $V = IR$ to highlight resistance R.

J. Explain each step in solving a simple equation as following from the equality of numbers asserted at the previous step, starting from the assumption that the original equation has a solution. Construct a viable argument to justify a solution method.

K. Solve linear equations and inequalities in one variable, including equations with coefficients represented by letters.

L. Solve quadratic equations in one variable.

1. Use the method of completing the square to transform any quadratic equation in x into an equation of the form $(x - p)2 = q$ that has the same solutions. Derive the quadratic formula from this form.

2. Solve quadratic equations by inspection (e.g., for $x^2 = 49$), taking square roots, completing the square, the quadratic formula, and factoring, as appropriate to the initial form of the equation. Recognize when the quadratic formula gives complex solutions and write them as "no real solution."

M. Prove that, given a system of two equations in two variables, replacing one equation by the sum of that equation and a multiple of the other produces a system with the same solutions.

N. Solve systems of linear equations exactly and approximately (e.g., with graphs), focusing on pairs of linear equations in two variables.

O. Understand that the graph of an equation in two variables is the set of all its solutions plotted in the coordinate plane, often forming a curve (which could be a line).

P. Explain why the x-coordinates of the points where the graphs of the equations $y = f(x)$ and $y = g(x)$ intersect are the solutions of the equation $f(x) = g(x)$; find the solutions approximately, e.g., using technology to graph the functions, make tables of values, or find successive approximations. Include cases where $f(x)$ and/or $g(x)$ are linear, polynomial, rational, piecewise linear (to include absolute value), and exponential functions.

Q. Graph the solutions to a linear inequality in two variables as a half-plane (excluding the boundary in the case of a strict inequality), and graph the solution set to a system of linear inequalities in two variables as the intersection of the corresponding half-planes.

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§2105. Functions

A. Understand that a function from one set (called the domain) to another set (called the range) assigns to each element of the domain exactly one element of the range. If f is a function and x is an element of its domain, then $f(x)$ denotes the output of f corresponding to the input x. The graph of f is the graph of the equation $y = f(x)$.

B. Use function notation, evaluate functions for inputs in their domains, and interpret statements that use function notation in terms of a context.

C. Recognize that sequences are functions whose domain is a subset of the integers. Relate arithmetic sequences to linear functions and geometric sequences to exponential functions.

D. For linear, piecewise linear (to include absolute value), quadratic, and exponential functions that model a relationship between two quantities, interpret key features of graphs and tables in terms of the quantities, and sketch graphs showing key features given a verbal description of the relationship. (Key features include: intercepts; intervals where the function is increasing, decreasing, positive, or negative; relative maximums and minimums; symmetries; and end behavior.)

E. Relate the domain of a function to its graph and, where applicable, to the quantitative relationship it describes.

> Example: If the function $h(n)$ gives the number of person-hours it takes to assemble n engines in a factory, then the positive integers would be an appropriate domain for the function.

F. Calculate and interpret the average rate of change of a linear, quadratic, piecewise linear (to include absolute value), and exponential function (presented symbolically or as a table) over a specified interval. Estimate the rate of change from a graph.

G. Graph functions expressed symbolically, and show key features of the graph, by hand in simple cases and using technology for more complicated cases.

1. Graph linear and quadratic functions and show intercepts, maxima, and minima.

2. Graph piecewise linear (to include absolute value) and exponential functions.

H. Write a function defined by an expression in different but equivalent forms to reveal and explain different properties of the function.

1. Use the process of factoring and completing the square in a quadratic function to show zeros, extreme values, and symmetry of the graph, and interpret these in terms of a context.

I. Compare properties of two functions (linear, quadratic, piecewise linear [to include absolute value] or exponential) each represented in a different way (algebraically, graphically, numerically in tables, or by verbal descriptions).

> Example: Given a graph of one quadratic function and an algebraic expression for another, determine which has the larger maximum.

J. Write a linear, quadratic, or exponential function that describes a relationship between two quantities.

1. Determine an explicit expression, a recursive process, or steps for calculation from a context.

K. Identify the effect on the graph of replacing $f(x)$ by $f(x) + k$, $k\,f(x)$, $f(kx)$, and $f(x + k)$ for specific values of k (both positive and negative). Without technology, find the value of k given the graphs of linear and quadratic functions. With technology, experiment with cases and illustrate an explanation of the effects on the graphs that include cases where $f(x)$ is a linear, quadratic, piecewise linear (to include absolute value), or exponential function.

L. Distinguish between situations that can be modeled with linear functions and with exponential functions.

1. Prove that linear functions grow by equal differences over equal intervals, and that exponential functions grow by equal factors over equal intervals.

2. Recognize situations in which one quantity changes at a constant rate per unit interval relative to another.

3. Recognize situations in which a quantity grows or decays by a constant percent rate per unit interval relative to another.

M. Construct linear and exponential functions, including arithmetic and geometric sequences, given a graph, a description of a relationship, or two input-output pairs (include reading these from a table).

N. Observe, using graphs and tables, that a quantity increasing exponentially eventually exceeds a quantity increasing linearly, quadratically, or (more generally) as a polynomial function.

O. Interpret the parameters in a linear, quadratic, or exponential function in terms of a context.

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§2107. Statistics and Probability

A. Use statistics appropriate to the shape of the data distribution to compare center (median, mean) and spread (interquartile range, standard deviation) of two or more different data sets.

B. Interpret differences in shape, center, and spread in the context of the data sets, accounting for possible effects of extreme data points (outliers).

C. Summarize categorical data for two categories in two-way frequency tables. Interpret relative frequencies in the context of the data (including joint, marginal, and

conditional relative frequencies). Recognize possible associations and trends in the data.

D. Represent data on two quantitative variables on a scatter plot, and describe how the variables are related.

1. Fit a function to the data; use functions fitted to data to solve problems in the context of the data. (Use given functions or choose a function suggested by the context. Emphasize linear and quadratic models.)

2. Informally assess the fit of a function by plotting and analyzing residuals.

3. Fit a linear function for a scatter plot that suggests a linear association.

E. Interpret the slope (rate of change) and the intercept (constant term) of a linear model in the context of the data.

F. Compute (using technology) and interpret the correlation coefficient of a linear fit.

G. Distinguish between correlation and causation.

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Chapter 23. Algebra II

§2301. Number and Quantity

A. Explain how the definition of the meaning of rational exponents follows from extending the properties of integer exponents to those values, allowing for a notation for radicals in terms of rational exponents.

Example: We define $5^{1/3}$ to be the cube root of 5 because we want $(5^{1/3})^3 = 5^{(1/3)3}$ to hold, so $(5^{1/3})^3$ must equal 5.

B. Rewrite expressions involving radicals and rational exponents using the properties of exponents.

C. Define appropriate quantities for the purpose of descriptive modeling.

D. Know there is a complex number i such that $i^2 = -1$, and every complex number has the form a + bi with a and b real.

E. Use the relation $i^2 = -1$ and the commutative, associative, and distributive properties to add, subtract, and multiply complex numbers.

F. Solve quadratic equations with real coefficients that have complex solutions.

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§2303. Algebra

A. Use the structure of an expression to identify ways to rewrite it.

Example: See $x^4 - y^4$ as $(x^2)^2 - (y^2)^2$, thus recognizing it as a difference of squares that can be factored as $(x^2 - y^2)(x^2 + y^2)$.

B. Choose and produce an equivalent form of an expression to reveal and explain properties of the quantity represented by the expression.

1. Use the properties of exponents to transform expressions for exponential functions.

Example: The expression 1.15^t can be rewritten as $(1.15^{1/12})^{12t} \approx 1.012^{12t}$ to reveal the approximate equivalent monthly interest rate if the annual rate is 15 percent.

C. Apply the formula for the sum of a finite geometric series (when the common ratio is not 1) to solve problems.

Example: Calculate mortgage payments.

D. Know and apply the Remainder Theorem: For a polynomial $p(x)$ and a number a, the remainder on division by $x - a$ is $p(a)$, so $p(a) = 0$ if and only if $(x - a)$ is a factor of $p(x)$.

E. Identify zeros of polynomials when suitable factorizations are available, and use the zeros to construct a rough graph of the function defined by the polynomial.

F. Use polynomial identities to describe numerical relationships.

Example: The polynomial identity $(x^2 + y^2)^2 = (x^2 - y^2)^2 + (2xy)^2$ can be used to generate Pythagorean triples.

G. Rewrite simple rational expressions in different forms; write $a(x)/b(x)$ in the form $q(x) + r(x)/b(x)$, where $a(x)$, $b(x)$, $q(x)$, and $r(x)$ are polynomials with the degree of $r(x)$ less than the degree of $b(x)$, using inspection, long division, or, for the more complicated examples, a computer algebra system.

H. Create equations and inequalities in one variable and use them to solve problems. (Include equations arising from linear and quadratic functions, and simple rational and exponential functions.)

I. Explain each step in solving an equation as following from the equality of numbers asserted at the previous step, starting from the assumption that the original equation has a solution. Construct a viable argument to justify a solution method.

J. Solve simple rational and radical equations in one variable, and give examples showing how extraneous solutions may arise.

K. Solve quadratic equations in one variable.

1. Solve quadratic equations by inspection (e.g., for $x^2 = 49$), taking square roots, completing the square, the quadratic formula, and factoring, as appropriate to the initial form of the equation. Recognize when the quadratic formula gives complex solutions, and write them as a ± bi for real numbers a and b.

L. Solve systems of linear equations exactly and approximately (e.g., with graphs), limited to systems of at most three equations and three variables. With graphic solutions, systems are limited to two variables.

M. Solve a simple system consisting of a linear equation and a quadratic equation in two variables algebraically and graphically.

Example: Find the points of intersection between the line $y = -3x$ and the circle $x^2 + y^2 = 3$.

N. Explain why the x-coordinates of the points where the graphs of the equations $y = f(x)$ and $y = g(x)$ intersect are the solutions of the equation $f(x) = g(x)$; find the solutions approximately, e.g., using technology to graph the functions, make tables of values, or find successive approximations. Include cases where $f(x)$ and/or $g(x)$ are linear, polynomial, rational, absolute value, exponential, and logarithmic functions.

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§2305. Functions

A. For a function that models a relationship between two quantities, interpret key features of graphs and tables in terms of the quantities, and sketch graphs showing key features given a verbal description of the relationship. (Key features include: intercepts; intervals where the function is increasing, decreasing, positive, or negative; relative maximums and minimums; symmetries; end behavior; and periodicity.)

B. Calculate and interpret the average rate of change of a function (presented symbolically or as a table) over a specified interval. Estimate the rate of change from a graph.

C. Graph functions expressed symbolically and show key features of the graph, by hand in simple cases and using technology for more complicated cases.

1. Graph square root, cube root, and piecewise-defined functions, including step functions and absolute value functions.

2. Graph polynomial functions, identifying zeros when suitable factorizations are available, and showing end behavior.

3. Graph exponential and logarithmic functions, showing intercepts and end behavior, and trigonometric functions, showing period, midline, and amplitude.

D. Write a function defined by an expression in different but equivalent forms to reveal and explain different properties of the function.

1. Use the properties of exponents to interpret expressions for exponential functions.

Example: Identify percent rate of change in functions such as $y = (1.02)^t$, $y = (0.97)^t$, $y = (1.01)^{12t}$, $y = (1.2)^{t/10}$ and classify them as representing exponential growth or decay.

E. Compare properties of two functions each represented in a different way (algebraically, graphically, numerically in tables, or by verbal descriptions).

Example: Given a graph of one quadratic function and an algebraic expression for another, determine which has the larger maximum.

F. Write a function that describes a relationship between two quantities.

1. Determine an explicit expression, a recursive process, or steps for calculation from a context.

2. Combine standard function types using arithmetic operations.

Example: Build a function that models the temperature of a cooling body by adding a constant function to a decaying exponential, and relate these functions to the model.

G. Write arithmetic and geometric sequences both recursively and with an explicit formula, use them to model situations, and translate between the two forms.

H. Identify the effect on the graph of replacing $f(x)$ by $f(x) + k$, $k\,f(x)$, $f(kx)$, and $f(x + k)$ for specific values of k (both positive and negative); find the value of k given the graphs. Experiment with cases and illustrate an explanation of the effects on the graph using technology. Include recognizing even and odd functions from their graphs and algebraic expressions for them.

I. Find inverse functions.

1. Solve an equation of the form $f(x) = c$ for a simple function f that has an inverse, and write an expression for the inverse.

Example: $f(x) = 2x^3$ or $f(x) = (x+1)/(x-1)$ for $x \neq 1$

J. Given a graph, a description of a relationship, or two input-output pairs (include reading these from a table), construct linear and exponential functions, including arithmetic and geometric sequences, to solve multistep problems.

K. For exponential models, express as a logarithm the solution to $ab^{(ct)} = d$ where a, c, and d are numbers and the base b is 2, 10, or e; evaluate the logarithm using technology.

L. Interpret the parameters in a linear, quadratic, or exponential function in terms of a context.

M. Understand radian measure of an angle as the length of the arc on the unit circle subtended by the angle.

N. Explain how the unit circle in the coordinate plane enables the extension of trigonometric functions to all real numbers, interpreted as radian measures of angles traversed counterclockwise around the unit circle.

O. Choose trigonometric functions to model periodic phenomena with specified amplitude, frequency, and midline.

P. Prove the Pythagorean identity $\sin^2(\theta) + \cos^2(\theta) = 1$ and use it find $\sin(\theta)$, $\cos(\theta)$, or $\tan(\theta)$ given $\sin(\theta)$, $\cos(\theta)$, or $\tan(\theta)$ and the quadrant.

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§2307. Statistics and Probability

A. Use the mean and standard deviation of a data set to fit it to a normal distribution and to estimate population percentages. Recognize that there are data sets for which such a procedure is not appropriate. Use calculators, spreadsheets, and tables to estimate areas under the normal curve.

B. Represent data on two quantitative variables on a scatter plot, and describe how the variables are related.

1. Fit a function to the data; use functions fitted to data to solve problems in the context of the data. (Use given functions or choose a function suggested by the context. Emphasize exponential models.)

C. Understand statistics as a process for making inferences to be made about population parameters based on a random sample from that population.

D. Decide if a specified model is consistent with results from a given data-generating process, e.g., using simulation.

Example: A model says a spinning coin falls heads up with probability 0.5. Would a result of 5 tails in a row cause you to question the model?

E. Recognize the purposes of and differences among sample surveys, experiments, and observational studies; explain how randomization relates to each.

F. Use data from a sample survey to estimate a population mean or proportion; develop a margin of error through the use of simulation models for random sampling.

G. Use data from a randomized experiment to compare two treatments; use simulations to decide if differences between parameters are significant.

H. Evaluate reports based on data.

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Chapter 25. Geometry

§2501. Geometry

A. Know precise definitions of angle, circle, perpendicular line, parallel line, and line segment, based on the undefined notions of point, line, distance along a line, and distance around a circular arc.

B. Represent transformations in the plane using, e.g., transparencies, tracing paper, or geometry software; describe transformations as functions that take points in the plane as

inputs and give other points as outputs. Compare transformations that preserve distance and angle to those that do not (e.g., translation versus horizontal stretch).

C. Given a rectangle, parallelogram, trapezoid, or regular polygon, describe the rotations and reflections that carry it onto itself.

D. Develop definitions of rotations, reflections, and translations in terms of angles, circles, perpendicular lines, parallel lines, and line segments.

E. Given a geometric figure and a rotation, reflection, or translation, draw the transformed figure using, e.g., graph paper, tracing paper, or geometry software. Specify a sequence of transformations that will carry a given figure onto another.

F. Use geometric descriptions of rigid motions to transform figures and to predict the effect of a given rigid motion on a given figure; given two figures, use the definition of congruence in terms of rigid motions to decide if they are congruent.

G. Use the definition of congruence in terms of rigid motions to show that two triangles are congruent if and only if corresponding pairs of sides and corresponding pairs of angles are congruent.

H. Explain how the criteria for triangle congruence (ASA, SAS, and SSS) follow from the definition of congruence in terms of rigid motions.

I. Prove and apply theorems about lines and angles. (Theorems include: vertical angles are congruent; when a transversal crosses parallel lines, alternate interior angles are congruent and corresponding angles are congruent; points on a perpendicular bisector of a line segment are exactly those equidistant from the segment's endpoints.)

J. Prove and apply theorems about triangles. (Theorems include: measures of interior angles of a triangle sum to 180 degrees; base angles of isosceles triangles are congruent; the segment joining midpoints of two sides of a triangle is parallel to the third side and half the length; the medians of a triangle meet at a point.)

K. Prove and apply theorems about parallelograms. (Theorems include: opposite sides are congruent, opposite angles are congruent, the diagonals of a parallelogram bisect each other, and conversely, rectangles are parallelograms with congruent diagonals.)

L. Make formal geometric constructions with a variety of tools and methods, e.g., compass and straightedge, string, reflective devices, paper folding, or dynamic geometric software.

Examples: Copying a segment; copying an angle; bisecting a segment; bisecting an angle; constructing perpendicular lines, including the perpendicular bisector of a line segment; and constructing a line parallel to a given line through a point not on the line.

M. Construct an equilateral triangle, a square, and a regular hexagon inscribed in a circle.

N. Verify experimentally the properties of dilations given by a center and a scale factor.

1. A dilation takes a line not passing through the center of the dilation to a parallel line, and leaves a line passing through the center unchanged.

2. The dilation of a line segment is longer or shorter in the ratio given by the scale factor.

O. Given two figures, use the definition of similarity in terms of similarity transformations to decide if they are similar; explain using similarity transformations the meaning of similarity for triangles as the equality of all corresponding pairs of angles and the proportionality of all corresponding pairs of sides.

P. Use the properties of similarity transformations to establish the AA criterion for two triangles to be similar.

Q. Prove and apply theorems about triangles. (Theorems include: a line parallel to one side of a triangle divides the other two proportionally, and conversely; the Pythagorean Theorem proved using triangle similarity; SAS similarity criteria; SSS similarity criteria; ASA similarity.)

R. Use congruence and similarity criteria for triangles to solve problems and to prove relationships in geometric figures.

S. Understand that by similarity, side ratios in right triangles, including special right triangles (30-60-90 and 45-45-90), are properties of the angles in the triangle, leading to definitions of trigonometric ratios for acute angles.

T. Explain and use the relationship between the sine and cosine of complementary angles.

U. Use trigonometric ratios and the Pythagorean Theorem to solve right triangles in applied problems.

V. Prove that all circles are similar.

W. Identify and describe relationships among inscribed angles, radii, and chords, including the following: the relationship that exists between central, inscribed, and circumscribed angles; inscribed angles on a diameter are right angles; and a radius of a circle is perpendicular to the tangent where the radius intersects the circle.

X. Construct the inscribed and circumscribed circles of a triangle, and prove properties of angles for a quadrilateral inscribed in a circle.

Y. Use similarity to determine that the length of the arc intercepted by an angle is proportional to the radius, and define the radian measure of the angle as the constant of proportionality; derive the formula for the area of a sector.

Z. Derive the equation of a circle of given center and radius using the Pythagorean Theorem; complete the square to find the center and radius of a circle given by an equation.

AA. Use coordinates to prove simple geometric theorems algebraically.

Example: Prove or disprove that a figure defined by four given points in the coordinate plane is a rectangle; prove or disprove that the point $(1, \sqrt{3})$ lies on the circle centered at the origin and containing the point (0, 2).

BB. Prove the slope criteria for parallel and perpendicular lines, and use them to solve geometric problems (e.g., find the equation of a line parallel or perpendicular to a given line that passes through a given point).

CC. Find the point on a directed line segment between two given points that partitions the segment in a given ratio.

DD. Use coordinates to compute perimeters of polygons and areas of triangles and rectangles, e.g., using the distance formula.

EE. Give an informal argument, e.g., dissection arguments, Cavalieri's principle, or informal limit arguments, for the formulas for the circumference of a circle; area of a circle; volume of a cylinder, pyramid, and cone.

FF. Use volume formulas for cylinders, pyramids, cones, and spheres to solve problems.

GG. Identify the shapes of two-dimensional cross-sections of three-dimensional objects, and identify three-dimensional objects generated by rotations of two-dimensional objects.

HH. Use geometric shapes, their measures, and their properties to describe objects (e.g., modeling a tree trunk or a human torso as a cylinder).

II. Apply concepts of density based on area and volume in modeling situations (e.g., persons per square mile, BTUs per cubic foot).

JJ. Apply geometric methods to solve design problems (e.g., designing an object or structure to satisfy physical constraints or minimize cost; working with typographic grid systems based on ratios).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1060 (July 2016).

§2503. Statistics and Probability

A. Describe events as subsets of a sample space (the set of outcomes) using characteristics (or categories) of the outcomes, or as unions, intersections, or complements of other events ("or," "and," "not").

B. Understand that two events *A* and *B* are independent if the probability of *A* and *B* occurring together is the product of their probabilities, and use this characterization to determine if they are independent.

C. Understand the conditional probability of *A* given *B* as *P*(*A* and *B*)/*P*(*B*), and interpret independence of *A* and *B* as saying that the conditional probability of *A* given *B* is the same as the probability of *A*, and the conditional probability of *B* given *A* is the same as the probability of *B*.

D. Construct and interpret two-way frequency tables of data when two categories are associated with each object being classified. Use the two-way table as a sample space to decide if events are independent and to approximate conditional probabilities.

Example: Collect data from a random sample of students in your school on their favorite subject among math, science, and English. Estimate the probability that a randomly selected student from your school will favor science, given that the student is in grade 10. Do the same for other subjects, and compare the results.

E. Recognize and explain the concepts of conditional probability and independence in everyday language and everyday situations.

Example: Compare the chance of having lung cancer if you are a smoker with the chance of being a smoker if you have lung cancer.

F. Find the conditional probability of *A* given *B* as the fraction of *B*'s outcomes that also belong to *A*, and interpret the answer in terms of the model.

G. Apply the addition rule, *P*(*A* or *B*) = *P*(*A*) + *P*(*B*) - *P*(*A* and *B*), and interpret the answer in terms of the model.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1062 (July 2016).

Shan N. Davis
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1607#020

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28:CXV.2318 and 2353)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2318, The TOPS University Diploma; and §2353, Mathematics. The policy revisions add AP computer science as an equivalent advanced mathematics course for the purposes of satisfying high school graduation requirements and for determining student eligibility to receive a Taylor Opportunity Program for Students (TOPS) award.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 23. Curriculum and Instruction
Subchapter A. Standards and Curricula
§2318. The TOPS University Diploma

A. - C. …

1. For incoming freshmen in 2008-2009 through 2013-2014 who are completing the Louisiana basic core curriculum, the minimum course requirements for graduation shall be the following.

* * *

a. - a.iv. …

b. Mathematics—4 units:

i. all students must complete one of the following:

(a). algebra I (1 unit);

(b). applied algebra I (1 unit); or

(c). algebra I-Pt. 1 and algebra I-Pt. 2 (2 units);

ii. geometry or applied geometry;

iii. the remaining unit(s) shall come from the following:

(a). algebra II;

(b). financial mathematics;

(c). math essentials;

(d). advanced math—pre-calculus;

(e). advanced math—functions and statistics;

(f). pre-calculus*;

(g). calculus*;

(h). probability and statistics*;

(i). discrete mathematics;

(j). AP computer science A; or

(k). a locally initiated elective approved by BESE as a math substitute.

c. - h. …

2. For incoming freshmen in 2008-2009 through 2013-2014 who are completing the Louisiana Core 4 curriculum, the minimum course requirements shall be the following.

* * *

a. - a.iv. …

b. Mathematics—4 units:

i. algebra I, applied algebra I, or algebra I-Pt. 2;

ii. geometry or applied geometry;

iii. algebra II;

iv. the remaining unit shall come from the following:

(a). financial mathematics;

(b). math essentials;

(c). advanced math—pre-calculus;

(d). advanced math—functions and statistics;

(e). pre-calculus*;

(f). calculus*;

(g). probability and statistics*;

(h). discrete mathematics;

(i). AP calculus BC;

(j). AP computer science A; or

(k). a locally initiated elective approved by BESE as a math substitute.

c. - j. …

3. For incoming freshmen in 2014-2015 and beyond who are completing the TOPS university diploma, the minimum course requirements shall be the following:

a. - a .iv.(e). …

b. mathematics—four units:

i. algebra I;

ii. geometry;

iii. algebra II;

NOTE: Integrated Mathematics I, II, and III may be substituted for the Algebra I, Geometry, and Algebra II sequence.

iv. one of the following:

(a). algebra III;

(b). advanced math—functions and statistics;

(c). advanced math—pre-calculus;

(d). pre-calculus;

(e). IB math studies (math methods);

(f). calculus;

(g). AP calculus AB;

(h). IB mathematics SL;

(i). AP calculus BC;

(j). AP statistics;

(k). IB further mathematics HL;

(l). IB mathematics HL;

(m). probability and statistics; or

(n). AP computer science A;

3.c. - 6.a.vi. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 2016), LR 42:1062 (July 2016).

Subchapter B. Academic Programs of Study

§2353. Mathematics

A. The mathematics course offerings for the college diploma shall be as follows.

Course Title(s)	Units
Advanced Math—Pre-Calculus	1
Advanced Math—Functions and Statistics	1
Algebra I, II	1 each
Applied Algebra I	1
Algebra I—Part 1	1
Algebra I—Part 2	1
AP Computer Science A	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics (Literacy)	1
Geometry	1
Applied Geometry	1
Integrated Mathematics I, II, III	1 each
Pre-Calculus	1
Probability and Statistics	1
Math Essentials	1
AP Calculus BC	1
AP Calculus AB	1
AP Statistics	1
IB Math Studies (Math Methods)	1
IB Mathematics SL	1
IB Further Mathematics HL	1
IB Mathematics HL	1

B. - C. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:2605 (December 2007), LR 34:1609 (August 2008), LR 35:2322 (November 2009), LR 36:1493 (July 2010), LR 38:760 (March 2012), LR 40:999 (May 2014), LR 40:2527 (December 2014), LR 42:1063 (July 2016).

Shan N. Davis
Executive Director

1607#007

RULE

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators
(LAC 28:LXXIX.2109 and 2323)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*: §2109, High School Graduation Requirements; and §2323, Mathematics. The policy revisions add AP computer science as an equivalent advanced mathematics course for the purposes of satisfying high school graduation requirements and for determining student eligibility to receive a Taylor Opportunity Program for Students (TOPS) award.

Title 28
EDUCATION
Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators
Chapter 21. Curriculum and Instruction
Subchapter C. Secondary Schools
§2109. High School Graduation Requirements

A. …

B. For incoming freshmen from 2009-2010 to 2013-2014 who are completing the Louisiana Core 4 curriculum, the minimum course requirements shall be the following:

1. …

2. mathematics—4 units, shall be:

a. algebra I (1 unit) or algebra I-pt. 2;

b. geometry;

c. algebra II;

d. the remaining unit shall come from the following: financial mathematics, math essentials, advanced mathematics-pre-calculus, advanced mathematics-functions and statistics, pre-calculus, calculus, probability and statistics, discrete mathematics, AP calculus BC, AP computer science A, or a locally-initiated elective as a math substitute;

3. - 9. …

C. For incoming freshmen in 2009-2010 through 2013-2014 who are completing the Louisiana Basic Core curriculum, the minimum course requirements for graduation shall be the following.

1. …

2. Mathematics—4 units, shall be:

a. algebra I (1 unit) or algebra I-pt. 1 and algebra I-pt. 2 (2 units);

b. geometry;

c. the remaining units shall come from the following:

i. algebra II;

ii. financial mathematics;

iii. math essentials;

iv. advanced mathematics-pre-calculus;

v. advanced mathematics-functions and statistics;

vi. pre-calculus;

vii. calculus;

viii. probability and statistics;

ix. discrete mathematics;

x. AP computer science A; or

xi. a locally initiated elective approved by BESE as a math substitute.

3. - 7. …

D. For incoming freshmen in 2014-2015 and beyond who are completing the TOPS university diploma, the minimum course requirements shall be the following:

1. - 1.d.v. …

2. mathematics—four units:

a. algebra I;

b. geometry;

c. algebra II;

NOTE: Integrated Mathematics I, II, and III may be substituted for the Algebra I, Geometry, and Algebra II sequence.

d. one of the following:

i. algebra III;

ii. advanced math—functions and statistics;

iii. advanced math—pre-calculus;

iv. pre-calculus;

v. IB math studies (math methods);

vi. calculus;

vii. AP calculus AB;

viii. IB mathematics SL;

ix AP calculus BC;

x. AP statistics;

xi. IB further mathematics HL;

xii. IB mathematics HL;

xiii. probability and statistics; or

xiv. AP computer science A;

D.3. - F.3.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:3081 (December 2005), LR 34:2099 (October 2008), LR 36:2849 (December 2010), LR 37:2142, 2144 (July 2011), repromulgated LR 37:2390 (August 2011), amended LR 37:2597 (September 2011), LR 38:769 (March 2012), LR 38:1008 (April 2012), LR 39:1444 (June 2013), LR 40:1682 (September 2014), LR 40:2535 (December 2014), LR 41:915 (May 2015), LR 41:1485 (August 2015), LR 41:2127 (October 2015), LR 42:1064 (July 2016).

Chapter 23. High School Program of Studies
§2323. Mathematics

A. The mathematics course offerings shall be as follows.

Course Title	Unit(s)
Advanced Mathematics I	1
Advanced Mathematics II	1
Algebra I	1
Algebra I-Part I	1
Algebra 1-Part II	1
Algebra II	1
AP Computer Science A	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics (Literacy)	1
Geometry	1
Integrated Mathematics I	1
Integrated Mathematics II	1
Integrated Mathematics III	1
Pre-Calculus	1
Probability and Statistics	1
Math Essentials	1
AP Calculus BC	1
AP Calculus AB	1
AP Statistics	1
IB Math Studies (Math Methods)	1
IB Mathematics SL	1
IB Further Mathematics HL	1
IB Mathematics HL	1

B. Financial mathematics may be taught by the business education department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.1, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 30:2776 (December 2004), LR 31:3086 (December 2005), LR 34:2101 (October 2008), LR 36:2849 (December 2010), LR 38:771 (March 2012), LR 39:1449 (June 2013), LR 40:1685 (September 2014), LR 40:2538 (December 2014), LR 42:1064 (July 2016).

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RULE

Board of Elementary and Secondary Education

Bulletin 1955—Louisiana Content Standards, Benchmarks, and Grade Expectations for Mathematics
(LAC 28:CXIX.Chapters 1-17)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education (BESE) has repealed *Bulletin 1955—Louisiana Student Standards for Mathematics*. This action is required because these standards, initially approved by BESE in 2003, are obsolete having been replaced by standards approved by BESE in 2010.

Title 28
EDUCATION
Part CXIX. Bulletin 1955—Louisiana Content Standards, Benchmarks, and Grade Expectations for Mathematics

Chapter 1. General

§101. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2834 (November 2005), repealed LR 42:1065 (July 2016).

§103. Information Literacy Model for Lifelong Learning

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2834 (November 2005), repealed LR 42:1065 (July 2016).

§105. Philosophy

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2835 (November 2005), repealed LR 42:1065 (July 2016).

§107. Educational Environment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2837 (November 2005), repealed LR 42:1065 (July 2016).

§109. Assessment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2838 (November 2005), repealed LR 42:1065 (July 2016).

§111. Content Strands

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2839 (November 2005), repealed LR 42:1065 (July 2016).

Chapter 3. Strand One: Number and Number Relations

§301. Number and Number Relations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2839 (November 2005), repealed LR 42:1065 (July 2016).

§303. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2839 (November 2005), repealed LR 42:1065 (July 2016).

§305. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2840 (November 2005), repealed LR 42:1065 (July 2016).

§307. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2840 (November 2005), repealed LR 42:1065 (July 2016).

Chapter 5. Strand Two: Algebra

§501. Algebra

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2840 (November 2005), repealed LR 42:1065 (July 2016).

§503. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2841 (November 2005), repealed LR 42:1065 (July 2016).

§505. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2841 (November 2005), repealed LR 42:1065 (July 2016).

§507. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2841 (November 2005), repealed LR 42:1065 (July 2016).

Chapter 7. Strand Three: Measurement

§701. Measurement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2841 (November 2005), repealed LR 42:1066 (July 2016).

§703. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2841 (November 2005), repealed LR 42:1066 (July 2016).

§705. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2842 (November 2005), repealed LR 42:1066 (July 2016).

§707. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2842 (November 2005), repealed LR 42:1066 (July 2016).

Chapter 9. Strand Four: Geometry

§901. Geometry

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2842 (November 2005), repealed LR 42:1066 (July 2016).

§903. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2843 (November 2005), repealed LR 42:1066 (July 2016).

§905. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2843 (November 2005), repealed LR 42:1066 (July 2016).

§907. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2843 (November 2005), repealed LR 42:1066 (July 2016).

Chapter 11. Strand Five: Data Analysis, Probability, and Discrete Math

§1101. Data Analysis, Probability, and Discrete Math

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2843 (November 2005), repealed LR 42:1066 (July 2016).

§1103. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2844 (November 2005), repealed LR 42:1066 (July 2016).

§1105. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2844 (November 2005), repealed LR 42:1066 (July 2016).

§1107. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2844 (November 2005), repealed LR 42:1066 (July 2016).

Chapter 13. Strand Six: Patterns, Relations, and Functions

§1301. Patterns, Relations, and Functions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2844 (November 2005), repealed LR 42:1066 (July 2016).

§1303. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2845 (November 2005), repealed LR 42:1066 (July 2016).

§1305. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2845 (November 2005), repealed LR 42:1066 (July 2016).

§1307. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2845 (November 2005), repealed LR 42:1066 (July 2016).

Chapter 15. Grade Level Expectations

§1501. Prekindergarten

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2845 (November 2005), repealed LR 42:1067 (July 2016).

§1503. Kindergarten

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2846 (November 2005), repealed LR 42:1067 (July 2016).

§1505. First Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2846 (November 2005), repealed LR 42:1067 (July 2016).

§1507. Second Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2847 (November 2005), repealed LR 42:1067 (July 2016).

§1509. Third Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2848 (November 2005), repealed LR 42:1067 (July 2016).

§1511. Fourth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2849 (November 2005), repealed LR 42:1067 (July 2016).

§1513. Fifth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2850 (November 2005), repealed LR 42:1067 (July 2016).

§1515. Sixth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2851 (November 2005), repealed LR 42:1067 (July 2016).

§1517. Seventh Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2852 (November 2005), repealed LR 42:1067 (July 2016).

§1519. Eighth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2853 (November 2005), repealed LR 42:1067 (July 2016).

§1521. Ninth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2855 (November 2005), repealed LR 42:1067 (July 2016).

§1523. Tenth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2856 (November 2005), repealed LR 42:1067 (July 2016).

§1525. Eleventh and Twelfth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2856 (November 2005), repealed LR 42:1067 (July 2016).

Chapter 17. Glossary and References

§1701. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:2857 (November 2005), repealed LR 42:1067 (July 2016).

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RULE

Board of Elementary and Secondary Education

Bulletin 1965—Louisiana Content Standards, Benchmarks, and Grade Expectations for English Language Arts
(LAC 28:LXIII.Chapters 1-19)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has repealed *Bulletin 1965—Louisiana Content Standards, Benchmarks, and Grade Expectations for English Language Arts*. This action is required because these standards, initially approved by BESE in 2003, are obsolete having been replaced by standards approved by BESE in 2010.

Title 28
EDUCATION
Part LXIII. Bulletin 1965—Louisiana Content Standards, Benchmarks, and Grade Expectations for English Language Arts

Chapter 1. General

§101. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2858 (November 2005), repealed LR 42:1067 (July 2016).

§103. Louisiana Content Standards Foundation Skills

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2858 (November 2005), repealed LR 42:1068 (July 2016).

§105. Information Literacy Model for Lifelong Learning

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2859 (November 2005), repealed LR 42:1068 (July 2016).

§107. Louisiana English Language Arts Content Standards

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2859 (November 2005), repealed LR 42:1068 (July 2016).

Chapter 3. Standard One

§301. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2860 (November 2005), repealed LR 42:1068 (July 2016).

§303. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2860 (November 2005), repealed LR 42:1068 (July 2016).

§305. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2860 (November 2005), repealed LR 42:1068 (July 2016).

§307. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2860 (November 2005), repealed LR 42:1068 (July 2016).

Chapter 5. Standard Two

§501. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003), amended LR 31:2861 (November 2005), repealed LR 42:1068 (July 2016).

§503. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003), amended LR 31:2861 (November 2005), repealed LR 42:1068 (July 2016).

§505. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003), amended LR 31:2861 (November 2005), repealed LR 42:1068 (July 2016).

§507. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2861 (November 2005), repealed LR 42:1068 (July 2016).

Chapter 7. Standard Three

§701. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2861 (November 2005), repealed LR 42:1068 (July 2016).

§703. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2862 (November 2005), repealed LR 42:1068 (July 2016).

§705. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2862 (November 2005), repealed LR 42:1068 (July 2016).

§707. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2862 (November 2005), repealed LR 42:1068 (July 2016).

Chapter 9. Standard Four

§901. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:308 (March 2003), amended LR 31:2862 (November 2005), repealed LR 42:1069 (July 2016).

§903. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003), amended LR 31:2862 (November 2005), repealed LR 42:1069 (July 2016).

§905. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003), amended LR 31:2862 (November 2005), repealed LR 42:1069 (July 2016).

§907. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003), amended LR 31:2863 (November 2005), repealed LR 42:1069 (July 2016).

Chapter 11. Standard Five

§1101. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003), amended LR 31:2863 (November 2005), repealed LR 42:1069 (July 2016).

§1103. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:309 (March 2003), amended LR 31:2863 (November 2005), repealed LR 42:1069 (July 2016).

§1105. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:310 (March 2003), amended LR 31:2863 (November 2005), repealed LR 42:1069 (July 2016).

§1107. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:310 (March 2003), amended LR 31:2864 (November 2005), repealed LR 42:1069 (July 2016).

Chapter 13. Standard Six

§1301. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:610 (March 2003), amended LR 31:2/864 (November 2005), repealed LR 42:1069 (July 2016).

§1303. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:310 (March 2003), amended LR 31:2864 (November 2005), repealed LR 42:1069 (July 2016).

§1305. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:310 (March 2003), amended LR 31:2864 (November 2005), repealed LR 42:1069 (July 2016).

§1307. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2858 (November 2005), repealed LR 42:1069 (July 2016).

Chapter 15. Standard Seven

§1501. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:311 (March 2003), amended LR 31:2865 (November 2005), repealed LR 42:1069 (July 2016).

§1503. Benchmarks K-4

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:311 (March 2003), amended LR 31:2865 (November 2005), repealed LR 42:1069 (July 2016).

§1505. Benchmarks 5-8

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:311 (March 2003), amended LR 31:2865 (November 2005), repealed LR 42:1069 (July 2016).

§1507. Benchmarks 9-12

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2858 (November 2005), repealed LR 42:1069 (July 2016).

Chapter 17. Grade Level Expectations

§1701. Prekindergarten

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2865 (November 2005), repealed LR 42:1070 (July 2016).

§1703. Kindergarten

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2866 (November 2005), repealed LR 42:1070 (July 2016).

§1705. First Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2868 (November 2005), repealed LR 42:1070 (July 2016).

§1707. Second Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2870 (November 2005), repealed LR 42:1070 (July 2016).

§1709. Third Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2871 (November 2005), repealed LR 42:1070 (July 2016).

§1711. Fourth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2873 (November 2005), repealed LR 42:1070 (July 2016).

§1713. Fifth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2875 (November 2005), repealed LR 42:1070 (July 2016).

§1715. Sixth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2877 (November 2005), repealed LR 42:1070 (July 2016).

§1717. Seventh Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2880 (November 2005), repealed LR 42:1070 (July 2016).

§1719. Eighth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2882 (November 2005), repealed LR 42:1070 (July 2016).

§1721. Ninth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2884 (November 2005), repealed LR 42:1070 (July 2016).

§1723. Tenth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2886 (November 2005), repealed LR 42:1070 (July 2016).

§1725. Eleventh and Twelfth Grade

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2889 (November 2005), repealed LR 42:1070 (July 2016).

Chapter 19. Glossary and References

§1901. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:24.4, and R.S. 17:154.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:306 (March 2003), amended LR 31:2892 (November 2005), repealed LR 42:1070 (July 2016).

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RULE

Tuition Trust Authority
Office of Student Financial Assistance

START Saving Program
(LAC 28:VI.Chapters 1 and 3)

The Louisiana Tuition Trust Authority has amended its START Saving Program rules (R.S. 17:3091 et seq.). (ST16168R)

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

A. The Louisiana Student Tuition Assistance and Revenue Trust (START Saving) Program was enacted in 1995 to provide a program of savings for future college costs to:

1. help make education affordable and accessible to all citizens of Louisiana;

2. assist in the maintenance of state institutions of postsecondary education by helping to provide a more stable financial base to these institutions;

3. provide the citizens of Louisiana with financing assistance for education and protection against rising postsecondary education costs, to encourage savings to enhance the ability of citizens to obtain access to institutions of postsecondary education;

4. encourage academic excellence, to promote a well-educated and financially secure population to the ultimate benefit of all citizens of the state; and

5. encourage recognition that financing an education is an investment in the future.

B. The START Saving Program establishes education savings accounts (ESAs) by individuals, groups, or organizations with provisions for routine deposits of funds to cover the future educational costs of a designated beneficiary.

1. In addition to earning regular interest at competitive rates, certain accounts are also eligible for earnings enhancements (EEs) provided by the state to help offset the beneficiary's cost of qualified higher education expenses.

2. The EE amount is determined by the account owner's classification, annual federal adjusted gross income, and total annual deposits of principal.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), amended LR 24:1267 (July 1998), repromulgated LR 26:2260 (October 2000), amended LR 27:1876 (November 2001), LR 28:2334 (November 2002), LR 42:1071 (July 2016).

§103. Legislative Authority

A. Act Number 547 of the 1995 Regular Legislative Session, effective June 18, 1995, enacted the Louisiana Student Tuition Assistance and Revenue Trust (START) Saving Program as chapter 22-A, title 17 of the *Louisiana Revised Statutes* (R.S. 17:3091-3099.2).

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), repromulgated LR 24:1267 (July 1998), LR 26:2260 (October 2000), amended LR 27:1876 (November 2001), LR 42:1071 (July 2016).

§105. Program Administration

A. The Louisiana Tuition Trust Authority (LATTA) is a statutory authority whose membership consists of the Louisiana Student Financial Assistance Commission (LASFAC), plus one member from the Louisiana Bankers Association, the state treasurer, and one member each from the House of Representatives and Senate.

B. The LATTA administers the START Saving Program through the Louisiana Office of Student Financial Assistance (LOSFA).

C. LOSFA is the organization created to perform the functions of the state relating to programs of financial assistance and certain scholarship programs for higher education in accordance with directives of its governing bodies and applicable law, and as such is responsible for administering the START Saving Program under the direction of the LATTA.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:711 (June 1997), repromulgated LR 24:1267 (July 1998), amended LR 26:2260 (October 2000), LR 27:1876 (November 2001), LR 42:1071 (July 2016).

§107. Applicable Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Account Owner—the *person*(s), independent student, organization or group that completes the START Saving Program owner's agreement on behalf of a beneficiary and is the account owner of record of all funds credited to the account.

Beneficiary—the person named by the account owner in the Education Savings Account (ESA) owner's agreement or the person named by the LATTA when authorized to make such a designation by the owner of an account that is classified under §303.A.6. as the individual entitled to apply the account balance, or portions thereof, toward payment of their qualified higher education expenses.

Beneficiary's Family—for the purpose of §303.A.6 one of the following persons:

a. the beneficiary's parent(s) or court ordered custodian; or

b. a person who claims the beneficiary as a dependent on his or her federal income tax return for the previous year; or

c. a person who certified that the beneficiary lives with him, that he provides more than 50 percent of the beneficiary's support for the previous year and that he was not required to file an income tax return for the previous year.

Current Value—the value of an education savings account at a given point in time.

a. The current value of fixed earnings investment options includes the accumulated value of the principal deposited, earnings on deposits, earnings enhancements (EEs) allocated to the account and the earnings on the EEs.

b. The current value of variable earnings investment options includes the number of units in the investment option purchased multiplied by the current value of each unit plus the earnings enhancements (EEs) allocated to the account and the earnings on the EEs. This value may be more or less than the amount originally deposited.

Deposits—the actual amount of money received from an account owner for investment in an education savings

account. Deposits do not include earnings on deposits nor earnings enhancements or interest earned thereon.

Disabled or *Disability*—an individual who is considered to be disabled because he/she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered disabled unless he furnishes proof of the existence thereof in such form and manner as the LATTA may require.

Earnings Enhancement (EE)—a payment allocated to an ESA on behalf of the beneficiary of the account by the state. The amount of the annual EE is calculated based upon the classification of an account, the annual federal adjusted gross income of the account owner, and total annual deposits of principal into an ESA, including deposits in fixed earning and variable earnings options. EEs and the interest earned thereon may only be used to pay the beneficiary's qualified higher education expenses, or portion thereof, at an eligible educational institution and cannot be refunded.

Earnings Enhancement Cap—the maximum of deposits in an account for which earnings enhancements will be paid. The earnings enhancement cap is reached when an account has a current value that is equal to or exceeds five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, projected to the scheduled date of first enrollment. The projected qualified higher education expenses at each eligible educational institution shall be updated by the administering agency. On the date of the beneficiary's first enrollment in an eligible educational institution, the earnings enhancement cap will be fixed at five times the annual qualified higher education expenses at the highest cost Louisiana public college or university, for the academic year of enrollment or the projected amount, whichever is greater.

Education Savings Account (ESA)—a savings account established by a natural person or a legal entity to pay qualified higher education expenses of the designated beneficiary.

Educational Term—a semester, quarter, term, summer session, inter-session, or an equivalent unit.

Eligible Educational Institution—either:

a. a state college or university or a technical college or institute or an independent college or university located in this state that is approved by the U.S. Secretary of Education to participate in a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended; or

b. a public or independent college or a university located outside this state that is approved by the U.S. secretary of education to participate in a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended; or

c. a Louisiana licensed proprietary school, licensed pursuant to R.S. chapter 24-A of title 17, and any subsequent amendments thereto and is eligible to participate in a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1088), as amended.

False or Misleading Information—a statement or response made by a person, which is knowingly false or misleading, and made for the purpose of establishing a program account and/or receiving benefits to which the person would not otherwise be entitled.

Fixed Earnings—the placement of all deposits in an ESA, including the interest earned thereon, in investments that normally provide a fixed rate of return for a specific period of time.

Independent Student—is a person who is defined as an independent student by the Higher Education Act of 1965 (20 U.S.C. 1088) (HEA), as amended, and if required, files an individual federal income tax return in his/her name and designates him/herself as the beneficiary of an ESA.

a. The HEA defines *independent student* as a student who:

i. reached 24 years of age prior to January of the year preceding the academic year for which the student is applying for aid;

ii. is a veteran of the U.S. Armed Forces, including a student who was activated to serve in Operation Desert Storm or is currently serving on active duty in the Armed Forces for other than training purposes;

iii. is an orphan, in foster care, or a ward of the court or was in foster care or was a ward of the court until the individual reached the age of 18;

iv. has legal dependents other than a spouse;

v. is a graduate or professional student;

vi. is married; or

vii. has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the HEA.

b. An independent student may only open an account as an account owner if he/she is 18 years or older.

Legal Entity—juridical person including, but not limited to, groups, trusts, estates, associations, organizations, partnerships, and corporations that are incorporated, organized, established, or authorized to conduct business in accordance with the laws of one or more states or territories of the United States. A natural person is not a legal entity.

Louisiana Education Tuition and Savings Fund (*the Fund*)—is a special permanent fund maintained by the Louisiana state treasurer for the purpose of the START Saving Program and is the account into which all initial deposits made to ESAs are deposited. The fund includes the Savings Enhancement Fund, which is a special sub-account designated to receive earnings enhancements appropriated by the state, and interest earned thereon.

Louisiana Office of Student Financial Assistance (*LOSFA)*—the agency of state government responsible for administering the START Saving Program under the direction of the Louisiana Tuition Trust Authority.

Louisiana Resident—

a. any person who resided in the state of Louisiana on the date of the application and who has manifested intent to remain in the state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:

i. if registered to vote, is registered to vote in Louisiana;

ii. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;

iii. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle;

iv. if earning an income, has complied with state income tax laws and regulations;

b. a member of the Armed Forces stationed outside of Louisiana who claims Louisiana on his/her official DD Form 2058 as his/her legal residence for tax purposes, and is in compliance with state income tax laws and regulations, shall be considered eligible for program participation;

c. a member of the Armed Forces stationed in Louisiana under permanent change of station orders shall be considered eligible for program participation;

d. persons less than 21 years of age are considered Louisiana residents if they reside with and are dependent upon one or more persons who meet the above requirements;

e. a legal entity is considered to be a Louisiana resident if it is incorporated, organized, established or authorized to conduct business in accordance with the laws of Louisiana or registered with the Louisiana Secretary of State to conduct business in Louisiana and has a physical place of business in Louisiana.

Louisiana Tuition Trust Authority (LATTA)—the statutory body responsible for the administration of the START Saving Program.

Maximum Allowable Account Balance—$500,000.

Member of the Family (with respect to the designated beneficiary)—

a. the spouse of such beneficiary; or

b. an individual who bears one of the following relationships to such beneficiary:

i. a son or daughter of the beneficiary, or a descendant of either;

ii. a stepson or stepdaughter of the beneficiary;

iii. a brother, sister, stepbrother, or stepsister of the beneficiary;

iv. the father or mother of the beneficiary, or an ancestor of either;

v. a stepfather or stepmother of the beneficiary;

vi. a son or daughter of a brother or sister of the beneficiary;

vii. a brother or sister of the father or mother of the beneficiary; or

viii. a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the beneficiary; or

ix. a first cousin of the beneficiary; or

c. the spouse of an individual listed in Clauses b.i-viii.

Natural Person—a human being.

Other Person (with respect to any designated beneficiary)—any person, other than the beneficiary, whether natural or juridical, who is not a member of the family, including but not limited to individuals, groups, trusts, estates, associations, organizations, partnerships, corporations, and custodians under the Uniform Transfer to Minors Act (UTMA).

Owner's Agreement—the agreement for program participation that the account owner completes and signs. It incorporates, by reference, R.S. 17:3091 et seq., and the rules promulgated by the LATTA to implement this statutory provision and any other state or federal laws applicable to the agreement and the terms and conditions as set forth therein.

Person—a human being or a juridical entity.

Qualified Higher Education Expenses—

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

b. room and board; and

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

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

e. for calendar year 2015 and thereafter, expenses for the purchase of computer or peripheral equipment, computer software, or Internet access and related services, if such equipment, software, or services are to be used primarily by the beneficiary during any of the years the beneficiary is enrolled at an eligible educational institution, but shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominately educational in nature.

Rate of Expenditure—the rate (see §309.B) per educational term at which the EEs may be disbursed from an ESA to pay for the beneficiary's qualified higher education expenses at an eligible educational institution. For each disbursement requested by an account owner, EEs and the earnings thereon will be disbursed from the account in the same ratio that they bear to the current value of the account.

Redemption Value—the cash value of the money in an ESA invested in a fixed earnings option that are attributable to the sum of the principal deposited and the earnings on principal authorized to be credited to the account by the LATTA, less any disbursements and refunds. The redemption value does not include any EEs allocated to the account or the earnings on EEs. Redemption value is not applicable to an ESA invested in variable earnings.

Refund Recipient—the person designated by the account owner in the START Saving Program owner's agreement or by operation of law to receive refunds from the account. The refund recipient can only be the account owner or the beneficiary.

Room and Board—the reasonable cost for the educational term incurred by the designated beneficiary for room and board while attending an eligible educational institution on at least a half time basis, not to exceed the maximum amount included for *room and board* for such period in the cost of attendance (as currently defined in §472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll) as determined by the eligible educational institution for such period, or if greater, the actual invoice amount the student residing in housing owned or operated by the eligible education institution is charged by such institution for room and board.

Saving Enhancement Fund—the sub-account established within the Tuition and Savings Fund by the State Treasurer to receive funds appropriated by the legislature or donated from any other source for the purpose of funding EEs.

Scheduled Date of First-Enrollment (for a dependent beneficiary)—the month and year in which the beneficiary turns 18 years of age. For an independent student over the age of 18, the scheduled date of first-enrollment is the date the account is opened. This date is used to determine eligibility for EEs. See the term *earnings enhancement cap*.

Special Needs Services and Beneficiary—services provided to a beneficiary because the student has one or more disabilities.

Trade Date—the date that a deposit to an investment option that includes variable earnings is assigned a value in units, the date a disbursement or refund from an investment option that includes variable earnings is assigned a value, or the date of a change in investment options that includes variable earnings is assigned a value, whichever is applicable.

Tuition—the mandatory educational charge required as a condition of enrollment and is limited to undergraduate enrollment. It does not include non-residence fees, laboratory fees, room and board or other similar fees and charges.

Variable Earnings—refers to that portion of funds in an ESA, invested in equities, bonds, short-term fixed income investments or a combination of any of the three.

Variable Earnings Transaction Fund—the subaccount established within the Louisiana Education Tuition and Savings Fund to receive funds as directed by rule.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:712 (June 1997), amended LR 24:1268 (July 1998), LR 25:1794 (October 1999), LR 26:2260 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1876 (November 2001), LR 28:450 (March 2002), LR 28:777 (April 2002), LR 28:2334 (November 2002), LR 29:556 (April 2003), LR 30:786 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 31:639 (March 2005), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 33:443 (March 2007), LR 34:1885 (September 2008), LR 35:1491 (August 2009), LR 38:3162 (December 2012), LR 42:1071 (July 2016).

Chapter 3. Education Savings Account

§301. Education Savings Accounts

A. An education savings account (ESA) is established on behalf of a designated beneficiary to provide the funding necessary for the beneficiary to acquire an undergraduate certificate, associate degree, undergraduate degree, graduate degree or professional degree. ESAs may offer investment options that provide either fixed earnings or variable earnings.

1. The account owner classified under §303.A.1, 2, 3, 4, and 5 shall designate the beneficiary in the owner's agreement.

2. The account owner classified under §303.A.6 may designate the beneficiary in the owner's agreement, provided the beneficiary is not a member of the account owner's family, or authorize the LATTA to select a beneficiary for the account.

3. A beneficiary selected by the LATTA must meet the following criteria:

a. the beneficiary is a Louisiana resident;

b. the federal adjusted income of the beneficiary's family is less than $30,000 or the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);

c. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the authority or the Office of Student Financial Assistance;

d. demonstrate superior early academic preparation in the third grade by achieving a score on the Iowa Tests of Basic Skills, Stanford 9 Test or TerraNova Test that is in the top two quartiles; and

e. the guidelines provided by the account owner, if any; provided such guidelines are lawful.

4. Procedure for Selection (Reserved)

B. Program Enrollment Period. An account may be opened and an eligible beneficiary may be enrolled at any time during the calendar year.

C. Completing the Owner's Agreement

1. This agreement must be completed, in full, by the account owner.

2. The account owner shall designate a beneficiary, except as provided in Paragraph A.2 above.

3. The account owner may designate a limited power of attorney to another person who would be authorized to act on the account owner's behalf, in the event the account owner becomes incapacitated.

4. Transfer of account ownership is only permitted as set forth in §313.

D. Agreement to Terms. Upon executing an owner's agreement, the account owner agrees to the following statements.

1. Admission to a Postsecondary Educational Institution—that participation in the START Program does not guarantee that a beneficiary will be admitted to any institution of postsecondary education.

2. Payment of Qualified Higher Education Expenses—that participation in the START Program does not guarantee that the full cost of the beneficiary's qualified higher education expenses will be paid at an institution of postsecondary education nor does it guarantee enrollment as a resident student.

3. Maintenance of Continuous Enrollment—that once admitted to an institution of postsecondary education, participation in the START Program does not guarantee that the beneficiary will be permitted to continuously enroll or receive a degree, diploma, or any other affirmation of program completion.

4. Guarantee of Redemption Value—that the LATTA guarantees payment of the redemption value of an ESA that is invested in fixed earnings, subject to the limitations imposed by R.S. 17:3098; however, the LATTA does not guarantee the value of an ESA that is invested in variable earnings.

5. Conditions for Payment of Education Expenses—that payments for qualified higher education expenses under the START Saving Program are conditional upon the beneficiary's acceptance and enrollment at an eligible educational institution.

6. Fees

a. That except for penalties which may be imposed on refunds, the LATTA shall not charge fees for the opening or the maintenance of a fixed earnings account at standard fees established by the LATTA.

b. That fees imposed by investment institutions for opening or maintenance of variable earnings accounts may be charged to the account owner.

c. That financial and investment institutions may be authorized by the LATTA to offer prospective owners information and assistance in opening a START Program account.

7. That an account whose owner is a legal entity or is classified under §303.A.6. cannot be terminated and the funds deposited in the account will not be refunded to the account owner.

8. That an account owner who is a legal entity or is classified under §303.A.6, can change the beneficiary of an account to one or more persons who are not members of the family of the beneficiary in accordance with §313.A.4.c, however, in such case:

a. these transfers may be treated as refunds under federal and state tax laws in which case the account owner will be subject to any associated tax consequences; and

b. the EEs and interest thereon will not be transferred to the new beneficiary (Note that the deposit(s) will be eligible for EEs for the year of the deposit.);

c. the provisions of §301.A.2 shall apply to account owners classified in accordance with §303.A.6.

9. Only the account owner or the beneficiary may be designated to receive refunds from the account owned by an account owner who is a natural person other than a natural person classified as an account owner under §303.A.6. In the event of the death of the account owner when the account owner is designated to receive the refund and there is no substitute account owner named, the refund shall be made to the account owner's estate.

10. That in the event an account owner who is a legal entity classified as an account owner under §303.A.4 or 5 is dissolved, the beneficiary will become the owner of the account.

11. That in the event an other person classified as an account owner under §303.A.6 dies or is dissolved, the beneficiary will become the account owner, provided that, all the restriction provided in law and these rules regarding account owners classified under §303.A.6, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc., shall be applicable to the beneficiary that becomes the owner of an account established under §303.A.6. If an account owner classified under §303.A.6 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible college or university by age 25, and no substitute beneficiary has been designated by the account owner, the authority is authorized to designate a new beneficiary who must meet the requirements of §301.A.3 and §303.A.6.

E. Acceptance of the Owner's Agreement

1. A properly completed and submitted owner's agreement will be accepted upon receipt.

2. Upon acceptance of the owner's agreement, the LATTA will establish the account of the named beneficiary.

F. Citizenship Requirements. Both an account owner who is not a legal entity and the beneficiary must meet the following citizenship requirements:

1. be a United States citizen; or

2. be a permanent resident of the United States as defined by the U.S. Citizenship and Immigration Services (USCIS) or its successor and provide copies of USCIS documentation with the submission of the owner's agreement; or

3. be lawfully residing in the United States and have a valid Social Security number.

G. Residency Requirements

1. On the date an account is opened, either the account owner or his designated beneficiary must be a *Louisiana resident*, as defined in §107 of these rules.

2. The LATTA may request documentation to clarify circumstances and formulate a decision that considers all facts relevant to residency.

H. Providing Personal Information

1. The account owner is required to disclose personal information in the owner's agreement, including:

a. his Social Security number;

b. the designated beneficiary's Social Security number;

c. the beneficiary's date of birth;

d. the familial relationship between the account owner and the designated beneficiary, if any;

e. the account owner's prior year's federal adjusted gross income as reported to the Internal Revenue Service; and

f. in the case of an account owner classified under §303.A.6:

i. the Social Security number of the beneficiary's family and authorization from that person for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purpose of verifying federal adjusted gross income; and

ii. if applicable, proof that the beneficiary is a ward of the court; or

iii. if applicable, proof the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.).

2. By signing the owner's agreement, the account owner who is classified under §303.A.1, 2, or 3 (does not include legal entities or other persons classified as account owners under §303.A.6) provides written authorization for the LATTA to access his annual tax records through the Louisiana Department of Revenue, for the purposes of verifying federal adjusted gross income.

3. By signing the owner's agreement:

a. the account owner who is a natural person, other than a natural person classified as an account owner under §303.A.6, certifies that:

i. both account owner and beneficiary are United States citizens or permanent residents of the United States as defined by the U.S. Citizenship and Immigration Services (USCIS) or its successor or be lawfully residing in the United States and have a valid Social Security number; and

(a). if permanent residents have provided copies of USCIS documentation with the submission of the application and owner's agreement; or

(b). if in the United States lawfully with a valid Social Security number have provided the visa or other document(s) from the USCIS evidencing lawful residency and a copy of the Social Security card from the Social Security Administration; and

ii. the information provided in the application is true and correct;

b. the person signing on behalf of an account owner who is a legal entity certifies that:

i. the account owner is a *legal entity* as defined in rule and the application;

ii. he or she is the designated agent of the legal entity;

iii. he or she is authorized to take any action permitted the account owner;

iv. the account owner acknowledges and agrees that once funds are deposited in a START account, neither the deposits nor the interest earned thereon can be refunded to the account owner;

v. the information provided in the application is true and correct; and

vi. if the beneficiary is not a Louisiana resident, the legal entity fulfills the definition of *Louisiana resident* as found in rule and the application;

c. the natural person classified as an account owner under §303.A.6 certifies that:

i. the beneficiary is a Louisiana resident;

ii. the federal adjusted income of the beneficiary's family is less than $30,000 or the beneficiary is eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);

iii. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the authority or the Office of Student Financial Assistance;

iv. the account owner acknowledges and agrees that once funds are deposited in a START account, neither the deposits nor the interest earned thereon can be refunded to the account owner; and

v. the information provided in the application is true and correct.

4. Social Security numbers and federal and state employer identification numbers will be used for purposes of federal and state income tax reporting and to access individual account information for administrative purposes (see §315).

I. Number of Accounts for a Beneficiary. There is no limit on the number of ESAs that may be opened for one beneficiary by different account owners; however, the cumulative credits in all accounts for the same beneficiary may not exceed the maximum allowable account balance for that beneficiary and the cumulative credits in all ESAs for the same beneficiary will be used to determine when these accounts are fully funded and are no longer eligible for EEs.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001), LR 28:450 (March 2002), LR 28:778 (April 2002), LR 28:2334 (November 2002), LR 30:786 (April 2004), LR 33:443 (March 2007), LR 36:313 (February 2010), LR 41:669 (April 2015), LR 42:1074 (July 2016).

§303. Account Owner Classifications

A. An account owner shall be classified by the authority under one of the following classifications:

1. a person or persons determined by the authority to be the parent, grandparent, or court ordered custodian of the person being designated as beneficiary of the account or who claim the person being designated as beneficiary as a dependent on their federal income tax return, and, at the time of the initiation of the agreement, the person or beneficiary is a resident of the state; or

2. a person determined by the authority to be a member of the family of the beneficiary and, at the time of the initiation of the agreement, the person or the beneficiary is a resident of the state; or

3. an independent student who is a resident of the state;

4. any other person and, at the time of the initiation of the agreement, the beneficiary is a resident of the state; or

5. any other person who, at the time of the initiation of the agreement, is a resident of the state and the beneficiary is not a resident of the state;

6. any other person or any government entity, and at the time of the initiation of the agreement:

a. the beneficiary is a resident of the state;

b. the federal adjusted income of the beneficiary's family is less than $30,000 or the beneficiary must be eligible for a free lunch under the Richard B. Russell National School Act (42 USC 1751 et seq.);

c. the beneficiary is not a member of the account owner's family nor a member of the family of any member or employee of the authority or the Office of Student Financial Assistance;

d. the deposits to the account are an irrevocable donation by the owner.

B. In order to qualify as an account owner in any classification, a natural person, to include an independent student, must be of the age of majority under Louisiana law.

C. Account owner classification is made at the time of the initiation of the agreement. Changes in the residency of the account owner or beneficiary after the initiation of the agreement do not change the account owner's classification.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 27:1879 (November 2001), amended LR 28:779 (April 2002), LR 28:2334 (November 2002), LR 30:787 (April 2004), LR 42:1076 (July 2016).

§305. Deposits to Education Savings Accounts

A. Application Fee and Initial Deposit Amount

1. No application fee will be charged to participants applying for a START Program account directly to the LATTA.

2. Financial and investment institutions may be authorized by the LATTA to offer assistance in establishing a START Program account. (See *fees* in §301.D.6.)

3. An initial deposit is not required to open an ESA; however, a deposit of at least $10 must be made within 180 days from the date on the letter of notification of approval of the account.

4. A lump sum deposit may not exceed the maximum allowable account balance (see §107).

B. Deposit Options

1. The account owner shall select one of the following deposit options during the completion of the owner's agreement; however, the account owner may change the monthly deposit amount at any time and the payment method by notifying the LATTA:

a. occasional lump sum payment(s) made directly to the LATTA or to a LATTA-approved investment institution;

b. monthly payments made directly to the LATTA or to a LATTA-approved financial or investment institution;

c. automatic account debit, direct monthly transfer from the account owner's checking or savings account to the LATTA or a LATTA-approved investment institution;

d. payroll deduction, if available through the account owner's employer.

2. Account owners are encouraged to maintain a schedule of regular monthly deposits.

3. Through completion of schedule D of the Louisiana state income tax return, account owners may designate all or any portion of a state income tax refund due them as a deposit to their ESA. If the account owner has established more than one ESA, the amount of the refund identified on schedule D of the Louisiana state income tax return shall be divided by the number of accounts owned and an equal share shall be deposited into each such account.

C. Limitations on Deposits

1. All deposits must be rendered in amounts of at least $10 and must be made in cash, check, money order, automatic account debit or payroll deduction, defined as any of the deposit options listed in §305.B.1.

2. Once the balance in an account reaches the earnings enhancement cap (see §107), it will no longer be considered for EEs, regardless of the total amount of annual deposits that may be subsequently made to the account.

3. Once the cumulative contributions, earnings on contributions, EEs and interest accrued thereon has reached or exceeded the maximum allowable account balance (see §107), principal deposits will no longer be accepted to the account until a qualified distribution is made which reduces the account balance below the maximum allowable account balance.

D. Investment Options

1. The state treasurer shall select fixed earnings and variable earnings investment options.

2. The authority shall furnish each account owner with information that discloses each of the investment options offered by the program.

3. The account owner:

a. shall select one investment option in completing the owner's agreement, and

b. beginning December 1, 2009, may select the same or a different investment option at the time of each deposit.

4. Changing the Investment Option

a. Through 2008, the investment option can be changed only once in any 12-month period.

b. For the 2009 calendar year, the investment option may be changed at any time, but no more than two times.

c. Beginning December 1, 2009, if an ESA has funds in two or more investment options:

i. each option in the account may be changed to one different option or allowed to remain the same.

ii. all funds in each option changed must be transferred.

iii. funds in one option may not be moved to more than one option.

iv. all changes in investment options must take place in one transaction.

v. whether the funds are moved from one option or all options, the change is considered the one per calendar year investment option change.

d. Beginning the 2010 calendar year and thereafter, the investment option may be changed one time each calendar year.

5. Once a selection is made, all deposits shall be directed to the last investment option selected.

E. Effective Date of Deposits

1. Deposits for investment options that are limited to fixed earnings will be considered to have been deposited on the date of receipt.

2. Deposits for investment options that include variable earnings will be assigned a trade date based on the method of deposit and the date of receipt.

a. Deposits by check will be assigned a trade date three business days after the business day during which they were received.

b. Deposits made by electronic funds transfer through the Automated Clearing House (ACH) Network, or its successor, will be assigned a trade date of three business days after the business day during which they were received.

c. Deposits made by all other means of electronic funds transfer, including deposits made by transferring funds from a variable earnings option in which they are currently deposited to another option, will be assigned a trade date of one business day after the business day during which they were received.

3. Deposits for investment options that include variable earnings which are received via check or electronic funds transfer through the Automated Clearing House Network will be deposited into the fixed earnings option until the trade date. Earnings accrued on these deposits prior to the trade date shall be deposited in the Variable Earnings Transaction Fund.

4. Deposits received on weekends and holidays will be considered received on the next business day.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 35:236 (February 2009), LR 35:1234 (July 2009), LR 36:492 (March 2010), LR 36:2550 (November 2010), LR 42:1076 (July 2016).

§307. Allocation of Earnings Enhancements (EEs)

A. EEs are state-appropriated funds allocated to an ESA on behalf of the beneficiary named in the account.

1.a. The EEs for account owners who are classified under §303.A.1, 2 and 3 are calculated based upon the account owner's annual federal adjusted gross income for the year immediately preceding the year for which the

beneficiary of the account is being considered for EEs and the account owner's total annual deposits of principal.

b. The EEs for account owners who are classified under §303.A.6 are calculated based:

i. upon the beneficiary's family's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for EEs and the account owner's total annual deposits of principal; or

ii. if the beneficiary is a ward of the court, using the highest EE available and the account owner's total annual deposits of principal.

2. Although allocated to individual accounts, EEs are state funds and shall be held in an escrow account maintained by the state treasurer until disbursed to pay qualified higher education expenses at an eligible education institution as set forth in §307.G.

B. Providing Proof of Annual Federal Adjusted Gross Income.

1.a. For account owners who are classified under §303.A.1, 2, or 3 (does not include legal entities nor other persons classified as account owners under §303.A.6), the account owner's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for EEs is used in computing the annual EE allocation.

b. For account owners who are classified under §303.A.6, the beneficiary's family's annual federal adjusted gross income for the year immediately preceding the year for which the beneficiary of the account is being considered for EEs is used in computing the annual EEs or proof that the beneficiary is a ward of the court.

2.a. To be eligible in any given year for EEs in accordance with §307.D, the account owner of an ESA classified under §303.A.1, 2, 3, or 4 must:

i. authorize the LATTA to access the account owner's state tax return filed with the Louisiana Department of Revenue for the purpose of obtaining the account owner's federal adjusted gross income; or

ii provide the LATTA a copy of the account owner's federal or state income tax return filed for the year immediately preceding the year in which the beneficiary of the account is being considered for EEs.

b. To be eligible in any given year for EEs in accordance with §307.D, the account owner of an ESA classified under §303.A.6 must:

i. provide authorization from the beneficiary's family for the LATTA to access the beneficiary's family's state tax return filed with the Louisiana Department of Revenue for the purpose of obtaining the federal adjusted gross income of the beneficiary's family; or

ii. provide the LATTA a copy of the beneficiary's family's federal or state income tax return filed for the year immediately preceding the year in which the beneficiary of the account is being considered for EEs; or

iii. provide documentation establishing that the beneficiary is a ward of the court.

3.a. In completing the owner's agreement, account owners who are classified under §303.A.1, 2, or 3 (does not include legal entities or other persons classified as account owners under §303.A.6) authorize the LATTA to access their records with the Louisiana Department of Revenue for the purpose of verifying the account owners' federal adjusted gross income. In the event the account owner does not file tax information with the Louisiana Department of Revenue, they must provide the LATTA with:

i. a copy of the form filed with the Internal Revenue Service; or

ii. a statement as to why no income tax filing was required of the account owner.

b. In completing the owner's agreement, account owners who are classified under §303.A.6 provide authorization from the beneficiary's family for the LATTA to access their records with the Louisiana Department of Revenue for the purpose of verifying the beneficiary's family's federal adjusted gross income. In the event the beneficiary's family does not file tax information with the Louisiana Department of Revenue, the beneficiary's family must provide:

i. a copy of the form filed with the Internal Revenue Service; or

ii. a statement that the beneficiary lives with them, that they provide more than 50 percent of the beneficiary's support and an explanation as to why the beneficiary's family was not required to file an income tax return; or

iii. provide documentation establishing that the beneficiary is a ward of the court.

4. EEs at the rate prescribed in §307.D cannot be allocated to an ESA unless the LATTA has received verification of an account owner's federal adjusted gross income by the deadline contained in §307.B.5. Interest on EEs will not accrue to the benefit of an ESA until the LATTA has allocated the EEs to the account.

5. If an account owner is classified in §305.A.1 or 2 and the tax documents required by §307.B.2 are not received by February 15 immediately following the year for which the beneficiary of the account is being considered for EEs, as an exception to §307.D, the account shall be allocated EEs for the year being considered at the EE rate shown in §307.D for account owners who are members of the family of the beneficiary who report an adjusted gross income of $100,000 and above.

6. Example. An account owner has made deposits in a START account for a beneficiary during calendar year 2010 and desires to receive the highest EE rate authorized for those deposits. If the account owner did not file a Louisiana income tax return for the tax year 2009 or is notified by the LATTA that the Louisiana Department of Revenue could not validate his federal adjusted gross income, he must submit the tax documents for tax year 2009 required by §307.B.2.b so that they are received by the LATTA no later than February 15, 2011, or his EE rate will be defaulted to the rate for account owners who are members of the family of the beneficiary who report an adjusted gross income of $100,000 and above.

C. Earnings Enhancement Rates.

1. The EE rates applicable to an ESA under §303.A.1, 2, 3 and 6 are determined by the federal adjusted gross income of the account owner or the beneficiary's family, as applicable, according to the following schedule.

Reported Federal Adjusted Gross Income	Earnings Enhancement Rate
0 to $29,999	14 percent
$30,000 to $44,999	12 percent
$45,000 to $59,999	9 percent
$60,000 to $74,999	6 percent
$75,000 to $99,999	4 percent
$100,000 and above	2 percent

2. The availability of EEs to be allocated to ESAs is subject to an appropriation by the Louisiana Legislature.

3. In the event that sufficient EEs are not appropriated during any given year, the LATTA shall reduce EE rates, pro rata, as required to limit EEs to the amount appropriated.

D. The EE rates applicable to an ESA established by a person or persons identified in §303.A.4 shall be fixed at the EE rate for account owners who are members of the family of the beneficiary who report an adjusted gross income of $100,000 and above.

E. An ESA established by an authorized account owner identified in §303.A.5 shall not be eligible for EEs.

F. Restrictions on allocation of EEs to ESAs. The allocation of EEs is limited to ESAs which:

1. have not reached the earnings enhancement cap (see §107); and

2. have an account owner who falls under one of the classifications described in §303.A.1, 2, 3, 4, or 6.

G. Frequency of Allocation of EEs to ESAs. EEs will be allocated annually, posted to the accounts as of December 31 of the year earned and reported to account owners before March 31 following the allocation.

H. Rate of Interest Earned on EEs. The rate of interest earned on EEs shall be the rate of return earned on the Savings Enhancement Fund as reported by the state treasurer.

I. Restriction on Use of Earnings Enhancements

1. EEs, and any interest which may accrue thereon, may only be expended in payment of the beneficiary's qualified higher education expenses, or a portion thereof, at an eligible educational institution.

2. EEs, although allocated to a beneficiary's account and reported on the account owner's annual statement, are assets of the state of Louisiana and are not the property of the account owner until disbursed to pay a beneficiary's qualified higher education expenses at an eligible education institution.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1271 (July 1998), LR 25:1794 (October 1999), LR 26:1263 (June 2000), LR 26:2263 (October 2000), LR 27:37 (January 2001), LR 27:1222 (August 2001), LR 27:1880 (November 2001), LR 28:779 (April 2002), LR 30:788 (April 2004), LR 30:2302 (October 2004), LR 34:1886 (September 2008), LR 36:2550 (November 2010), LR 42:1077 (July 2016).

§309. Disbursement of Account Funds for Payment of Qualified Higher Education Expenses of a Beneficiary

A. Request for Disbursement

1. For each term the account owner intends to fund the beneficiary's qualified higher education expenses, the account owner shall submit a request for disbursement.

2. The request for disbursement must include:

a. the START account number;

b. the account owner's name, address, Social Security number and signature (may be electronic);

c. the beneficiary's name, address, and Social Security number;

d. the amount to be disbursed and to whom; and

e. the name and address of the eligible educational institution.

3. In the event funds are invested in more than one investment option, the disbursement shall be made proportionally from each investment option in the account.

4. If there is more than one account with the same beneficiary, each account owner requesting a disbursement must complete a request for disbursement and the disbursements shall be made from each account, in turn, in the order the disbursement requests were received.

5. Disbursements from all accounts with the same beneficiary shall not exceed the qualified higher education expenses of the beneficiary for the school attended.

6. Disbursements may be made to the eligible educational institution, account owner, and/or beneficiary. If all of the disbursement is made to the account owner and/or the beneficiary and LOSFA determines that the beneficiary is not enrolled in an eligible educational institution during the semester or term for which the disbursement was intended, LOSFA shall notify the account owner that the disbursement will constitute a refund for state and federal income tax purposes unless returned to the START account. If the disbursement is not returned to the account within 60 days of the original notice, LOSFA shall recover the amount of the EEs and interest thereon included in the disbursement from any principal and interest remaining in the account, and, in the authority's sole discretion, may refund any balance remaining thereafter and close the account.

7. Disbursements from investment options with variable earnings shall be assigned a trade date of one business day after the business day of receipt of the transfer request.

B. Rate of Expenditure

1. As authorized by the account owner, the amount to be disbursed from an account shall be drawn from deposits (including earnings on deposits) and EEs (including earnings on EEs) in the same ratio as these funds bear to the total value of the account as of the date of the disbursement.

2. The account owner may not withdraw an amount in excess of the beneficiary's qualified higher education expenses for a specific term of enrollment or the value of the account, whichever is less.

C. Payments to Eligible Educational Institutions

1. Upon the beneficiary's enrollment and the institution's receipt of a START disbursement, the institution may credit the student's account. Should the amount received exceed the amount owed to the institution, the institution shall disburse the balance to the beneficiary, unless the beneficiary directs otherwise.

2. If the designated beneficiary of an ESA account enrolls, but fails to attend or withdraws from the institution prior to the end of the educational term and disbursements from the ESA were made to the eligible educational institution to pay all or part of his qualified higher education

expenses for that educational term, an institutional refund to the ESA may be required.

3. If any refund is due the beneficiary from the eligible educational institution, a pro rata share of any refund of qualified higher education expenses equal to that portion of the qualified higher education expenses paid by disbursements from the ESA shall be made by the eligible educational institution to the LATTA.

4. The LATTA will credit any refunded amount to the appropriate ESA.

D. Advance Enrollment. A beneficiary may enroll in an eligible educational institution prior to his scheduled date of first-enrollment (see §107) and utilize ESA funds; however, a beneficiary may not utilize funds from an ESA prior to one year from the date the beneficiary made the first deposit opening the account.

E. Part-Time Attendance and Nonconsecutive Enrollment. A beneficiary may utilize funds in an ESA for enrollments which are nonconsecutive and for part-time attendance at an eligible educational institution, including enrollment in college classes while still in high school. Room and board is only a qualified higher education expense for students who are enrolled at least half time; however, room and board is not a qualified higher education expense for students who are enrolled in college classes while still in high school.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:716 (June 1997), amended LR 24:1272 (July 1998), LR 24:2238 (December 1998), LR 26:2265 (October 2000), LR 27:1881 (November 2001), LR 30:789 (April 2004), LR 30:1169 (June 2004), LR 32:1433 (August 2006), LR 33:444 (March 2007), LR 35:236 (February 2009), LR 42:1079 (July 2016).

§311. Termination, Refund, and Rollovers of an Education Savings Account

A. Account Termination

1. The account owner who is a natural person, other than a natural person classified as an account owner under §303.A.6, may terminate an account at any time.

2. The LATTA may terminate an account in accordance with this Subsection, §309.A.6. and §311.E.

3. The LATTA may terminate an account if no deposit of at least $10 has been made within 180 days from the date on the letter of notification of approval of the account.

4. The LATTA may terminate an account if the beneficiary dies and a new beneficiary is not named within 60 days of the death.

5. The LATTA may terminate an account if the beneficiary becomes disabled and a new beneficiary is not named by the time the beneficiary who has become disabled reaches age 25.

6. The account owner who is a legal entity or is classified under §303.A.6, may not terminate an account; however, the account owner who is a legal entity or is classified under §303.A.6 may designate a substitute beneficiary in accordance with §313.A.5.b.

B. Refunds

1. A partial refund of an account may only be made as described in §311.E.3.

2. All other requests for refund may result in the termination of the account and in the refund of:

a. the deposits invested in fixed earnings, if the account has been open for less than 12 months;

b. the redemption value, if the account has been open for 12 or more months;

c. the deposits to or the current value of an account invested in a variable earnings option, whichever is less, less earning enhancements allocated to the account and earnings thereon if the account has been open for less than 12 months. Any increase in the value of an account invested in a variable earnings option over the amount deposited shall be forfeited by the account owner and deposited in the Variable Earnings Transaction Fund, if the account was invested in a variable earnings option and terminated within 12 months of the date the account was opened;

d. the current value (less earning enhancements allocated to the account and earnings thereon) of an account invested in variable earnings, if the account has been open for 12 or more months.

3. No refunds shall be made to an account owner who is a legal entity classified under §303.A.4 or 5. If an account owned by a legal entity classified as an account owner under §303.A.4 or 5 is terminated by the LATTA or by the account owner in accordance with §311.E or F, the refund will be made to the beneficiary or to the beneficiary's estate if no substitute beneficiary has been designated by the account owner.

4. No refunds shall be paid to account owner classified under §303.A.6. If such an account is terminated by the LATTA in accordance with §311.E, the beneficiary shall become the owner of the account, provided that, all the rights and restrictions provided in law and these rules regarding account owners classified under §303.A.6, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc., shall be applicable to the beneficiary that becomes the owner of such an account. If an account owner classified under §303.A.6 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible college or university by age 25, and no substitute beneficiary has been designated by the account owner, the authority shall designate a new beneficiary who must meet the requirements of §301.A.4 and §303.A.6.

5. Refunds from investment options with variable earnings shall be assigned a trade date of one business day after the business day of receipt.

C. Designation of a Refund Recipient

1. In the owner's agreement, the account owner who is a natural person, except one who is classified under §303.A.6, may designate himself or the beneficiary to receive refunds from the account.

2. Refunds of interest earnings will be reported as income to the individual receiving the refund for both federal and state tax purposes.

3. In the event the beneficiary receives any refund of principal and earnings from the account, the tax consequences must be determined by the recipient.

4. The beneficiary of an account owned by a legal entity classified as an account owner under §303.A.4 or 5 is automatically designated as the refund recipient.

5. Funds in an account classified under §303.A.6 shall not be refunded.

D. Involuntary Termination of an Account with Penalty

1. The LATTA may terminate an owner's agreement if it finds that the account owner or beneficiary provided *false or misleading information* (see §107).

2. If the LATTA terminates an owner's agreement under this Section, all interest earnings on principal deposits may be withheld and forfeited, with only principal being refunded.

3. An individual who obtains program benefits by providing false or misleading information will be prosecuted to the full extent of the law.

E. Voluntary Termination of an Account

1. Refunds shall be equal to the redemption value of the ESA at the time of the refund, and shall be made to the person designated in the owner's agreement or by rule.

2. The person receiving the refund shall be responsible for any state or federal income tax that may be payable due to the refund.

3. Except for accounts classified in accordance with §303.A.6, accounts may be terminated and fully refunded for the following reasons:

a. the death of the beneficiary in which case the refund shall be equal to the redemption value of the account and shall be made to:

i. the account owner, if the account owner is a natural person; or

ii. the beneficiary's estate, if the account owner is a legal entity;

b. the disability of the beneficiary, in which case the refund shall be equal to the redemption value of the account and shall be made to:

i. the account owner or the beneficiary, as designated in the owner's agreement, if the account owner is a natural person; or

ii. the beneficiary, if the account owner is a legal entity;

c. the beneficiary receives a scholarship, waiver of tuition, or similar subvention that the LATTA determines cannot be converted into money by the beneficiary, to the extent the amount of the refund does not exceed the amount of the scholarship, waiver of tuition, or similar subvention awarded to the beneficiary. In such case, the refund shall be equal to the scholarship, waiver of tuition, or similar subvention that the LATTA determines cannot be converted into money by the beneficiary of the account, or the redemption value, whichever is less, and shall be made to:

i. the account owner or the beneficiary, as designated in the owner's agreement, if the account owner is a natural person; or

ii. the beneficiary, if the account owner is a legal entity.

4. Refunds made under this §311.E.3 are currently exempt from additional federal taxes.

F. Effective Date of Account Termination. Account termination shall be effective at midnight on the business day on which the request for account termination and all supporting documents are received. Accounts will be credited with interest earned on principal deposits through the effective date of the closure of the account.

G. Refund Payments. Payment of refunds for voluntary termination under §311.E or partial refunds of accounts pursuant to §311.E.3 shall be made within 30 days of the date on which the account was terminated. The termination refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the calendar year preceding the year in which the request to terminate an account is made. Interest earned in excess of $10 during the calendar year of termination will be refunded within 45 days of the date the state treasurer announces the interest rate for the preceding calendar year. Interest earned of $10 or less during the calendar year of termination will be forfeited to the Louisiana Education and Tuition Savings Fund.

H. Rollovers

1. Rollovers among ESAs of the Same Account Owner

a. Beginning October 1, 2009, an account owner may rollover any part or all of the value of an ESA to another ESA if the beneficiary of the account receiving the funds is a member of the family of the beneficiary of the original account.

b. If the current value of an ESA is transferred, all EEs and earnings thereon shall be included in the transfer.

2. Rollover to another Qualified Tuition Program

a. An account owner may request a rollover of the current value of the account less EEs and earnings thereon to another qualified tuition program.

b. EEs and the earnings thereon allocated to an ESA that is rolled over to another qualified tuition program are forfeited.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:717 (June 1997), amended LR 24:1273 (July 1998), repromulgated LR 26:2265 (October 2000), amended LR 27:38 (January 2001), LR 27:1882 (November 2001), LR 28:779 (April 2002), LR 30:790 (April 2004), LR 31:639 (March 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:444 (March 2007), LR 35:236 (February 2009), LR 36:492 (March 2010), LR 36:2551 (November 2010), LR 39:2238 (August 2013), LR 42:1080 (July 2016).

§313. Substitution, Assignment, and Transfer

A. Substitute Beneficiary. The beneficiary of an ESA may be changed to a substitute beneficiary provided the account owner completes a beneficiary substitution form and the following requirements are met:

1. the substitute beneficiary is a member of the family as defined under §107;

2. the substitute beneficiary meets the citizen/resident alien requirements of §301.F, and, if the account owner is a nonresident of the state of Louisiana, the substitute beneficiary meets the applicable residency requirements (see §301.G);

3. if the substitute beneficiary is not a member of the family of the previous beneficiary:

a. and the account owner is a natural person classified under §303.A.1-5, the account must be refunded to the account owner and a new account must be opened;

b. and the account owner is a legal entity classified under §303.A.4 or 5, a new account shall be opened in the name of the new beneficiary; and

i. these transfers may be treated as refunds under federal and state tax laws in which case the account owner will be subject to any associated tax consequences; and

ii. the EEs and interest thereon for an account whose owner is classified under §303.A.4 will not be transferred to the new beneficiary; however, the new account will be eligible for EEs for the year the new account is opened;

c. and the account owner is classified under §303.A.6, a new account shall be opened in the name of the new beneficiary only if the beneficiary meets all the requirements of §303.A.6; and

i. these transfers may be treated as refunds under federal and state tax laws in which case the account owner will be subject to any associated tax consequences; and

ii. the EEs and interest thereon will not be transferred to the new beneficiary; however, the new account will be eligible for EEs for the year the new account is opened;

iii. the provisions of §301.A.2 shall apply to account owners classified in accordance with §305.A.5.

B. Substitution/Transfer of Account Ownership. The ownership of an ESA is transferable only with the written approval of the LATTA and only as follows.

1. The account owner who is a natural person, other than a natural person classified as an account owner under §303.A.6, may designate a person who will become the substitute account owner in the event of the original account owner's death. Eligibility for EEs will be based on the substitute account owner's classification at the time of the original account owner's death.

2. In the event of the death of an account owner who is a natural person, other than a natural person classified as an account owner under §303.A.6, who has not named a substitute account owner, the account shall be terminated and the account shall be refunded to the beneficiary, if designated to receive the refund by the account owner, or the account owner's estate.

3. An account owner who is a legal entity classified under §303.A.4 or 5 may indicate in the owner's agreement that the account shall be transferred to the beneficiary of the account upon his 18th birthday, or upon his enrollment in an eligible postsecondary institution full time, whichever is later. If the account owner transfers the account in accordance with this section, disbursements may only be made for payment of the qualified higher education expenses of the beneficiary.

4. In the event of the dissolution of an account owner who is a legal entity classified as an account owner under §303.A.4 or 5, the beneficiary shall become the substitute account owner. If the account owner who is a legal entity classified as an account owner under §303.A.4 or 5 is dissolved, the beneficiary designated to receive the refund has died, and there is no substitute beneficiary named, the refund shall be made to the beneficiary's estate.

5. In the event of the death or dissolution of an other person classified as an account owner under §303.A.6, the beneficiary shall become the substitute account owner, provided that all the rights and restrictions provided in law and these rules regarding account owners classified under §303.A.6, including, but not limited to, use of the funds, refunds, terminations, designation of beneficiary, etc., shall be applicable to the beneficiary that becomes the owner of an account established under §303.A.6. If an account owner classified under §303.A.6 dies or is dissolved and the beneficiary has died or failed to enroll in an eligible educational institution by age 25, and no substitute beneficiary has been designated by the account owner, the LATTA shall designate a new beneficiary who must meet the requirements of §301.A.4 and §303.A.6.

C. Assignment of Account Ownership. Ownership of an ESA cannot be assigned.

D. Changes to the Owner's Agreement

1. The account owner may request changes to the owner's agreement.

2. Changes must be requested in writing and be signed by the account owner.

3. Changes, if accepted, will take effect as of the date the notice is received by the LATTA.

4. The LATTA shall not be liable for acting upon inaccurate or invalid data which was submitted by the account owner.

5. The account owner will be notified by the LATTA in writing of any changes affecting the owner's agreement which result from changes in applicable federal and state statutes and rules.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), repromulgated LR 26:2266 (October 2000), amended LR 27:1883 (November 2001), LR 28:780 (April 2002), LR 30:791 (April 2004), LR 42:1081 (July 2016).

§315. Miscellaneous Provisions

A. Account Statements and Reports

1. The LATTA will forward to each account owner an annual statement of account which itemizes the:

a. date and amount of deposits and interest earned during the prior year;

b. total principal and interest accrued to the statement date; and

c. total EEs and interest thereon allocated to the account as of the statement date.

2. EEs shall be allocated annually and reported after March 1, following the account owners' required disclosure of their reported federal adjusted gross income for the year immediately preceding the year in which the beneficiary of the account is being considered for an EEs.

3. The account owner must report errors on the annual statement of account to the LATTA within 60 days from the date on the account statement or the statement will be deemed correct.

B. Earned Interest

1. Interest earned on principal deposits during a calendar year will be credited to accounts and reported to account owners after the conclusion of the calendar year in which the interest was earned.

2. The rate of interest earned shall be the rate of return earned on the fund as reported by the state treasurer and approved by the LATTA.

3. For the year ending December 31, 2000, the Louisiana Education Tuition and Savings Fund earned an interest rate of 6.51 percent.

4. For the year ending December 31, 2000, the Tuition Assistance Grant (TAGs) Fund earned an interest rate of 6.83 percent.

5. For the year ending December 31, 2001, the Louisiana Education Tuition and Savings Fund earned an interest rate of 6.33 percent.

6. For the year ending December 31, 2001, the Savings Enhancement Fund earned an interest rate of 6.38 percent.

7. For the year ending December 31, 2002, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.82 percent.

8. For the year ending December 31, 2002, the Savings Enhancement Fund earned an interest rate of 5.91 percent.

9. For the year ending December 31, 2003, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.33 percent.

10. For the year ending December 31, 2003, the Savings Enhancement Fund earned an interest rate of 5.17 percent.

11. For the year ending December 31, 2004, the Louisiana Education Tuition and Savings Fund earned an interest rate of 4.72 percent.

12. For the year ending December 31, 2004, the Savings Enhancement Fund earned an interest rate of 5.12 percent.

13. For the year ending December 31, 2005, the Louisiana Education Tuition and Savings Fund earned an interest rate of 3.64 percent.

14. For the year ending December 31, 2005, the Savings Enhancement Fund earned an interest rate of 4.92 percent.

15. For the year ending December 31, 2006, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.11 percent.

16. For the year ending December 31, 2006, the Savings Enhancement Fund earned an interest rate of 4.67 percent.

17. For the year ending December 31, 2007, the Louisiana Education Tuition and Savings Fund earned an interest rate of 5.28 percent.

18. For the year ending December 31, 2007, the Savings Enhancement Fund earned an interest rate of 5.25 percent.

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

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

21. For the year ending December 31, 2009, the Louisiana Education Tuition and Savings Fund earned an interest rate of 3.22 percent.

22. For the year ending December 31, 2009, the Savings Enhancement Fund earned an interest rate of 3.08 percent.

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

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

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

26. For the year ending December 31, 2011, the Savings Enhancement Fund earned an interest rate of 2.47 percent.

27. For the year ending December 31, 2012, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.52 percent.

28. For the year ending December 31, 2012, the Savings Enhancement Fund earned an interest rate of 2.57 percent.

29. For the year ending December 31, 2013, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.168 percent.

30. For the year ending December 31, 2013, the Savings Enhancement Fund earned an interest rate of 1.715 percent.

31. For the year ending December 31, 2014, the Louisiana Education Tuition and Savings Fund earned an interest rate of 2.08 percent.

32. For the year ending December 31, 2014, the Savings Enhancement Fund earned an interest rate of 1.31 percent.

C. Refunded Amounts

1. Interest earned on an ESA which is refunded to the account owner or beneficiary will be taxable for state and federal income tax purposes.

2. No later than January 31 of the year following the year of the refund, the LATTA will furnish the State Department of Revenue, the Internal Revenue Service and the recipient of the refund an Internal Revenue Service Form 1099, or whatever form is appropriate according to applicable tax codes.

D. Annual Report

1. The account owner of an ESA will be notified annually, in writing, of the following:

a. the maximum allowable account balance; and

b. the minimum recommended account balance which is an amount equal to five times the qualified higher education expenses for the eligible educational institution designated on the owner's agreement, projected to the date of the beneficiary's eighteenth birthday; or

2. If the account owner changes the institution designated on the owner's agreement, a revised minimum recommended account balance will be calculated and the account owner will be notified of any change.

E. Rule Changes. The LATTA reserves the right to amend the rules regulating the START Program's policies and procedures; however, any amendments to rules affecting participants will be published in accordance with the Administrative Procedure Act and distributed to account owners for public comment prior to the adoption of final rules.

F. Determination of Facts. The LATTA shall have sole discretion in making a determination of fact regarding the application of these rules.

G. Individual Accounts. The LATTA will maintain an individual account for each beneficiary, showing the redemption value of the account.

H. Confidentiality of Records. All records of the LATTA identifying account owners and designated beneficiaries of ESAs, amounts deposited, expended or refunded, are confidential and are not public records.

I. No Investment Direction. No account owner or beneficiary of an ESA may direct the investment of funds credited to an account, except to make an annual election among investment options that offer fixed earnings, variable earnings or both. Deposits will be invested on behalf of the START Savings Program by the state treasurer.

J. No Pledging of Interest as Security. No interest in an ESA may be pledged as security for a loan.

K. Excess Funds

1. Principal deposits to an ESA are no longer accepted once the account total reaches the maximum allowable account balance (see §305.C); however, the principal and interest earned thereon may continue to earn interest and any EEs allocated to the account may continue to accrue interest.

2. Funds in excess of the maximum allowable account balance may remain in the account and continue to accrue interest and may be disbursed in accordance with §309, or will be refunded in accordance with §311 upon termination of the account.

L. Withdrawal of Funds. Funds may not be withdrawn from an ESA except as set forth in §309 and §311.

M. NSF Procedure

1. A check received for deposit to an ESA which is returned due to insufficient funds in the owner's account on which the check is drawn, will be redeposited and processed a second time by the START Program's financial institution.

2. If the check is returned due to insufficient funds a second time, the check will be returned to the depositor.

3. Earnings reported by the state treasurer on deposits made by check or an ACH transfer which is not honored by the financial institution on which it was drawn subsequent to the trade date shall be forfeited by the account owner and deposited into the Variable Earnings Transaction Fund.

N. Effect of a Change in Residency. On the date an account is opened, either the account owner or beneficiary must be a resident of the state of Louisiana (see §301.G); however, if the account owner or beneficiary, or both, temporarily or permanently move to another state after the account is opened, they may continue participation in the program in accordance with the terms of the owner's agreement.

O. Effect on Other Financial Aid. Participation in the START Program does not disqualify a student from participating in other federal, state or private student financial aid programs; however, depending upon the regulations which govern these other programs at the time of enrollment, the beneficiary may experience reduced eligibility for aid from these programs.

P. Change in Projected School of Enrollment

1. The account owner may redesignate the beneficiary's projected school of enrollment, but not more than once annually.

2. If the change in school results in a change in the account's EE cap, the account owner will be notified.

Q. Abandoned Accounts. Abandoned accounts will be defined and treated in accordance with R.S. 9:151 et seq., as amended, the Louisiana Uniform Unclaimed Property Act.

R. Investment in Variable Earnings. When an account owner selects a variable earnings account, up to 100 percent of the deposits may be invested in equity securities.

S. Variable Earnings Transaction Fund

1. Monies in the Variable Earnings Transaction Fund shall be used to pay any charges assessed to the START Saving Program by a financial institution and to pay any loss of value between the purchase and redemption of units in a variable earnings option that are incurred when a check or ACH transfer is dishonored after the trade date by the financial institution on which it was drawn.

2. After the payment of expenses as provided in Paragraph 1, above, the LATTA may declare monies remaining in the Variable Earnings Transaction Fund as surplus. Such surplus shall be appropriated to the Saving Enhancement Fund to be used as EEs.

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1886 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 39:2238 (August 2013), LR 40:1926 (October 2014), LR 41:1487 (August 2015), LR 42:1082 (July 2016).

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Senior Attorney

1607#016

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Incorporation by Reference
Federal Air Quality Regulations—2015
(LAC 33:III.506, 507, 2160, 3003,
5116, 5311 and 5901)(AQ359ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.506, 507, 2160, 3003, 5116, 5311 and 5901 (Log #AQ359ft).

This Rule is identical to federal regulations found in 40 CFR part 51, appendix M; 40 CFR part 60; 40 CFR part 61; 40 CFR part 63; 40 CFR part 68; 40 CFR part 70.6(a); 40 CFR part 96, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or

economic impact will result from the Rule. This Rule is promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule incorporates by reference (IBR) into the *Louisiana Administrative Code* (LAC), Title 33, Part III, Air the following federal regulations included in the July 1, 2015 edition of the *Code of Federal Regulations* (CFR): 40 CFR parts 51-appendix M, 60, 61, 63, 68 and 70.6(a). Any exception to the IBR is explicitly listed in the Rule. This updates the references to July 1, 2015, for standard of performance for new stationary sources, 40 CFR part 60. The Rule also updates the references to July 1, 2015, for the national emission standards for hazardous air pollutants (NESHAP) and for NESHAP for source categories, 40 CFR 61 and 63. In order for Louisiana to maintain equivalency with federal regulations, certain regulations in the most current *Code of Federal Regulations*, July 1, 2015, must be adoped into the *Louisiana Administrative Code* (LAC). This rulemaking is also necessary to maintain delegation authority granted to Louisiana by the Environmental Protection Agency. The basis and rationale for this Rule are to mirror the federal regulation as they apply to Louisiana's affected sources. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§506. Clean Air Interstate Rule Requirements

A. - B.4. …

C. Annual Sulfur Dioxide. Except as specified in this Section, the federal SO_2 model Rule, published in the *Code of Federal Regulation* at 40 CFR 96, July 1, 2015, is hereby incorporated by reference, except for subpart III-CAIR SO_2 opt-in units and all references to opt-in units.

D. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30.2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:1597 (September 2006), amended LR 33:1622 (August 2007), LR 33:2083 (October 2007), LR 34:978 (June 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), repromulgated LR 36:2551 (November 2010), amended LR 37:2989 (October 2011), LR 38:1229 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1276 (May 2013), LR 40:1334 (July 2014), LR 42:1085 (July 2016).

§507. Part 70 Operating Permits Program

A. - B.1. …

2. No part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2015. Upon issuance of the permit, the part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007), LR 33:2083 (October 2007), LR 33:2630 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:1229 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1276 (May 2013), LR 40:1334 (July 2014), LR 41:1274 (July 2015), LR:42:1085 (July 2016).

Chapter 21. Control of Emission of Organic Compounds

Subchapter N. Method 43—Capture Efficiency Test Procedures

[Editor's Note: This Subchapter was moved and renumbered from Chapter 61 (December 1996).]

§2160. Procedures

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR 51, appendix M, July 1, 2015, are hereby incorporated by reference.

B. - C.2.b.iv. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013), LR 40:1334 (July 2014), LR 41:1274 (July 2015), LR 42:1085 (July 2016).

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 *Code of Federal Regulations* (CFR) Part 60

A. Except for 40 CFR 60, subpart AAA, and as modified in this Section, standards of performance for new stationary sources, published in the *Code of Federal Regulations* at 40 CFR 60, July 1, 2015, are hereby incorporated by reference as they apply to the state of Louisiana.

B. - C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2754 (November 2012), LR 39:1039 (April 2013), LR 39:1277 (May 2013), LR 40:1335 (July 2014), LR 40:2540 (December 2014), LR:41:1274 (July 2015), LR 42:1086 (July 2016).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants, published in the *Code of Federal Regulations* at 40 CFR 61, July 1, 2015, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR Part 61	Subpart/Appendix Heading
* * *	

B. - C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 33:2094 (October 2007), LR 34:1391 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013), LR 40:1335 (July 2014), LR 41:1274 (July 2015), LR 42:1086 (July 2016).

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants for source categories, published in the *Code of Federal Regulations* at 40 CFR 63, July 1, 2015, are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

B. - C.3. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2095 (October 2007), LR 33:2627 (December 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013), LR 40:1335 (July 2014), LR:41:1275 (July 2015), LR 42:1086 (July 2016).

Chapter 53. Area Sources of Toxic Air Pollutants

Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants for source categories, published in the *Code of Federal Regulations* at 40 CFR 63, July 1, 2015, are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

B. - C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997),

amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2096 (October 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2756 (November 2012), LR 39:1278 (May 2013), LR 40:1336 (July 2014), LR 41:1275 (July 2015), LR 42:1086 (July 2016).

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR 68, July 1, 2015.

B. - C.6. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007), LR 34:1392 (July 2008), LR 35:1109 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013), LR 40:1336 (July 2014), LR 41:1275 (July 2015), LR 42:1087 (July 2016).

Herman Robinson
General Counsel

1607#036

RULE

Office of the Governor
Board of Pardons

Clemency Consideration Eligibility and Application Filing (LAC 22:V.Chapter 2)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons has amended its rules in LAC 22:V.203, 205, and 211. These Rule changes revise application filing procedures and eligibility for clemency reconsideration. Section 203 provides that an incarcerated applicant must be free of disciplinary reports for a period of 24 months prior to submitting an application for clemency and for the 24-month period prior to a clemency hearing. Section 205 establishes procedures for an applicant to request reconsideration when notified by the board that no action was taken by the governor on their initial application.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part V. Board of Pardons

Chapter 2. Clemency

§203. Eligibility for Clemency Consideration

A. - C.2.a. ...

b. must have been disciplinary report free for a period of at least 24 months prior to the date of the application or at the time of the hearing (if a hearing is granted); and

C.2.c. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2255 (August 2013), amended LR 42:1087 (July 2016).

§205. Application Filing Procedures

A. - D.4. ...

5. Denial/No Action Taken by Governor after Favorable Recommendation. The board shall notify an applicant after its receipt of notification from the governor that the board's favorable recommendation was denied or no action was taken.

a. If the applicant is notified of denial by the governor, the applicant may not reapply for clemency for at least four years from the date of the denial. The application filing procedures in Subsections A-D.3 of this Section shall apply.

b. If the applicant is notified that no action was taken by the governor, the applicant may request reconsideration of the board's favorable recommendation. Applicant must submit a re-application within one year from the date on the board's notification to the applicant of no action taken by the governor.

i. Upon receipt of the re-application in accordance with this section, the board shall set the matter for an administrative review. At least 30 days prior to the scheduled docket date for administrative review, the board shall give written notice of the date, time, and place to the following:

(a). the district attorney and sheriff of the parish in which the applicant was convicted and, in Orleans Parish, the superintendent of police;

(b). the applicant;

(c). the victim who has been physically or psychologically injured by the applicant (if convicted of that offense), and the victim's spouse or next of kin, unless the injured victim 's spouse or next of kin advises the board, in writing, that such notification is not desired;

(d). the spouse or next of kin of a deceased victim when the offender responsible for the death is the applicant (if convicted of that offense), unless the spouse or next of kin advises the board in writing that such notification is not desired;

(e). the Crime Victim Services Bureau of the Department of Public Safety and Corrections; and

(f). any other interested person who has notified the board of pardons, in writing, requesting such notice providing their name and return address.

c. The board shall evaluate the record of the applicant. Action on the re-application may include setting the matter for a clemency hearing, affirming the board's previous favorable recommendation, or denying the re-application.

d. If the applicant does not apply for reconsideration within the one-year period, the application filing procedures in Subsections A-D.3 of this Section shall apply.

E. Notice of Action Taken on Application. After review of application for clemency by the board, applicants shall be notified, in writing, of action taken by the board. Action can include granting a hearing before the board or denial of a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2255 (August 2013), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 41:42 (January 2015), amended by the Office of the Governor, Board of Pardons LR 42:1087 (July 2016).

§211. Hearings before the Pardon Board

A. - F. ...

G. Applicant's failure to attend and/or notify the Board of Pardons office of his/her inability to attend the hearing will result in an automatic denial. The applicant may reapply two years from the date of scheduled hearing. Lifers who fail to attend and/or advise of inability to attend may reapply in five years, and every five years thereafter.

H. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2256 (August 2013), amended LR 42:1088 (July 2016).

Sheryl M. Ranatza
Board Chair

1607#034

RULE

Office of the Governor
Office of Financial Institutions

Investment Adviser Registration Procedure
(LAC 10:XIII.Chapter 13)

In accordance with the Louisiana Securities Law, R.S. 51:701 et seq., and pursuant to the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the commissioner of financial institutions, in his capacity as the commissioner of securities (hereinafter "the commissioner") has amended LAC 10:XIII.1301-1311, a Rule to place a requirement on registered investment adviser firms that in order for such firms to be registered with the commissioner, all of their investment adviser representatives must either satisfy the examination criteria set out in §1303 or qualify for one of the waivers set out in §1305. The Sections below have been amended and adopted to ensure that all investment adviser representatives are properly qualified to provide investment advice to Louisiana citizens.

Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC
Part XIII. Investment Securities
Subpart 1. Securities
Chapter 13. Investment Adviser Registration Procedure

§1301. Definitions

Third-Party Solicitor—an investment adviser representative who meets all of the following criteria:

1. investment advisory business consists solely of referring individuals to other investment adviser firm(s);

2. provides no advice to individuals regarding specific investments;

3. fees consist entirely of referral fees received from the investment adviser firms to whom the investment adviser representative makes referrals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:703(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 32:2055 (November 2006), effective January 1, 2007, amended LR 34:2125 (October 2008), LR 42:1088 (July 2016).

§1303. Examination Requirements

A. Any investment adviser firm applying for registration under R.S. 51:703(D), or renewal of any such registration, shall provide the commissioner with proof that each of its investment adviser representatives has met one of the two following examination requirements:

1. successfully passed the uniform investment adviser law examination (series 65 examination) after January 1, 2000; or

2. …

3. successfully passed the general securities representative examination (series 7 examination) and uniform registered investment adviser examination (series 65 examination) prior to January 1, 2000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:703(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 32:2055 (November 2006), effective January 1, 2007, amended LR 42:1088 (July 2016).

§1309. Grandfather Provision

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:703(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 32:2056 (November 2006), effective January 1, 2007, repealed LR 42:1088 (July 2016).

§1311. Exemptions

A. The requirements of this Chapter shall not apply to third-party solicitors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:703(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 32:2056 (November 2006), effective January 1, 2007, amended LR 34:2126 (October 2008), LR 42:1088 (July 2016).

John Ducrest, CPA
Commissioner of Securities

1607#041

RULE

Department of Health
Board of Examiners of Psychologists

Provisional Licensure of Psychologists
(LAC 46:LXIII.102, 105, 601, 603, 701, 705, 709, 901, 902, 1101, 1301, 1503, 1901, and 2103)

Editor's Note: The following Sections are being repromulgated to correct submission and citation errors. The original Rule can be viewed in the December 2015 edition of the *Louisiana Register* on pages 2617-2621.

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Health and Hospitals, Board of Examiners of Psychologists has amended LAC 46:LXIII.Chapters 1-21 to include references to provisionally licensed psychologists. The amendments are necessary pursuant to Act 137 of the 2014 Legislative Session.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXIII. Psychologists
Subpart 1. General Provisions

Chapter 7. Supervised Practice Leading toward Licensure

§701. Preface

A. This document details reasonable minimal standards for supervised practice and establishes the legal, administrative and professional responsibility of the licensed psychologist or medical psychologist licensed in accordance with R.S. 27:1360.51 et seq., designated as supervisor.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2618 (December 2015), repromulgated by the Department of Health, Board of Examiners of Psychologists, LR 42:1089 (July 2016).

§705. Qualifications of Supervisors

A. Responsibility for the overall supervision of the supervisee's professional growth resides in the licensed psychologist or medical psychologist. Supervising psychologists shall at least be licensed for one year and have training in the specific area of practice in which they are offering supervision. Specific skill training may be assigned to other specialists, under the authority of the supervising psychologist. The non-psychologist specialist shall have clearly established practice and teaching skills demonstrable to the satisfaction of both the supervising psychologist and the supervisee.

B. The supervisor shall limit the number of persons supervised so as to be certain to maintain a level of supervision and practice consistent with professional standards insuring the welfare of the supervisee and the client. The supervisor must be licensed for one year and may not supervise any more than two candidates for licensure at the same time.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 5:249 (August 1979), amended LR 7:187 (April 1981), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2619 (December 2015), repromulgated by the Department of Health, Board of Examiners of Psychologists, LR 42:1089 (July 2016).

Chapter 15. Rules for Disciplinary Action

Subchapter A. Applicability; Processing Complaints

§1503. Complaints

A. A *complaint* is defined as the receipt of any information by the board indicating that there may be grounds for disciplinary action against a licensed psychologist or provisional licensed psychologist, or any other individual, under the provisions of title 37, chapter 28 of the *Louisiana Revised Statutes*, or other applicable law, regulation or rule.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 9:461 (July 1983), amended LR 12:833 (December 1986), amended by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 36:1008 (May 2010), LR 41:2620 (December 2015), repromulgated by the Department of Health, Board of Examiners of Psychologists, LR 42:1089 (July 2016).

Chapter 21. Disclosure of Financial Interests and Prohibited Payments

§2103. Definitions

A. ...

* * *

Provisional Licensed Psychologist—any individual who practices under the supervision of a Louisiana licensed psychologist and has met all minimal requirements as determined by the Louisiana State Board of Examiners of Psychologists.

* * *

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 21:1335 (December 1995), amended LR 41:2620 (December 2015), repromulgated by the Department of Health, Board of Examiners of Psychologists, LR 42:1089 (July 2016).

Jaime T. Monic
Executive Director

1607#042

RULE

Department of Health
Board of Pharmacy

Controlled Substance Prescriptions
(LAC 46:LIII.2525 and 2745)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended Chapter 25, Prescriptions, Drugs, and Devices as well as Chapter 27, Controlled Dangerous Substances, of its rules. In particular, the board intends to amend §2525, relative to the expiration date of prescriptions for controlled substances, in compliance with Act 865 of the 2014 Legislature, as well as §2745, amending the list of practitioners authorized to prescribe controlled substances, in compliance with Act 453 of the 2015 Legislature.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 25. Prescriptions, Drugs, and Devices
Subchapter B. Prescriptions
§2525. Prescription Expiration

A. …

B. A prescription for a controlled dangerous substance shall expire:

1. 90 days after the date of issue if the drug is listed in schedule II; or

2. 6 months after the date of issue if the drug is listed in schedule III, IV, or V.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 42:1090 (July 2016).

Chapter 27. Controlled Dangerous Substances
Subchapter F. Production, Distribution, and Utilization
§2745. Prescriptions

A. - A.1.c. …

d. a physician assistant;

e. an advanced practice registered nurse;

f. an optometrist; or

A.1.g. - C.7.a.ii. …

iii. The prescription form shall contain no more than four prescription drug or device orders. While nothing in these rules shall prohibit the pre-printing of any number of prescription drugs or devices on the prescription form, no prescription form issued by a prescriber shall identify more than four prescription drugs or devices to be dispensed.

iv. For each prescription drug or device ordered on a prescription form, there shall be a pre-printed check box labeled "Dispense as Written", or "DAW", or both.

v. For each prescription drug or device ordered on a prescription form, there shall be a refill instruction, if any.

vi. The prescription form shall bear a single printed signature line, and the prescriber shall manually sign the prescription.

C.7.b. - G.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2149 (October 2008), amended LR 41:685 (April 2015), amended by the Department of Health, Board of Pharmacy, LR 42:1090 (July 2016).

Malcolm J. Broussard
Executive Director

1607#031

RULE

Department of Health
Bureau of Health Services Financing

Emergency Medical Transportation Services
Ambulance Licensing Standards
(LAC 48:I.6037)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.6037 in the Medical Assistance Program as authorized by R.S. 36:254, R.S. 40:1133.14 and R.S. 40:1135.3. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 60. Emergency Medical Transportation Services
Subchapter B. Provider Responsibilities
§6037. Medical Protocol

A. - C.21. ...

D. The EMS service shall adopt the protocols established by the Louisiana Emergency Response Network (LERN) or develop an agency specific protocol with specific language related to the transportation of the following patients:

1. Acute stroke patients shall be transported to the closest appropriate primary stroke center, acute stroke ready hospital, or closest appropriate hospital if the patient exhibits a compromise of airway, breathing or circulatory function, or other potential life threatening emergency as defined by the protocols implemented by the ambulance service's medical director. Acute stroke patients may also be diverted to the closest appropriate hospital by order of LERN or online medical control from the local facility, potential receiving facility or medical director.

2. ...

3. In any case where the treating emergency medical technician's evaluation, according to protocol, indicates a potentially unstable condition or potential medical emergency that, if traveling the extra distance to the recommended appropriate facility could put the patient at higher risk, the emergency medical technician in his/her discretion may divert to the nearest appropriate facility.

E. - E.4. ...

F. Ambulance services are accountable for assuring compliance with applicable protocols by their personnel.

Exceptions to these protocols must be reviewed on a case-by-case basis by the physician medical director.

1. Treatment decisions shall be considered given the current health status of the patient in conjunction with all of the associated risks factors including, but not limited to, distance to the nearest stroke facility.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1133.14 and 40:1135.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:476 (March 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:2153 (October 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1090 (July 2016).

Rebekah E. Gee MD, MPH
Secretary

1607#052

RULE

Department of Health
Bureau of Health Services Financing

Medicaid Eligibility
Federally-Facilitated Marketplace Determinations
(LAC 50:III.505)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:III.505 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 1. General Administration
Chapter 5. Application Processing
§505. Federally-Facilitated Marketplace Determinations

A. Effective April 20, 2016, Louisiana Medicaid will delegate its Medicaid eligibility determination authority to the federally-facilitated marketplace (FFM) in order to begin accepting eligibility determinations made by the FFM for only those individuals who apply for healthcare coverage through the FFM. This action will result in the state becoming a determination state.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1489 (August 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1091 (July 2016).

Rebekah E. Gee MD, MPH
Secretary

1607#053

RULE

Department of Health
Bureau of Health Services Financing

Medical Transportation Program
Non-Emergency Medical Transportation
(LAC 50:XXVII.Chapter 5)

The Department of Health, Bureau of Health Services Financing repealed and replaced the provisions of the October 20, 1994 Rule governing non-emergency medical transportation, and amended LAC 50:XXVII.Chapter 5 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXVII. Medical Transportation Program
Chapter 5. Non-Emergency Medical Transportation
Subchapter A. General Provisions
§501. Introduction

A. Non-emergency medical transportation (NEMT) is non-emergency transportation to and from the providers of routine Medicaid covered services for Medicaid recipients. NEMT is intended to provide transportation only after all reasonable means of free transportation have been explored and found to be unavailable.

B. Medicaid covered transportation is available to Medicaid recipients when:

1. the individual is enrolled in either a full-coverage Medicaid benefit program or a limited-coverage Medicaid benefit program that explicitly includes transportation services; and

2. the recipient or their representative has stated that they have no other means of transportation.

C. The requested destination must be to a medical or behavioral health service provider currently enrolled in the Medicaid Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1091 (July 2016).

§503. Prior Authorization

A. NEMT services require prior authorization. The department or its designee will authorize transportation after verifying the recipient's Medicaid eligibility and validity of medical or behavioral health appointment(s).

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1091 (July 2016).

§505. Requirements for Coverage

A. When transportation is not available through family and friends, payment shall be authorized for the least costly means of transportation available. The least costly means of

transportation shall be determined by the department and shall be determined according to the following hierarchy:

1. city or parish public transportation;

2. family and friends who meet the state license and insurance requirements and who are willing to:

a. enroll in the Medicaid Program; and

b. be paid a published rate for providing non-emergency transportation;

3. intrastate public conveyance (such as bus, train or plane);

4. nonprofit agencies and organizations that provide a transportation service and who are enrolled in the Medicaid Program; and

5. for profit providers enrolled in the Medicaid Program.

B. Recipients shall be allowed a choice of providers when the costs of two or more providers are equal.

C. Recipients are encouraged to utilize medical or behavioral health providers of their choice in the community in which they reside when the recipient is also in need of Medicaid reimbursed transportation services. The fact that the department will still pay for the actual medical or behavioral health service received outside the community in which the recipient resides does not obligate the department to reimburse for transportation to accommodate such a choice.

D. When the recipient chooses to utilize a medical or behavioral health provider outside of the community due to preference and/or history, payment may be authorized only for the cost of transportation to the nearest available provider.

E. The recipient may be responsible for securing any agreements with family and friends, nonprofit or profit providers to make the longer trip for the payment authorized. If the recipient needs help with making such arrangements, the department will help but the help given will imply no obligation to provide a greater reimbursement.

F. When specialty treatment required by the recipient necessitates travel over extended distances, authorization for payment for intrastate transportation shall be determined according to the following criteria.

1. Intrastate transportation reimbursement shall be authorized when medical or behavioral health services are not available to the recipient in his/her community.

2. Payment shall be authorized when free transportation is not available.

3. The department shall still authorize payment only for the most economical means of transportation. This may be through negotiating payment for transportation with family and or friends or through accessing the public conveyance systems such as bus, train or plane.

4. The determination as to use of public conveyance shall be based on least cost, medical or behavioral health condition of the recipient to be transported, and availability of public conveyance.

G. When it has been verified that public conveyance is unavailable or inappropriate for intrastate transportation the recipient shall solicit transportation from family and friends. The department will authorize payment to assist the family in accessing the needed medical services.

1. Payment will be based on distance to be traveled to the nearest available similar or appropriate medical or behavioral health services, parking and tolls. In determining the amount of payment the cost of the least costly public conveyance shall be used as the base cost to be paid to the family. Payment shall not be available for room and board or meals.

H. When no other means of transportation is available through family and friends or public conveyance, the department will solicit intrastate transportation through a nonprofit provider.

1. The nonprofit provider will be paid a fee based on the current fee schedule.

2. If the nonprofit provider cannot accept the trip then the department will reimburse for-profit providers based on the current fee schedule.

I. The department will not authorize "same day" trips except in the instance of need for immediate medical care due to injury or illness. Same day trips will not be authorized for scheduled appointments for predictable or routine medical or behavioral health care. Recipients will be asked to reschedule the appointment and make the subsequent request for transportation timely.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1091 (July 2016).

Subchapter B. Recipient Participation

§521. General Provisions

A. Recipients shall participate in securing transportation at a low cost and shall agree to use public transportation or solicit transportation from family and friends as an alternative to more costly means of transport.

B. When the recipient alleges that public conveyance cannot be used due to medical reasons, then verification shall be provided by giving the department a written statement from a doctor that includes the specific reason(s) that the use of public conveyance is contraindicated by the medical or behavioral health condition of the recipient. In no case can preference of the recipient be the sole determining factor in excluding use of public conveyance.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1092 (July 2016).

§523. Recipient Appeals

A. Recipients shall have a right to request a fair hearing for the denial of NEMT services in full or in part. This includes requests for a fair hearing for denial of meals and lodging expenses associated with authorized trips.

B. Recipients shall be provided written notice of the service denial (including denials for meals and/or lodging expenses) and given the opportunity to request a fair hearing to appeal the department's decision.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1092 (July 2016).

Subchapter C. Provider Responsibilities

§541. Provider Enrollment

A. All transportation providers must comply with the published rules and regulations governing the Medicaid Transportation Program, all state laws, and the regulations of

any other governing state agency or commission or local entity to which they are subject as a condition of enrollment and continued participation in the Medicaid Program.

B. Non-emergency medical transportation profit providers shall have a minimum liability insurance coverage of $100,000 per person and $300,000 per accident or a $300,000 combined service limits policy.

1. The liability policy shall cover any and all:
   a. autos;
   b. hired autos; and
   c. non-owned autos.

2. Premiums shall be prepaid for a period of six months. Proof of prepaid insurance must be a true and correct copy of the policy issued by the home office of the insurance company. Statements from the agent writing the policy will not be acceptable. Proof must include the dates of coverage and a 30-day cancellation notification clause. Proof of renewal must be received by the department no later than 48 hours prior to the end date of coverage. The policy must provide that the 30-day cancellation notification be issued to the Bureau of Health Services Financing.

3. Upon notice of cancellation or expiration of the coverage, the department will immediately cancel the provider agreement for participation. The ending date of participation shall be the ending date of insurance coverage. Retroactive coverage statements will not be accepted. Providers who lose the right to participate due to lack of prepaid insurance may re-enroll in the transportation program and will be subject to all applicable enrollment procedures, policies, and fees for new providers.

C. As a condition of reimbursement for transporting Medicaid recipients to medical or behavioral health services, family and friends must maintain the state minimum automobile liability insurance coverage, a current state inspection sticker, and a current valid driver's license. No special inspection by the department will be conducted. Proof of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the department is sought. Proof shall be the sworn and notarized statement of the individual enrolling for payment, certifying that all three requirements are met. Family and friends shall be enrolled and shall be allowed to transport up to three specific Medicaid recipients or all members of one Medicaid assistance unit. The recipients to be transported by each such provider will be noted in the computer files of the department. Individuals transporting more than three Medicaid recipients shall be considered profit providers and shall be enrolled as such.

D. As a condition of participation for out-of-state transport, providers of transportation to out-of-state medical or behavioral health services must be in compliance with all applicable federal intrastate commerce laws regarding such transportation, including but not limited to, the $1,000,000 insurance requirement. Proof of compliance with all interstate commerce laws must be submitted when enrollment in the Medicaid Program is sought or prior to providing any out-of-state Medicaid transportation.

E. A provider must agree to cover the entire parish or parishes for which he provides non-emergency medical transportation services.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1092 (July 2016).

§543. Trip Coordination

A. Dispatch personnel will coordinate to the extent possible, trips for family members so that all recipients in a family are transported as a unit at one time to the same or close proximity providers.

B. Providers must submit a signed affidavit with claims certifying that a true and correct bill is being submitted.

C. If the provider has declined to accept a trip on a particular day the dispatch personnel will not assign additional trips to that provider for that same day.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1093 (July 2016).

§545. Provider Suspension and Termination

A. Providers are subject to suspension from the NEMT Program upon department documentation of inappropriate billing practices or other practices that egregiously violate Medicaid Program policy.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1093 (July 2016).

§547. Audits

A. The department shall conduct regular audits of service authorization, reimbursement, service delivery and documentation in order to ensure compliance with published rules and regulations.

B. Lack of compliance on the part of transportation providers shall be addressed as described in the provider policy manual.

C. Lack of compliance on the part of department contractors shall be met with corrective action as described in contract documents.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1093 (July 2016).

Subchapter D. Reimbursement

§565. General Provisions

A. Reimbursement for NEMT services shall be based upon the current fee schedule. An additional per-mile rate may be included when the department determines that a provider requires compensation for travelling far outside of their service areas. This additional payment shall be made when there are no providers in the recipient's service area

B. Reimbursement for NEMT to regular, predictable and continuing medical services, such as hemodialysis, chemotherapy or rehabilitation therapy, as determined by the department, shall be based on a capitated rate paid by individual trip.

C. Reimbursement will not be made for any additional person(s) who must accompany the recipient to the medical provider.

D. An individual provider will be reimbursed for a trip to the nearest facility that will meet the recipient's medical or behavioral health needs. However, the individual provider

may transport the recipient to a more distant facility if the individual provider will accept reimbursement from the department to the nearest facility and assumes responsibility for additional expenses incurred.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1093 (July 2016).

§573. Non-Emergency, Non-Ambulance Transportation

A. - F.5. ...

G. Effective for dates of service on or after October 1, 2014, the monthly payment of capitated rates shall be replaced with a per trip payment methodology.

1. Payments previously made using the monthly capitated rate shall be made by dividing the monthly rate by the number of authorized trips within a given month. Each trip will then be reimbursed separately.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:462 (March 2007), LR 34:878 (May 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 36:2564 (November 2010), LR 37:3030 (October 2011), amended LR 38:3214 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1094 (July 2016).

Rebekah E. Gee MD, MPH
Secretary

1607#054

RULE

Department of Health
Office of Public Health

Backflow and Cross Connection Control in Water Supplies
(LAC 51:XII.344 and 346)

Under the authority of R.S. 40:4 and 40:5 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the state health officer, acting through the Department of Health, Office of Public Health (LDH-OPH), has amended Part XII (Water Supplies) of the Louisiana state *Sanitary Code* (LAC 51). The amendments are necessary to ensure that public water supplies continue to protect their water systems from backflow and cross connections which may occur on customer premises and which can cause contamination of the water supply.

As required by Act 836 of the 2014 Regular Legislative Session, Part XIV (Louisiana state Plumbing Code) of the Louisiana state *Sanitary Code* (LAC 51, *Public Health—Sanitary Code*) became null and void on January 1, 2016. In accordance with the Act, the Louisiana state Uniform Construction Code Council (LSUCCC) promulgated new state plumbing regulations through emergency rules under the state *Uniform Construction Code* (LAC 17:I). Before January 1, 2016, comprehensive backflow protection/cross connection control regulations designed to protect public health applicable to plumbing were contained in Part XIV (Plumbing) of the state *Sanitary Code*. Effective January 1, 2016, some of these same backflow protection/cross connection control regulations applicable to plumbing have been adopted by the LSUCCC under the state *Uniform Construction Code*, particularly within the 2012 *International Plumbing Code* and within the 2012 *International Residential Code* (see December 20, 2015 *Louisiana Register*, Volume 41, page 2545 and June 2016 *Louisiana Register*, Volume 42, page 826).

The state health officer, through LDH-OPH, has promulgated a Rule that finalizes the requirements of an Emergency Rule (the "ER") concerning cross connection control/protection of the water supply which became effective on February 23, 2016. This Rule maintains the requirements of the ER which amended Part XII (Water Supplies) of Title 51 (*Public Health—Sanitary Code*) in order to direct public water systems to utilize the backflow and cross connection control regulations contained in the state *Uniform Construction Code*. Prior to the adoption of these ERs, Part XII was outdated because it directed water suppliers to Part XIV of the state *Sanitary Code* relative to protecting its system from backflow and cross connections on customer premises. As mentioned above, plumbing regulations formerly contained under Part XIV of the state *Sanitary Code* have been repealed effective January 1, 2016.

In addition, these ERs adopted comprehensive qualification requirements for persons involved in installing, repairing, testing, and maintaining backflow prevention devices and methods. This Rule keeps those requirements in place to ensure that all persons involved in the installation, repair, testing and maintenance of backflow prevention devices are qualified to perform such work.

For these reasons, Part XII (Water Supplies) of the Louisiana state *Sanitary Code* (LAC 51:XII) is amended as follows.

Title 51
PUBLIC HEALTH—SANITARY CODE
Part XII. Water Supplies

Chapter 3. Water Quality Standards

§344. Protection of Water Supply/Containment Practices

A. As used in this Section, "mandatory containment practices" means the containment practices prescribed in and required by the state *Uniform Construction Code*, LAC 17:I, including maintenance and testing requirements, and any additional or related requirements of this Part.

B. In order to protect its water supply from potential contamination, each water supplier shall develop and implement a written backflow prevention plan outlining the policies and procedures it will use to verify that its customers comply with mandatory containment practices, and shall make a reasonable effort to ensure that only customers who comply with mandatory containment practices connect or remain connected to its water supply.

C. Unless otherwise directed by the state health officer, a water supplier shall disconnect or refuse to connect customers who:

1. fail to comply with mandatory containment practices; or

2. fail to provide or allow adequate confirmation of such compliance.

D. If a water supplier has a reasonable basis to believe that an unprotected or improperly protected cross connection

exists on the premise of any customer not required to comply with mandatory containment practices, the water supplier shall take reasonable steps to perform one or more of the following:

1. confirm that the cross connection on the premise is eliminated or does not exist;

2. confirm that approved fixture isolation backflow protection is installed at the cross connection on the premise in accordance with the fixture isolation practices prescribed in and required by the state *Uniform Construction Code* (LAC 17:I);

3. confirm that approved containment backflow protection is installed; or

4. discontinue water service to the customer.

E. When deemed necessary to protect public health, the state health officer may issue an administrative order or emergency order requiring a water supplier to comply with this Section.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(8) and 40:5(A)(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 38:2795 (November 2012), amended by the Department of Health, Office of Public Health, LR 42:1094 (July 2016).

§346. Installer, Repairer, Tester and Maintainer Qualifications for Backflow Prevention Devices and Methods

A. Installer/Repairer/Maintainer Qualifications. Backflow preventers shall be installed, repaired and/or maintained by a state Plumbing Board of Louisiana (SPBLA) -licensed plumber who holds an SPBLA water supply protection specialist endorsement on his/her plumbing license pursuant to R.S. 37:1361 et seq., and its implementing regulations (LAC 46:LV.101 et seq.). Backflow preventers associated with a landscape irrigation system may be installed, repaired and/or maintained by a Horticulture Commission of Louisiana-licensed landscape irrigation contractor who holds an SPBLA-issued special water supply protection specialist endorsement in accordance with R.S. 3:3808(P). Backflow preventers located on public property or otherwise under the complete control of the water supplier (for example, water meter and the piping upstream of the water meter, if provided), may be installed, repaired and/or maintained by a backflow prevention assembly repairer who meets the ASSE 5130-2009 (backflow prevention assembly repairer professional qualification standard) or other individuals holding a backflow prevention assembly repairer certificate from a nationally recognized backflow certification organization approved by the state health officer.

B. Field Tester Qualifications. Backflow preventers shall be tested by a state Plumbing Board of Louisiana (SPBLA) -licensed plumber who holds an SPBLA water supply protection specialist endorsement on his/her plumbing license pursuant to R.S. 37:1361 et seq., and its implementing regulations (LAC 46:LV.101 et seq.); or, by a backflow prevention assembly tester who meets ASSE 5110-2009 (backflow prevention assembly tester professional qualification standard), or other individuals holding a testing certificate from a nationally recognized backflow certification organization approved by the state health officer. Backflow preventers associated with a landscape irrigation system may be tested by a Horticulture Commission of Louisiana-licensed landscape irrigation contractor who holds an SPBLA-issued special water supply protection specialist endorsement in accordance with R.S. 3:3808(P).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5(A)(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 42:1095 (July 2016).

Rebekah E. Gee MD, MPH
Secretary

1607#035

RULE

Department of Insurance
Office of the Commissioner

Regulation 32—Group and Individual Coordination of Benefits (LAC 37:XIII.Chapter 3)

The Department of Insurance, pursuant to the authority of the *Louisiana Insurance Code*, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act., R.S. 49:950 et seq., hereby gives notice of its intent to amend and promulgate Regulation 32—Group Coordination of Benefits. The purpose of the regulation is to establish a uniform order of benefit determinations.

The purpose for amending Regulation 32 is for the Department of Insurance to adopt the National Association of Insurance Commissioners' Model regulation entitled "Coordination of Benefits Model Regulation".

Title 37
INSURANCE
Part XIII. Regulations

Chapter 3. Regulation 32—Group Coordination of Benefits

§301. Purpose and Applicability

A. The purpose of this regulation is to:

1. establish a uniform order of benefit determination under which plans pay claims;

2. reduce duplication of benefits by permitting a reduction of the benefits to be paid by plans that, pursuant to rules established by this regulation, do not have to pay their benefits first; and

3. provide greater efficiency in the processing of claims when a person is covered under more than one plan.

B. This regulation applies to all plans which includes all accident and health products and health maintenance organization products that are issued on or after the effective date of this regulation, which is [insert date].

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 17:67 (January 1991), amended LR 20:52 (January 1994), LR 23:415 (April 1997), LR 41:1095 (July 2016).

§303. Definitions

A. As used in this regulation, these words and terms have the following meanings, unless the context clearly indicates otherwise.

Allowable Expense—except as set forth below or where a statute requires a different definition, means any health care expense, including coinsurance or copayments and

without reduction for any applicable deductible, that is covered in full or in part by any of the plans covering the person.

a. If a plan is advised by a covered person that all plans covering the person are high-deductible health plans and the person intends to contribute to a health savings account established in accordance with section 223 of the *Internal Revenue Code* of 1986, the primary high-deductible health plan's deductible is not an allowable expense, except for any health care expense incurred that may not be subject to the deductible as described in section 223(c)(2)(C) of the *Internal Revenue Code* of 1986.

b. An expense or a portion of an expense that is not covered by any of the plans is not an allowable expense.

c. Any expense that a provider by law or in accordance with a contractual agreement is prohibited from charging a covered person is not an allowable expense.

d. The following are examples of expenses that are not allowable expenses.

i. If a person is confined in a private hospital room, the difference between the cost of a semi-private room in the hospital and the private room is not an allowable expense, unless one of the plans provides coverage for private hospital room expenses.

ii. If a person is covered by two or more plans that compute their benefit payments on the basis of usual and customary fees or relative value schedule reimbursement or other similar reimbursement methodology, any amount charged by the provider in excess of the highest reimbursement amount for a specified benefit is not an allowable expense.

iii. If a person is covered by two or more plans that provide benefits or services on the basis of negotiated fees, any amount in excess of the highest of the negotiated fees is not an allowable expense.

iv. If a person is covered by one plan that calculates its benefits or services on the basis of usual and customary fees or relative value schedule reimbursement or other similar reimbursement methodology and another plan that provides its benefits or services on the basis of negotiated fees, the primary plan's payment arrangement shall be the allowable expense for all plans. However, if the provider has contracted with the secondary plan to provide the benefit or service for a specific negotiated fee or payment amount that is different than the primary plan's payment arrangement and if the provider's contract permits, that negotiated fee or payment shall be the allowable expense used by the secondary plan to determine its benefits.

e. The definition of allowable expense may exclude certain types of coverage or benefits such as dental care, vision care, prescription drug or hearing aids. A plan that limits the application of COB to certain coverages or benefits may limit the definition of allowable expense in its contract to expenses that are similar to the expenses that it provides. When COB is restricted to specific coverages or benefits in a contract, the definition of allowable expense shall include similar expenses to which COB applies.

f. When a plan provides benefits in the form of services, the reasonable cash value of each service will be considered an allowable expense and a benefit paid.

g. The amount of the reduction may be excluded from allowable expense when a covered person's benefits are reduced under a primary plan:

i. because the covered person does not comply with the plan provisions concerning second surgical opinions or precertification of admissions or services; or

ii. because the covered person has a lower benefit because the covered person did not use a preferred provider.

Birthday—refers only to month and day in a calendar year and does not include the year in which the individual is born.

Claim—a request that benefits of a plan be provided or paid. The benefits claimed may be in the form of:

a. services (including supplies);

b. payment for all or a portion of the expenses incurred;

c. a combination of Subparagraphs a and b of this Paragraph; or

d. an indemnification.

Claim Determination Period or *Plan Year*—a period of not less than 12 consecutive months over which allowable expenses shall be compared with total benefits payable in the absence of COB to determine whether overinsurance exists and how much each plan will pay or provide.

a. The claim determination period is usually a calendar year, but a plan may use some other period of time that fits the coverage of the group or individual contract. A person is covered by a plan during a portion of a claim determination period if that person's coverage starts or ends during the claim determination period.

b. As each claim is submitted, each plan determines its liability and pays or provides benefits based upon allowable expenses incurred to that point in the claim determination period. That determination is subject to adjustment as later allowable expenses are incurred in the same claim determination period.

Closed Panel Plan—a plan that provides health benefits to covered persons primarily in the form of services through a panel of providers that have contracted with or are employed by the plan, and that excludes benefits for services provided by other providers, except in cases of emergency or referral by a panel member.

Consolidated Omnibus Budget Reconciliation Act of 1985 or *COBRA*—coverage provided under a right of continuation pursuant to federal law.

Coordination of Benefits or *COB*—a provision establishing an order in which plans pay their claims, and permitting secondary plans to reduce their benefits so that the combined benefits of all plans do not exceed total allowable expenses.

Custodial Parent—

a. the parent awarded custody of a child by a court decree; or

b. in the absence of a court decree, the parent with whom the child resides more than one half of the calendar year without regard to any temporary visitation.

Group-Type Contract—a contract that is not available to the general public and is obtained and maintained only because of membership in or a connection with a particular organization or group, including blanket coverage. Group-

type contract does not include an individually underwritten and issued guaranteed renewable policy even if the policy is purchased through payroll deduction at a premium savings to the insured since the insured would have the right to maintain or renew the policy independently of continued employment with the employer.

High-Deductible Health Plan—the meaning given the term under section 223 of the *Internal Revenue Code* of 1986, as amended by the Medicare Prescription Drug, Improvement and Modernization Act of 2003.

Hospital Indemnity Benefits—benefits not related to expenses incurred. Hospital indemnity benefits does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at the time of claim.

Plan—a form of coverage with which coordination is allowed. Separate parts of a plan for members of a group that are provided through alternative contracts that are intended to be part of a coordinated package of benefits are considered one plan and there is no COB among the separate parts of the plan. If a plan coordinates benefits, its contract shall state the types of coverage that will be considered in applying the COB provision of that contract. Whether the contract uses the term "plan" or some other term such as "program," the contractual definition may be no broader than the definition of "plan" in this subsection. The definition of "plan" in the model COB provision in Appendix A of §321 of this Chapter is an example.

a. Plan includes:

i. group and nongroup insurance contracts and subscriber contracts;

ii. uninsured arrangements of group or group-type coverage;

iii. group and nongroup coverage through closed panel plans;

iv. group-type contracts;

v. the medical care components of long-term care contracts, such as skilled nursing care;

vi. the medical benefits coverage in automobile "no fault" and traditional automobile "fault" type contracts;

vii. Medicare or other governmental benefits, as permitted by law, except as provided in Subparagraph b of this Paragraph. That part of the definition of plan may be limited to the hospital, medical and surgical benefits of the governmental program; and

viii. group and nongroup insurance contracts and subscriber contracts that pay or reimburse for the cost of dental care.

b. Plan does not include:

i. hospital indemnity coverage benefits or other fixed indemnity coverage;

ii. accident only coverage;

iii. specified disease or specified accident coverage;

iv. limited benefit health coverage as defined in R.S. 22:47(2)(c);

v. school accident-type coverages that cover students for accidents only, including athletic injuries, either on a 24-hour basis or on a "to and from school" basis;

vi. benefits provided in long-term care insurance policies for non-medical services, for example, personal care, adult day care, homemaker services, assistance with activities of daily living, respite care and custodial care or for contracts that pay a fixed daily benefit without regard to expenses incurred or the receipt of services;

vii. Medicare supplement policies;

viii. a state plan under Medicaid; or

ix. a governmental plan, which, by law, provides benefits that are in excess of those of any private insurance plan or other non-governmental plan.

Policyholder or *Subscriber*—the primary insured named in a nongroup insurance policy.

Primary Plan—a plan whose benefits for a person's health care coverage must be determined without taking the existence of any other plan into consideration. A plan is a primary plan if:

a. the plan either has no order of benefit determination rules, or its rules differ from those permitted by this regulation; or

b. all plans that cover the person use the order of benefit determination rules required by this regulation, and under those rules the plan determines its benefits first.

Provider—a health care professional or health care facility.

Secondary Plan—a plan that is not a primary plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 17:67 (January 1991), amended LR 20:52 (January 1994), LR 23:415 (April 1997), LR 42:1095 (July 2016).

§305. Use of Model COB Contract Provision

A. Appendix A of §321 of this Chapter contains a model COB provision for use in contracts. The use of this model COB provision is subject to the provisions of Subsections B, C and D of this Section and to the provisions of §307 of this regulation.

B. Appendix B of §323 of this Chapter is a plain language description of the COB process that explains to the covered person how health plans will implement coordination of benefits. It is not intended to replace or change the provisions that are set forth in the contract. Its purpose is to explain the process by which the two or more plans will pay for or provide benefits.

C. The COB provision contained in Appendix A of §321 of this Chapter and the plain language explanation in Appendix B of §323 of this Chapter do not have to use the specific words and format shown in Appendix A of §321 of this Chapter or Appendix B of §323 of this Chapter. Changes may be made to fit the language and style of the rest of the contract or to reflect differences among plans that provide services, that pay benefits for expenses incurred and that indemnify. No substantive changes are permitted.

D. A COB provision may not be used that permits a plan to reduce its benefits on the basis that:

1. another plan exists and the covered person did not enroll in that plan;

2. a person is or could have been covered under another plan, except with respect to Part B of Medicare; or

3. a person has elected an option under another plan providing a lower level of benefits than another option that could have been elected.

E. No plan may contain a provision that its benefits are "always excess" or "always secondary" except in accordance with the rules permitted by this regulation and R.S. 22:1072.

F. Under the terms of a closed panel plan, benefits are not payable if the covered person does not use the services of a closed panel provider. In most instances, COB does not occur if a covered person is enrolled in two or more closed panel plans and obtains services from a provider in one of the closed panel plans because the other closed panel plan (the one whose providers were not used) has no liability. However, COB may occur during the plan year when the covered person receives emergency services that would have been covered by both plans. Then the secondary plan shall use the provisions of §309 of this regulation to determine the amount it should pay for the benefit.

G. No plan may use a COB provision, or any other provision that allows it to reduce its benefits with respect to any other coverage its insured may have that does not meet the definition of plan as defined in this regulation and pursuant to R.S. 22:1072.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 17:67 (January 1991), amended LR 20:52 (January 1994), LR 23:415 (April 1997), LR 42:1097 (July 2016).

§307. Rules for Coordination of Benefits

A. When a person is covered by two or more plans, the rules for determining the order of benefit payments are as follows.

1. The primary plan shall pay or provide its benefits as if the secondary plan or plans did not exist.

2. If the primary plan is a closed panel plan and the secondary plan is not a closed panel plan, the secondary plan shall pay or provide benefits as if it were the primary plan when a covered person uses a non-panel provider, except for emergency services or authorized referrals that are paid or provided by the primary plan.

3. When multiple contracts providing coordinated coverage are treated as a single plan under this regulation, this section applies only to the plan as a whole, and coordination among the component contracts is governed by the terms of the contracts. if more than one carrier pays or provides benefits under the plan, the carrier designated as primary within the plan shall be responsible for the plan's compliance with this regulation.

4. If a person is covered by more than one secondary plan, the order of benefit determination rules of this regulation decide the order in which secondary plans benefits are determined in relation to each other. Each secondary plan shall take into consideration the benefits of the primary plan or plans and the benefits of any other plan, which, under the rules of this regulation, has its benefits determined before those of that secondary plan.

5. Except as provided in Paragraph 2 of this Subsection, a plan that does not contain order of benefit determination provisions that are consistent with this regulation is always the primary plan unless the provisions of both plans, regardless of the provisions of this Paragraph, state that the complying plan is primary.

6. Coverage that is obtained by virtue of membership in a group and designed to supplement a part of a basic package of benefits may provide that the supplementary coverage shall be excess to any other parts of the plan provided by the contract holder. Examples of these types of situations are major medical coverages that are superimposed over base plan hospital and surgical benefits, and insurance type coverages that are written in connection with a closed panel plan to provide out-of-network benefits.

B. A plan may take into consideration the benefits paid or provided by another plan only when, under the rules of this regulation, it is secondary to that other plan.

C. Order of Benefit Determination. Each plan determines its order of benefits using the first of the following rules that applies:

1. Non-Dependent or Dependent

a. Subject to Subparagraph b of this Paragraph, the plan that covers the person other than as a dependent, for example as an employee, member, subscriber, policyholder or retiree, is the primary plan and the plan that covers the person as a dependent is the secondary plan.

b. If the person is a Medicare beneficiary, and, as a result of the provisions of title XVIII of the Social Security Act and implementing regulations, Medicare is:

i. secondary to the plan covering the person as a dependent; and

ii. primary to the plan covering the person as other than a dependent (e.g. a retired employee).

c. Then the order of benefits is reversed so that the plan covering the person as an employee, member, subscriber, policyholder or retiree is the secondary plan and the other plan covering the person as a dependent is the primary plan.

4. Dependent Child Covered Under More Than One Plan. Unless there is a court decree stating otherwise, plans covering a dependent child shall determine the order of benefits as follows:

a. For a dependent child whose parents are married or are living together, whether or not they have ever been married:

i. the plan of the parent whose birthday falls earlier in the calendar year is the primary plan; or

ii. if both parents have the same birthday, the plan that has covered the parent longest is the primary plan.

b. For a dependent child whose parents are divorced or separated or are not living together, whether or not they have ever been married:

i. if a court decree states that one of the parents is responsible for the dependent child's health care expenses or health care coverage and the plan of that parent has actual knowledge of those terms, that plan is primary. If the parent with responsibility has no health care coverage for the dependent child's health care expenses, but that parent's spouse does, that parent's spouse's plan is the primary plan. This item shall not apply with respect to any plan year during which benefits are paid or provided before the entity has actual knowledge of the court decree provision;

ii. if a court decree states that both parents are responsible for the dependent child's health care expenses or health care coverage, the provisions of Subparagraph a of this Paragraph shall determine the order of benefits;

iii. if a court decree states that the parents have joint custody without specifying that one parent has responsibility for the health care expenses or health care coverage of the dependent child, the provisions of Subparagraph a of this Paragraph shall determine the order of benefits; or

iv. if there is no court decree allocating responsibility for the child's health care expenses or health care coverage, the order of benefits for the child are as follows:

(a). the plan covering the custodial parent;

(b). the plan covering the custodial parent's spouse;

(c). the plan covering the non-custodial parent; and then

(d). the plan covering the non-custodial parent's spouse.

c. For a dependent child covered under more than one plan of individuals who are not the parents of the child, the order of benefits shall be determined, as applicable, under Subparagraph a or b of this Paragraph as if those individuals were parents of the child.

d. For a dependent child covered under spouse's plan

i. For a dependent child who has coverage under either or both parents' plans and also has his or her own coverage as a dependent under a spouse's plan, the rule in Paragraph 5 of this Subsection applies.

ii. In the event the dependent child's coverage under the spouse's plan began on the same date as the dependent child's coverage under either or both parents' plans, the order of benefits shall be determined by applying the birthday rule in Subparagraph a of this Paragraph to the dependent child's parent(s) and the dependent's spouse.

3. Active Employee or Retired or Laid-Off Employee

a. The plan that covers a person as an active employee that is, an employee who is neither laid off nor retired or as a dependent of an active employee is the primary plan. The plan covering that same person as a retired or laid-off employee or as a dependent of a retired or laid-off employee is the secondary plan.

b. If the other plan does not have this rule, and as a result, the plans do not agree on the order of benefits, this rule is ignored.

c. This rule does not apply if the rule in Paragraph 1 of this Subsection can determine the order of benefits.

4. COBRA or State Continuation Coverage

a. If a person whose coverage is provided pursuant to COBRA or under a right of continuation pursuant to state or other federal law is covered under another plan, the plan covering the person as an employee, member, subscriber or retiree or covering the person as a dependent of an employee, member, subscriber or retiree is the primary plan and the plan covering that same person pursuant to COBRA or under a right of continuation pursuant to state or other federal law is the secondary plan.

b. If the other plan does not have this rule, and if, as a result, the plans do not agree on the order of benefits, this rule is ignored.

c. This rule does not apply if the rule in Paragraph 1 of this Subsection can determine the order of benefits

5. Longer or Shorter Length of Coverage

a. If the preceding rules do not determine the order of benefits, the plan that covered the person for the longer period of time is the primary plan and the plan that covered the person for the shorter period of time is the secondary plan.

b. To determine the length of time a person has been covered under a plan, two successive plans shall be treated as one if the covered person was eligible under the second plan within 24 hours after coverage under the first plan ended.

c. The start of a new plan does not include:

i. a change in the amount or scope of a plan's benefits;

ii. a change in the entity that pays, provides or administers the plan's benefits; or

iii. a change from one type of plan to another, such as, from a single employer plan to a multiple employer plan.

d. The person's length of time covered under a plan is measured from the person's first date of coverage under that plan. If that date is not readily available for a group plan, the date the person first became a member of the group shall be used as the date from which to determine the length of time the person's coverage under the present plan has been in force.

6. If none of the preceding rules determines the order of benefits, the allowable expenses shall be shared equally between the plans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 17:67 (January 1991), amended LR 20:52 (January 1994), LR 23:415 (April 1997), LR 42:1098 (July 2016).

§309. Procedure to be followed by Secondary Plan to Calculate Benefits and Pay a Claim

A. In determining the amount to be paid by the secondary plan on a claim, the secondary plan shall calculate the benefits it would have paid on the claim in the absence of other health care coverage and apply that calculated amount to any allowable expense under its plan that is unpaid by the primary plan. The secondary plan shall reduce its payment by the amount so that, when combined with the amount paid by the primary plan, the total benefits paid or provided by all plans for the claim do not exceed 100 percent of the total allowable expense for that claim. In addition, the secondary plan shall credit to its plan coinsurance, copayments or deductible (benefit reserves) any amounts it would have credited to its coinsurance, copayments or deductible in the absence of other health care coverage. Such credit shall be utilized for the policyholder. As each claim is submitted, the secondary plan must:

1. determine its obligation, pursuant to its contract;

2. determine whether a benefit reserve has been recorded for the covered person; and

3. determine whether there are any unpaid allowable expenses during that claims determination period.

B. If there is a credit, the secondary plan shall use the covered person's recorded credit to pay up to 100 percent of total allowable expenses incurred during the claim determination period. At the end of the claim determination period the benefit reserve returns to zero. A new benefit reserve must be created for each new claim determination period.

C. The benefits of the secondary plan shall be reduced when the sum of the benefits that would be payable for the allowable expenses under the secondary plan in the absence

of this COB provision and the benefits that would be payable for the allowable expenses under the other plans, in the absence of provisions with a purpose like that of this COB provision, whether or not a claim is made, exceeds the allowable expenses in a claim determination period. In that case, the benefits of the secondary plan shall be reduced so that they and the benefits payable under the other plans do not total more than the allowable expenses.

1. When the benefits of a plan are reduced as described above, each benefit is reduced in proportion. It is then charged against any applicable benefit limit of the plan.

2. The requirements of Paragraph 1 of this Subsection do not apply if the plan provides only one benefit, or may be altered to suit the coverage provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 17:67 (January 1991), amended LR 20:52 (January 1994), LR 23:415 (April 1997), LR 42:1099 (July 2016).

§311. Notice to Covered Persons

A. A plan shall, in its explanation of benefits provided to covered persons, include the following language: "If you are covered by more than one health benefit plan, you should file all your claims with each plan."

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 17:67 (January 1991), amended LR 20:52 (January 1994), LR 23:415 (April 1997), LR 42:1100 (July 2016).

§315. Miscellaneous Provisions

A. A secondary plan that provides benefits in the form of services may recover the reasonable cash value of the services from the primary plan, to the extent that benefits for the services are covered by the primary plan and have not already been paid or provided by the primary plan. Nothing in this provision shall be interpreted to require a plan to reimburse a covered person in cash for the value of services provided by a plan that provides benefits in the form of services.

1. A plan with order of benefit determination rules that comply with this regulation (complying plan) may coordinate its benefits with a plan that is "excess" or "always secondary" or that uses order of benefit determination rules that are inconsistent with those contained in this regulation (non-complying plan) on the following basis:

a. if the complying plan is the primary plan, it shall pay or provide its benefits first;

b. if the complying plan is the secondary plan, it shall pay or provide its benefits first, but the amount of the benefits payable shall be determined as if the complying plan were the secondary plan. In such a situation, the payment shall be the limit of the complying plan's liability; and

c. if the non-complying plan does not provide the information needed by the complying plan to determine its benefits within a reasonable time after it is requested to do so, the complying plan shall assume that the benefits of the non-complying plan are identical to its own, and shall pay its benefits accordingly. If, within two years of payment, the complying plan receives information as to the actual benefits of the non-complying plan, it shall adjust payments accordingly.

2. If the non-complying plan reduces its benefits so that the covered person receives less in benefits than the covered person would have received had the complying plan paid or provided its benefits as the secondary plan and the non-complying plan paid or provided its benefits as the primary plan, and governing state law allows the right of subrogation set forth below, then the complying plan shall advance to the covered person or on behalf of the covered person an amount equal to the difference.

3. In no event shall the complying plan advance more than the complying plan would have paid had it been the primary plan less any amount it previously paid for the same expense or service. In consideration of the advance, the complying plan shall be subrogated to all rights of the covered person against the non-complying plan. The advance by the complying plan shall also be without prejudice to any claim it may have against a non-complying plan in the absence of subrogation.

B. COB differs from subrogation. Provisions for one may be included in health care benefits contracts without compelling the inclusion or exclusion of the other.

C. If the plans cannot agree on the order of benefits within 30 calendar days after the plans have received all of the information needed to pay the claim, the plans shall immediately pay the claim in equal shares and determine their relative liabilities following payment, except that no plan shall be required to pay more than it would have paid had it been the primary plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 17:67 (January 1991), amended LR 20:52 (January 1994), LR 23:415 (April 1997), LR 42:1100 (July 2016).

Should this really be: §13737. Severability Provision

§317. Severability Provision

A. If any Section or provision of Regulation 32 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 32 to any persons or circumstances that can be given effect without the invalid section or provisions or application, and for these purposes the Sections and provisions of Regulation 32 and the applications to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 17:67 (January 1991), amended LR 20:52 (January 1994), LR 23:415 (April 1997), LR 42:1100 (July 2016).

§319. Effective Date for Existing Contracts

A. A contract that provides health care benefits and that was issued before the effective date of this regulation shall be brought into compliance with this regulation, whichever occurs first, by:

1. the later of:

a. the next anniversary date or renewal date of the contract; or

b. 12 months following [insert date that the amended regulation is adopted]; or

2. the expiration of any applicable collectively bargained contract pursuant to which it was written.

B. For the transition period between the adoption of this regulation and the timeframe for which plans are to be in compliance pursuant to Subsection A of this Section, a plan that is subject to the prior COB requirements shall not be considered a non-complying plan by a plan subject to the new COB requirements and if there is a conflict between the prior COB requirements under the prior regulation and the new COB requirements under the amended regulation, the prior COB requirements shall apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 17:67 (January 1991), amended LR 20:52 (January 1994), LR 23:415 (April 1997), LR 42:1100 (July 2016).

§321. Appendix A—Model COB Contract Provisions

COORDINATION OF THIS CONTRACT'S BENEFITS WITH OTHER BENEFITS

The Coordination of Benefits (COB) provision applies when a person has health care coverage under more than one Plan. Plan is defined below.

The order of benefit determination rules govern the order in which each Plan will pay a claim for benefits. The Plan that pays first is called the Primary plan. The Primary plan must pay benefits in accordance with its policy terms without regard to the possibility that another Plan may cover some expenses. The Plan that pays after the Primary plan is the Secondary plan. The Secondary plan may reduce the benefits it pays so that payments from all Plans do not exceed 100% of the total Allowable expense.

DEFINITIONS

A. A Plan is any of the following that provides benefits or services for medical or dental care or treatment. If separate contracts are used to provide coordinated coverage for members of a group, the separate contracts are considered parts of the same plan and there is no COB among those separate contracts.

(1) Plan includes: group and nongroup insurance contracts, health maintenance organization (HMO) contracts, closed panel plans or other forms of group or group-type coverage (whether insured or uninsured); medical care components of long-term care contracts, such as skilled nursing care; medical benefits under group or individual automobile contracts; and Medicare or any other federal governmental plan, as permitted by law.

(2) Plan does not include: hospital indemnity coverage or other fixed indemnity coverage; accident only coverage; specified disease or specified accident coverage; limited benefit health coverage, as defined by state law; school accident type coverage except those enumerated in LSA-R.S. 22:1000 A.3C; benefits for non-medical components of long-term care policies; Medicare supplement policies; Medicaid policies; or coverage under other federal governmental plans, unless permitted by law.

Each contract for coverage under (1) or (2) is a separate Plan. If a Plan has two parts and COB rules apply only to one of the two, each of the parts is treated as a separate Plan.

B. This plan means, in a COB provision, the part of the contract providing the health care benefits to which the COB provision applies and which may be reduced because of the benefits of other plans. Any other part of the contract providing health care benefits is separate from this plan. A contract may apply one COB provision to certain benefits, such as dental benefits, coordinating only with similar benefits, and may apply another COB provision to coordinate other benefits.

C. The order of benefit determination rules determine whether This plan is a Primary plan or Secondary plan when the person has health care coverage under more than one Plan. When This plan is primary, it determines payment for its benefits first before those of any other Plan without considering any other Plan's benefits. When This plan is secondary, it determines its benefits after those of another Plan and may reduce the benefits it pays so that all Plan benefits do not exceed 100% of the total Allowable expense.

D. Allowable expense is a health care expense, including deductibles, coinsurance and copayments, that is covered at least in part by any Plan covering the person. When a Plan provides benefits in the form of services, the reasonable cash value of each service will be considered an Allowable expense and a benefit paid. An expense that is not covered by any Plan covering the person is not an Allowable expense. In addition, any expense that a provider by law or in accordance with a contractual agreement is prohibited from charging a covered person is not an Allowable expense.

The following are examples of expenses that are not Allowable expenses:

(1) The difference between the cost of a semi-private hospital room and a private hospital room is not an Allowable expense, unless one of the Plans provides coverage for private hospital room expenses.

(2) If a person is covered by 2 or more Plans that compute their benefit payments on the basis of usual and customary fees or relative value schedule reimbursement methodology or other similar reimbursement methodology, any amount in excess of the highest reimbursement amount for a specific benefit is not an Allowable expense.

(3) If a person is covered by 2 or more Plans that provide benefits or services on the basis of negotiated fees, an amount in excess of the highest of the negotiated fees is not an Allowable expense.

(4) If a person is covered by one Plan that calculates its benefits or services on the basis of usual and customary fees or relative value schedule reimbursement methodology or other similar reimbursement methodology and another Plan that provides its benefits or services on the basis of negotiated fees, the Primary plan's payment arrangement shall be the Allowable expense for all Plans. However, if the provider has contracted with the Secondary plan to provide the benefit or service for a specific negotiated fee or payment amount that is different than the Primary plan's payment arrangement and if the provider's contract permits, the negotiated fee or payment shall be the Allowable expense used by the Secondary plan to determine its benefits.

(5) The amount of any benefit reduction by the Primary plan because a covered person has failed to comply with the Plan provisions is not an Allowable expense. Examples of these types of plan provisions include second surgical opinions, precertification of admissions, and preferred provider arrangements.

E. Closed panel plan is a Plan that provides health care benefits to covered persons primarily in the form of services through a panel of providers that have contracted with or are employed by the Plan, and that excludes coverage for services provided by other providers, except in cases of emergency or referral by a panel member.

F. Custodial parent is the parent awarded custody by a court decree or, in the absence of a court decree, is the parent with whom the child resides more than one half of the calendar year excluding any temporary visitation.

ORDER OF BENEFIT DETERMINATION RULES

When a person is covered by two or more Plans, the rules for determining the order of benefit payments are as follows:

A. The Primary plan pays or provides its benefits according to its terms of coverage and without regard to the benefits of under any other Plan.

(1) Except as provided in Paragraph (2), a Plan that does not contain a coordination of benefits provision that is consistent with this regulation is always primary unless the provisions of both Plans state that the complying plan is primary.

(2) Coverage that is obtained by virtue of membership in a group that is designed to supplement a part of a basic package of benefits and provides that this supplementary coverage shall be excess to any other parts of the Plan provided by the contract holder. Examples of these types of situations are major medical coverages that are superimposed over base

plan hospital and surgical benefits, and insurance type coverages that are written in connection with a Closed panel plan to provide out-of-network benefits.

C. A Plan may consider the benefits paid or provided by another Plan in calculating payment of its benefits only when it is secondary to that other Plan.

D. Each Plan determines its order of benefits using the first of the following rules that apply:

(1) Non-Dependent or Dependent. The Plan that covers the person other than as a dependent, for example as an employee, member, policyholder, subscriber or retiree is the Primary plan and the Plan that covers the person as a dependent is the Secondary plan. However, if the person is a Medicare beneficiary and, as a result of federal law, Medicare is secondary to the Plan covering the person as a dependent; and primary to the Plan covering the person as other than a dependent (e.g. a retired employee); then the order of benefits between the two Plans is reversed so that the Plan covering the person as an employee, member, policyholder, subscriber or retiree is the Secondary plan and the other Plan is the Primary plan.

(2) Dependent Child Covered Under More Than One Plan. Unless there is a court decree stating otherwise, when a dependent child is covered by more than one Plan the order of benefits is determined as follows:

(a) For a dependent child whose parents are married or are living together, whether or not they have ever been married:

The Plan of the parent whose birthday falls earlier in the calendar year is the Primary plan; or

If both parents have the same birthday, the Plan that has covered the parent the longest is the Primary plan.

(b) For a dependent child whose parents are divorced or separated or not living together, whether or not they have ever been married:

(i) If a court decree states that one of the parents is responsible for the dependent child's health care expenses or health care coverage and the Plan of that parent has actual knowledge of those terms, that Plan is primary. This rule applies to plan years commencing after the Plan is given notice of the court decree;

(ii) If a court decree states that both parents are responsible for the dependent child's health care expenses or health care coverage, the provisions of Subparagraph (a) above shall determine the order of benefits;

(iii) If a court decree states that the parents have joint custody without specifying that one parent has responsibility for the health care expenses or health care coverage of the dependent child, the provisions of Subparagraph (a) above shall determine the order of benefits; or

(iv) If there is no court decree allocating responsibility for the dependent child's health care expenses or health care coverage, the order of benefits for the child are as follows:

(a.) The Plan covering the Custodial parent;

(b.) The Plan covering the spouse of the Custodial parent;

(c.) The Plan covering the non-custodial parent; and then

(d.) The Plan covering the spouse of the non-custodial parent.

(c) For a dependent child covered under more than one Plan of individuals who are the parents of the child, the provisions of Subparagraph (a) or (b) above shall determine the order of benefits as if those individuals were the parents of the child.

(d) For a dependent child covered under spouse's plan

(i) For a dependent child who has coverage under either or both parents' plans and also has his or her own coverage as a dependent under a spouse's plan, the rule in Paragraph (5) applies.

(ii) In the event the dependent child's coverage under the spouse's plan began on the same date as the dependent child's coverage under either or both parents' plans, the order of benefits shall be determined by applying the birthday rule in Subparagraph (a) to the dependent child's parent(s) and the dependent's spouse.

(3) Active Employee or Retired or Laid-off Employee. The Plan that covers a person as an active employee, that is, an employee who is neither laid off nor retired, is the Primary plan. The Plan covering that same person as a retired or laid-off employee is the Secondary plan. The same would hold true if a person is a dependent of an active employee and that same person is a dependent of a retired or laid-off employee. If the other Plan does not have this rule, and as a result, the Plans do not agree on the order of benefits, this rule is ignored. This rule does not apply if the rule labeled D(1) can determine the order of benefits.

(4) COBRA or State Continuation Coverage. If a person whose coverage is provided pursuant to COBRA or under a right of continuation provided by state or other federal law is covered under another Plan, the Plan covering the person as an employee, member, subscriber or retiree or covering the person as a dependent of an employee, member, subscriber or retiree is the Primary plan and the COBRA or state or other federal continuation coverage is the Secondary plan. If the other

Plan does not have this rule, and as a result, the Plans do not agree on the order of benefits, this rule is ignored. This rule does not apply if the rule labeled D(1) can determine the order of benefits.

(5) Longer or Shorter Length of Coverage. The Plan that covered the person as an employee, member, policyholder, subscriber or retiree longer is the Primary plan and the Plan that covered the person the shorter period of time is the Secondary plan.

(6) If the preceding rules do not determine the order of benefits, the Allowable expenses shall be shared equally between the Plans meeting the definition of Plan. In addition, This plan will not pay more than it would have paid had it been the Primary plan.

EFFECT ON THE BENEFITS OF THIS PLAN

A. When this plan is secondary, it may reduce its benefits so that the total benefits paid or provided by all Plans during a plan year are not more than the total Allowable expenses. In determining the amount to be paid for any claim, the Secondary plan will calculate the benefits it would have paid in the absence of other health care coverage and apply that calculated amount to any Allowable expense under its Plan that is unpaid by the Primary plan. The Secondary plan may then reduce its payment by the amount so that, when combined with the amount paid by the Primary plan, the total benefits paid or provided by all Plans for the claim do not exceed the total Allowable expense for that claim. In addition, the Secondary plan shall credit to its plan deductible, coinsurance, copayments and any amounts it would have credited to its deductible in the absence of other health care coverage.

B. If a covered person is enrolled in two or more Closed panel plans and if, for any reason, including the provision of service by a non-panel provider, benefits are not payable by one Closed panel plan, COB shall not apply between that Plan and other Closed panel plans.

RIGHT TO RECEIVE AND RELEASE NEEDED INFORMATION

Certain facts about health care coverage and services are needed to apply these COB rules and to determine benefits payable under This plan and other Plans. [Organization responsibility for COB administration] may get the facts it needs from or give them to other organizations or persons for the purpose of applying these rules and determining benefits payable under This plan and other Plans covering the person claiming benefits. [Organization responsibility for COB administration] need not tell, or get the consent of, any person to do this. Each person claiming benefits under This plan must give [Organization responsibility for COB administration] any facts it needs to apply those rules and determine benefits payable.

FACILITY OF PAYMENT

A payment made under another Plan may include an amount that should have been paid under This plan. If it does, [Organization responsibility for COB administration] may pay that amount to the organization that made that payment. That amount will then be treated as though it were a benefit

paid under This plan. [Organization responsibility for COB administration] will not have to pay that amount again. The term "payment made" includes providing benefits in the form of services, in which case "payment made" means the reasonable cash value of the benefits provided in the form of services.

RIGHT OF RECOVERY

If the amount of the payments made by [Organization responsible for COB administration] is more than it should have paid under this COB provision, it may recover the excess from one or more of the persons it has paid or for whom it has paid; or any other person or organization that may be responsible for the benefits or services provided for the covered person. The "amount of the payments made" includes the reasonable cash value of any benefits provided in the form of services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 17:67 (January 1991), amended LR 20:52 (January 1994), LR 23:415 (April 1997), LR 42:1101 (July 2016).

§323. Appendix B—Consumer Explanatory Booklet Coordination of Benefits

COORDINATION OF BENEFITS

IMPORTANT NOTICE

This is a summary of only a few of the provisions of your health plan to help you understand coordination of benefits, which can be very complicated. This is not a complete description of all of the coordination rules and procedures, and does not change or replace the language contained in your insurance contract, which determines your benefits.

Double Coverage

It is common for family members to be covered by more than one health care plan. This happens, for example, when a husband and wife both work and choose to have family coverage through both employers.

When you are covered by more than one health plan, state law permits your insurers to follow a procedure called "coordination of benefits" to determine how much each should pay when you have a claim. The goal is to make sure that the combined payments of all plans do not add up to more than your covered health care expenses.

Coordination of benefits (COB) is complicated, and covers a wide variety of circumstances. This is only an outline of some of the most common ones. If your situation is not described, read your evidence of coverage or contact your state insurance department.

Primary or Secondary?

You will be asked to identify all the plans that cover members of your family. We need this information to determine whether we are the "primary" or "secondary" benefit payer. The primary plan always pays first when you have a claim.

Any plan that does not contain your state's COB rules will always be primary.

When This Plan is Primary

If you or a family member are covered under another plan in addition to this one, we will be primary when:

Your Own Expenses

- The claim is for your own health care expenses, unless you are covered by Medicare and both you and your spouse are retired.

Your Spouse's Expenses

- The claim is for your spouse, who is covered by Medicare, and you are not both retired.

Your Child's Expenses

- The claim is for the health care expenses of your child who is covered by this plan and
- You are married and your birthday is earlier in the year than your spouse's or you are living with another individual, regardless of whether or not you have ever been married to that individual, and your birthday is earlier than that other individual's birthday. This is known as the "birthday rule";

  or
- You are separated or divorced and you have informed us of a court decree that makes you responsible for the child's health care expenses;

  or
- There is no court decree, but you have custody of the child.

Other Situations

We will be primary when any other provisions of state or federal law require us to be.

How We Pay Claims When We Are Primary?

When we are the primary plan, we will pay the benefits in accordance with the terms of your contract, just as if you had no other health care coverage under any other plan.

How We Pay Claims When We Are Secondary?

We will be secondary whenever the rules do not require us to be primary.

How We Pay Claims When We Are Secondary?

When we are the secondary plan, we do not pay until after the primary plan has paid its benefits. We will then pay part or all of the allowable expenses left unpaid, as explained below. An "allowable expense" is a health care expense covered by one of the plans, including copayments, coinsurance and deductibles.

- If there is a difference between the amount the plans allow, we will base our payment on the higher amount. However, if the primary plan has a contract with the provider, our combined payments will not be more than the amount called for in our contract or the amount called for in the contract of the primary plan, whichever is higher. Health maintenance organizations (HMOs) and preferred provider organizations (PPOs) usually have contracts with their providers.
- We will determine our payment by subtracting the amount the primary plan paid from the amount we would have paid if we had been primary. We may reduce our payment by any amount so that, when combined with the amount paid by the primary plan, the total benefits paid do not exceed the total allowable expense for your claim. We will credit any amount we would have paid in the absence of your other health care coverage toward our own plan deductible.
- If the primary plan covers similar kinds of health care expenses, but allows expenses that we do not cover, we may pay for those expenses.
- We will not pay an amount the primary plan did not cover because you did not follow its rules and procedures. For example, if your plan has reduced its benefit because you did not obtain pre-certification, as required by that plan, we will not pay the amount of the reduction, because it is not an allowable expense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 17:67 (January 1991), amended LR 20:52 (January 1994), LR 23:415 (April 1997), LR 42:1103 (July 2016).

James J. Donelon
Commissioner

1607#018

RULE

Department of Transportation and Development
Professional Engineering and Land Surveying Board

Examinations and Continuing Professional Development
(LAC 46:LXI.707, 1301, and Chapter 31)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Professional Engineering and Land Surveying Board has amended its rules contained in LAC 46:LXI.707, 1301, 3103, 3105, 3109, 3111, 3113, 3115, 3119 and 3121.

This is a technical revision of existing rules under which LAPELS operates. The revisions: (a). eliminate the requirement that applications to take the principles and practice of land surveying and Louisiana laws of land surveying examinations must be received by the board by certain dates; (b). remove the ability of the board to pre-approve individuals, firms and certain educational institutions as continuing professional development sponsor/providers; (c). change the continuing professional development requirements from a biennial licensure renewal period basis to a calendar year basis; and (d). permit licensees to obtain continuing professional development credit for serving on technical committees that are assisting federal, state or local governmental agencies in developing standards related to engineering or land surveying.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXI. Professional Engineers and Land Surveyors

Chapter 7. Bylaws

§707. Board Organization

A. - E.10. …

11. Continuing Professional Development Committee. The chairman of the board shall appoint a continuing professional development committee composed of not less than two board members. The continuing professional development committee shall review and make recommendations to the board regarding continuing professional development rules and policies.

12. - 13. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:110 (May 1979), LR 11:1179 (December 1985), LR 19:54 (January 1993), LR 21:1353 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1024 (July 2001), LR 30:1707 (August 2004), LR 33:2788 (December 2007), LR 35:1908 (September 2009), LR 37:2411 (August 2011), LR 38:2563 (October 2012), LR 40:1388 (July 2014), LR 42:1104 (July 2016).

Chapter 13. Examinations

§1301. General

A.1. - C.1. …

2. To be considered for the following examinations, the application for the examination must be submitted to NCEES:

a. fundamentals of engineering; and

b. fundamentals of land surveying.

3. To be considered for a specific examination date, the application for the principles and practice of engineering examination must be received at the board office no later than December 1 for the April examination administration and June 1 for the October examination administration.

4. To be considered for the following examinations, the application for the examination must be submitted to the board:

a. principles and practice of land surveying; and

b. Louisiana laws of land surveying.

D. - F.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), LR 16:774 (September 1990), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1030 (July 2001), LR 30:1714 (August 2004), LR 35:1909 (September 2009), LR 37:2413 (August 2011), repromulgated 37:2752 (September 2011), amended LR 38:2565 (October 2012), LR 39:2282 (August 2013), LR 42:1104 (July 2016).

Chapter 31. Continuing Professional Development (CPD)

§3103. Definitions

A. Terms used in this Chapter are defined as follows.

* * *

Board-Approved Sponsor/Provider—the Louisiana Engineering Society; the Louisiana Society of Professional Surveyors; professional and technical engineering or land surveying societies; federal, state or local governmental agencies; and colleges or universities. All sponsors/providers must conduct courses which will enhance and improve a licensee's professional development as a professional engineer or a professional land surveyor, and/or serve to safeguard life, health and property and promote the public welfare.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1047 (July 2001), LR 30:1730 (August 2004), LR 42:1104 (July 2016).

§3105. Requirements

A. During each biennial licensure renewal period beginning before January 1, 2017, every professional engineer licensee, including those licensed in two or more disciplines, is required to obtain 30 PDHs in engineering related activities. Effective January 1, 2017 and beginning with professional engineer licensees whose biennial licensure renewal periods begin after January 1, 2017, every professional engineer licensee, including those licensed in two or more disciplines, is required to obtain 15 PDHs per calendar year in engineering related activities. Effective January 1, 2017 and beginning with professional engineer licensees whose biennial licensure renewal periods begin

after January 1, 2017, professional engineer licensees may not obtain more than 8 PDHs within a single calendar day.

1. During each biennial licensure renewal period beginning before January 1, 2017, at least one PDH shall be in professional ethics. Effective January 1, 2017 and beginning with professional engineer licensees whose biennial licensure renewal periods begin after January 1, 2017, at least one PDH per calendar year shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional engineer.

2. During each biennial licensure renewal period beginning before January 1, 2017, a minimum of eight PDHs shall be earned in *Life Safety Code*, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer licensee who designs buildings and/or building systems. Effective January 1, 2017 and beginning with professional engineer licensees whose biennial licensure renewal periods begin after January 1, 2017, a minimum of four PDHs per calendar year shall be earned in *Life Safety Code*, building codes and/or Americans with Disabilities Act Accessibility Guidelines by every professional engineer licensee who designs buildings and/or building systems.

B. During each biennial licensure renewal period beginning before January 1, 2017, every professional land surveyor licensee is required to obtain 15 PDHs in land surveying related activities. Effective January 1, 2017 and beginning with professional land surveyor licensees whose biennial licensure renewal periods begin after January 1, 2017, every professional land surveyor licensee is required to obtain 8 PDHs per calendar year in land surveying related activities.

1. During each biennial licensure renewal period beginning before January 1, 2017, at least one PDH shall be in professional ethics. Effective January 1, 2017 and beginning with professional land surveyor licensees whose biennial licensure renewal periods begin after January 1, 2017, at least one PDH per calendar year shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional land surveyor.

2. During each biennial licensure renewal period beginning before January 1, 2017, a minimum of two PDHs shall be earned in the Standards of Practice for Boundary Surveys in Louisiana. Effective January 1, 2017 and beginning with professional land surveyor licensees whose biennial licensure renewal periods begin after January 1, 2017, a minimum of one PDH per calendar year shall be earned in the standards of practice for boundary surveys in Louisiana.

C. During each biennial licensure renewal period beginning before January 1, 2017, each dual licensee shall obtain 30 PDHs; however, at least one-third of the PDHs shall be obtained separately for each profession. Effective January 1, 2017 and beginning with dual licensees whose biennial licensure renewal periods begin after January 1, 2017, each dual licensee shall obtain 15 PDHs per calendar year; however, at least one-third of the PDHs for each calendar year shall be obtained separately for each profession.

1. During each biennial licensure renewal period beginning before January 1, 2017, at least one PDH shall be in professional ethics. Effective January 1, 2017 and beginning with dual licensees whose biennial licensure renewal periods begin after January 1, 2017, at least one PDH per calendar year shall be in professional ethics. Professional ethics concerns the standard of professional conduct and responsibility required of a professional engineer and/or professional land surveyor.

2. During each biennial licensure renewal period beginning before January 1, 2017, a minimum of two PDHs shall be earned in the standards of practice for boundary surveys in Louisiana. Effective January 1, 2017 and beginning with dual licensees whose biennial licensure renewal periods begin after January 1, 2017, a minimum of one PDH per calendar year shall be earned in the standards of practice for boundary surveys in Louisiana.

3. During each biennial licensure renewal period beginning before January 1, 2017, a minimum of eight PDHs shall be earned in *Life Safety Code*, building codes and/or Americans with Disabilities Act accessibility guidelines by every professional engineer licensee who designs buildings and/or building systems. Effective January 1, 2017 and beginning with dual licensees whose biennial licensure renewal periods begin after January 1, 2017, a minimum of four PDHs per calendar year shall be earned in *Life Safety Code*, building codes and/or Americans with Disabilities Act accessibility guidelines by every professional engineer licensee who designs buildings and/or building systems.

D. Excess PDHs

1. Effective for biennial licensure renewal periods beginning before January 1, 2017, if a licensee exceeds the biennial licensure renewal period requirements, a maximum of 15 PDHs may be carried forward into the subsequent biennial licensure renewal period. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, if a licensee exceeds the annual requirements, a maximum of 7 PDHs may be carried forward into the subsequent calendar year.

D.2. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2152 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1047 (July 2001), LR 30:1730 (August 2004), LR 37:2420 (August 2011), LR 42:1104 (July 2016).

§3109. Exemptions

A. A licensee may be exempt from the CPD requirements for any one or more of the following reasons.

1. …

2. Effective for biennial licensure renewal periods beginning before January 1, 2017, licensees serving on active duty in the armed forces of the United States for a period of time exceeding 180 consecutive days in a biennial licensure renewal period shall be exempt from obtaining the PDHs required during that biennial licensure renewal period. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January

1, 2017, licensees serving on active duty in the armed forces of the United States for a period of time exceeding 180 consecutive days in a calendar year shall be exempt from obtaining the PDHs required during that calendar year.

3. Effective for biennial licensure renewal periods beginning before January 1, 2017, licensees experiencing physical disability, serious illness, or serious injury of a nature and duration which has prevented the licensee from completing his/her CPD requirements for the past renewal period may be exempted from CPD requirements for said renewal period. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, licensees experiencing physical disability, serious illness, or serious injury of a nature and duration which has prevented the licensee from completing his/her CPD requirements for the past calendar year may be exempted from CPD requirements for said calendar year. Supporting documentation such as a letter from a physician who has treated the disability, illness or injury is required. This letter shall be on the letterhead of the physician and set forth the nature of the disability, illness or injury and the period of time under treatment by the physician, and contain a statement by the physician as to any limitations placed upon the licensee which would limit his ability to complete any type of CPD. Effective for biennial licensure renewal periods beginning before January 1, 2017, this exemption may be granted for one biennial licensure renewal period. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, this exemption may be granted for one calendar year. Additional exemptions for medical reasons may be granted on a case-by-case basis.

4. Effective for biennial licensure renewal periods beginning before January 1, 2017, licensees working outside of the United States for more than 180 days in a biennial licensure renewal period where the completion of CPD is impractical due to location, working hours, mail restrictions, etc., may be granted an exemption from CPD requirements for the period of time the licensee is in the foreign location. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, licensees working outside of the United States for more than 180 days in a calendar year where the completion of CPD is impractical due to location, working hours, mail restrictions, etc., may be granted an exemption from CPD requirements for the period of time the licensee is in the foreign location. Supporting documentation of the foreign assignment must be provided by the employer on the employer's letterhead or by other documentation satisfactory to the board. The letter shall at a minimum set forth both the location and the period of time the person has been in the foreign location.

5. - 6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1048 (July 2001), LR 30:1731 (August 2004), LR 42:1105 (July 2016).

§3111. Determination of Credit

A. PDHs may be earned as indicated in §3113 for the following acceptable activities:

1. - 6. …

7. formal, documented problem preparation for NCEES or state professional exams;

8. serving as thesis directors for students pursuing a masters or doctoral degree in engineering; and

9. serving on technical committees that are assisting federal, state or local governmental agencies in developing standards related to engineering or land surveying.

B. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2153 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1048 (July 2001), LR 30:1731 (August 2004), LR 37:2420 (August 2011), LR 39:1481 (June 2013), LR 42:1106 (July 2016).

§3113. Units

A. - A.3. …

B. Effective for biennial licensure renewal periods beginning before January 1, 2017, PDH credit will be awarded as follows:

1. - 6. …

7. serving as thesis directors for students pursuing a masters or doctoral degree in engineering = 1 PDH per hour of thesis credit. A maximum of 10 PDHs will be allowed per biennial licensure renewal period for each such thesis director;

8. serving on technical committees that are assisting federal, state or local governmental agencies in developing standards related to engineering or land surveying = 1 PDH per 50 contact minutes of attendance at committee meetings. A maximum of 10 PDHs will be allowed per biennial licensure renewal period for service on all of such committees.

C. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, PDH credit will be awarded as follows:

1. fifty contact minutes of instruction or verified attendance at an activity, or problem preparation for a NCEES or state professional exam = one PDH. A maximum of five PDHs will be allowed per calendar year for problem preparation;

2. membership in engineering and land surveying professional associations or technical societies = one PDH per calendar year for each professional or technical association or society. A maximum of two PDHs will be allowed per calendar year for all such memberships;

3. in accordance with §3111.A.1-3, credit for teaching or making presentations may be earned at twice the PDHs allowed for attending a course, but shall not exceed 15 PDHs in any calendar year;

4. authoring and publishing peer reviewed (refereed) articles/papers in engineering or land surveying journals; or authoring and publishing peer reviewed (refereed) books related to engineering or land surveying = 10 PDHs;

5. authoring and publishing non-peer reviewed (nonrefereed) articles/papers in engineering or land surveying journals = 5 PDHs;

6. each patent = 10 PDHs;

7. serving as thesis directors for students pursuing a masters or doctoral degree in engineering = 1 PDH per hour of thesis credit. A maximum of 5 PDHs will be allowed per calendar year for each such thesis director;

8. serving on technical committees that are assisting federal, state or local governmental agencies in developing standards related to engineering or land surveying = 1 PDH per 50 contact minutes of attendance at committee meetings. A maximum of 5 PDHs will be allowed per calendar year for service on all of such committees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1048 (July 2001), LR 30:1732 (August 2004), LR 37:2421 (August 2011), LR 39:1481 (June 2013), LR 42:1106 (July 2016).

§3115. Record Keeping

A. - B. …

C. Maintaining records to be used to support PDHs claimed is the responsibility of the licensee. Effective for biennial licensure renewal periods beginning before January 1, 2017, these records must be maintained for at least three consecutive biennial licensure renewal periods (six years) and copies may be requested by the board at any time. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, these records must be maintained for at least six consecutive calendar years and copies may be requested by the board at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.1.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1049 (July 2001), LR 30:1732 (August 2004), LR 42:1107 (July 2016).

§3119. Failure to Comply

A. …

B. Effective for biennial licensure renewal periods beginning before January 1, 2017, CPD hours acquired and used to satisfy a not-in-compliance situation may not be used to meet the CPD hours required for the current licensure renewal period. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, CPD hours acquired and used to satisfy a not-in-compliance situation may not be used to meet the CPD hours required for the current calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.l.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1049 (July 2001), LR 30:1732 (August 2004), LR 42:1107 (July 2016).

§3121. CPD Reinstatement

A. Effective for biennial licensure renewal periods beginning before January 1, 2017, to become reinstated, an expired, inactive, or retired licensee must show proof of having obtained all delinquent PDHs; however, the maximum number required will be the number of PDHs required for one biennial licensure renewal period as provided in §3105. Effective January 1, 2017 and beginning with licensees whose biennial licensure renewal periods begin after January 1, 2017, to become reinstated, an expired, inactive, or retired licensee must show proof of having obtained all delinquent PDHs; however, the maximum number required will be the number of PDHs required for two calendar years as provided in §3105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:697.l.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 24:2154 (November 1998), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1049 (July 2001), LR 30:1732 (August 2004), LR 42:1107 (July 2016).

Donna D. Sentell
Executive Director

1607#001

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Resident Game Hunting Season
(LAC 76:XIX.Chapter 1)

The Wildlife and Fisheries Commission has amended the general and wildlife management area rules and regulations for the 2016-2017 season, the resident game hunting season for the 2016-2018 hunting seasons, the general and wildlife management area rules and regulations for the turkey season, the turkey hunting areas, and seasons, and bag limits for the 2017 turkey season, and the migratory bird seasons, regulations, and bag limits for the 2016-17 hunting season.

Title 76
WILDLIFE AND FISHERIES
Part XIX. Hunting and WMA Regulations
Chapter 1. Resident Game Hunting Season

§101. General

A. The resident game hunting season regulations have been adopted by the Wildlife and Fisheries Commission. A complete copy of the regulation pamphlet may be obtained from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), LR 30:1493 (July 2004), LR 31:1627 (July 2005), LR 32:1253 (July 2006), LR 33:1399 (July

2007), LR 34:1447 (July 2008), LR 35:1278 (July 2009), LR 36:1580 (July 2010), LR 37:2206 (July 2011), LR 38:1747 (July 2012), LR 39:2307 (August 2013), LR 40:1534 (August 2014), LR 41:958 (May 2015), LR 42:1107 (July 2016).

§103. Resident Game Birds and Animals

A. Shooting Hours—one-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for Seasons or Specific Regulations on Wildlife Management Areas or Specific Localities

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	OPENS: 3rd Saturday of November CLOSES: Last Day of February	10	20
Rabbit and Squirrel	OPENS: 1st Saturday of October CLOSES: Last Day of February	8	16
Squirrel*	OPENS: 1st Saturday of May for 23 days	3	6
Deer 2016-18	See Schedule	1 antlered and 1 antlerless (when legal)	6/season (not to exceed 3 antlered deer or 4 antlerless deer)

*NOTE: Spring squirrel season is closed on the Kisatchie National Forest, National Wildlife Refuges, U.S. Army Corps of Engineers property. Some state wildlife management areas will be open, check WMA season schedule.

C. Deer Hunting Schedule 2016-2017

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
1	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan.
2	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: Next to last Sat. of Oct. CLOSES: Fri. before last Sat. of Oct. OPENS: Mon. after the last day of Modern Firearm Season in Jan. CLOSES: After 7 days.	OPENS: Last Sat. of Oct. CLOSES: Tues. before 2nd Sat. of Dec. in odd numbered years and on Wed. during even numbered years EXCEPT when there are 5 Sats. in Nov. and then it will close on the Tues. in odd numbered years or Wed. during even numbered years before the 1st Sat. of Dec.	OPENS: Wed. before the 2nd Sat. of Dec. in odd numbered years and on Thurs. during even numbered years EXCEPT when there are 5 Sats. in Nov., then it will open on the Wed. before the 1st Sat. of Dec. on odd years and Thurs. during even numbered years CLOSES: 40 days after opening in odd numbered years or 39 days after opening in even numbered years
3	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1st Sat. of Dec. CLOSES: After 37 days	
4	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov.(EITHER SEX) OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan. (EITHER SEX FOR 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 3rd Sat. of Nov. CLOSES: Sun. after 3rd Sat. of Nov. (EITHER SEX) OPENS: Friday after Thanksgiving CLOSES: Sun. after Thanksgiving. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: 3rd Sat. of Dec. CLOSES: Sun. after 3rd Sat. of Dec. (EITHER SEX) OPENS: 4th Sat. of Dec. CLOSES: Sun. after 4th Sat. of Dec. (EITHER SEX) OPENS: 1st Sat. of Jan. CLOSES: Sun. after 1st Sat. of Jan. (EITHER SEX)

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
			OPENS: 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Dec. (EITHER SEX) OPENS: 2nd Sat. of Jan. CLOSES: Sun. after 2nd Sat. of Jan. (EITHER SEX) OPENS: 3rd Sat. of Jan. CLOSES: Sun. after 3rd Sat. of Jan. (EITHER SEX)	
5	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov.(BUCKS ONLY) OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.(EITHER SEX 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Fri. after Thanksgiving Day. CLOSES: Sun. after Thanksgiving day. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX) OPENS: 2nd Sat. in Jan. CLOSES: Sun. after 2nd Sat. in Jan. (EITHER SEX)
6	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan.
7	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct.(EITHER SEX) OPENS: 1st Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Nov. (BUCKS ONLY).	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after 3rd Sat. of Oct. (EITHER SEX) OPENS: Mon. after 3rd Sun. of Oct. CLOSES: Fri Before 1st Sat. of Nov. (BUCKS ONLY) OPENS: 2nd Sat of Nov. CLOSES: Sun. after Thanksgiving (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 3rd Sat. of Nov. CLOSES: Sun. after 3rd Sat. of Nov. (EITHER SEX) OPENS: Fri. after Thanksgiving. CLOSES: Sun. after Thanksgiving. (EITHER SEX)	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days(BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX)
8	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day.	OPENS: 1st Sat. of Dec. CLOSES: After 37 days.
9	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov.(BUCKS ONLY) OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.(EITHER SEX 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Fri. after Thanksgiving Day. CLOSES: Sun. after Thanksgiving day. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX) OPENS: 2nd Sat. in Jan. CLOSES: Sun. after 2nd Sat. in Jan. (EITHER SEX)

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
10	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. (EITHER SEX) OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec. (BUCKS ONLY)	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day(BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 1st Sat. of Dec. CLOSES: After 37 days(BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 3rd Sat. of Oct. CLOSES: Sun. after 3rd Sat. in Oct. (EITHER SEX) OPENS: 2nd Sat. of Nov. CLOSES: Sun. after 2nd Sat. of Nov. (EITHER SEX) OPENS: Fri. after Thanksgiving. CLOSES: Sun. after Thanksgiving. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX)	

D. Deer Hunting Schedule 2017-2018

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
1	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan.
2	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: Next to last Sat. of Oct. CLOSES: Fri. before last Sat. of Oct. OPENS: Mon. after the last day of Modern Firearm Season in Jan. CLOSES: After 7 days.	OPENS: Last Sat. of Oct. CLOSES: Tues. before 2nd Sat. of Dec. in odd numbered years and on Wed. during even numbered years EXCEPT when there are 5 Sats. in Nov. and then it will close on the Tues. in odd numbered years or Wed. during even numbered years before the 1st Sat. of Dec.	OPENS: Wed. before the 2nd Sat. of Dec. in odd numbered years and on Thurs. during even numbered years EXCEPT when there are 5 Sats. in Nov., then it will open on the Wed. before the 1st Sat. of Dec. on odd years and Thurs. during even numbered years CLOSES: 40 days after opening in odd numbered years or 39 days after opening in even numbered years
3	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1st Sat. of Dec. CLOSES: After 37 days	
4	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan. (EITHER SEX FOR 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 3rd Sat. of Nov. CLOSES: Sun. after 3rd Sat. of Nov. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: 3rd Sat. of Dec. CLOSES: Sun. after 3rd Sat. of Dec. (EITHER SEX) OPENS: 4th Sat. of Dec. CLOSES: Sun. after 4th Sat. of Dec. (EITHER SEX) OPENS: 1st Sat. of Jan.

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			OPENS: Friday after Thanksgiving CLOSES: Sun. after Thanksgiving. (EITHER SEX) OPENS: 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Dec. (EITHER SEX) OPENS: 2nd Sat. of Jan. CLOSES: Sun. after 2nd Sat. of Jan. (EITHER SEX) OPENS: 3rd Sat. of Jan. CLOSES: Sun. after 3rd Sat. of Jan. (EITHER SEX)	CLOSES: Sun. after 1st Sat. of Jan. (EITHER SEX)
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Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
10	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. (EITHER SEX) OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec. (BUCKS ONLY)		

E. Farm-raised white-tailed deer on supplemented shooting preserves:

1. archery, firearm, primitive firearms—October 1-January 31 (either-sex).

F. Exotics on supplemented shooting preserves:

1. either sex—no closed season.

G. Spring squirrel hunting:

1. season dates—opens 1st Saturday of May for 23 days;

2. closed areas:

a. Kisatchie National Forest, national wildlife refuges, and U.S. Army Corps of Engineers property and all WMAs except as provided in Paragraph 3 below;

3. wildlife management area schedule—opens first Saturday of May for nine days on all WMAs except Fort Polk, Peason Ridge, Camp Beauregard, Pass-a-Loutre and Salvador. Dogs are allowed during this season for squirrel hunting. Feral hogs may be taken on wildlife management areas during this season;

4. limits—daily bag limit is three and possession limit is nine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:109(B) and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), repromulgated LR 29:1521 (August 2003), amended LR 30:1494 (July 2004), LR 31:1627 (July 2005), LR 32:1254 (July 2006), LR 33:115 (January 2007), LR 33:1399 (July 2007), LR 34:1447 (July 2008), LR 35:1278 (July 2009), LR 35:2856 (December 2009), LR 36:1580 (July 2010), LR 37:2207 (July 2011), LR 38:1747 (July 2012), LR 39:2307 (August 2013), LR 40:1535 (August 2014), LR 41:958 (May 2015), LR 42:1108 (July 2016).

§111. General and Wildlife Management Area Hunting Rules and Regulations

A. Hunting Seasons and Wildlife Management Area (WMA) Regulations

1. The rules and regulations contained within this digest have been officially approved and adopted by the Wildlife and Fisheries Commission under authority vested by sections 115 and 116 of title 56 of the *Louisiana Revised Statutes* of 1950 and are in full force and effect in conjunction with all applicable statutory laws. The secretary of the Department of Wildlife and Fisheries (LDWF) has the authority to close or alter seasons in emergency situations in order to protect fish and wildlife resources.

2. Pursuant to section 40.1 of title 56 of the *Louisiana Revised Statutes* of 1950, the Wildlife and Fisheries Commission has adopted monetary values which are assigned to all illegally taken, possessed, injured or destroyed fish, wild birds, wild quadrupeds and other wildlife and aquatic life. Anyone taking, possessing, injuring or destroying fish, wild birds, wild quadrupeds and other wildlife and aquatic life shall be required to reimburse the LDWF a sum of money equal to the value of the wildlife illegally taken, possessed, injured or destroyed. This monetary reimbursement shall be in addition to any and all criminal penalties imposed for the illegal act.

B. Resident Game Birds and Animals

1. Shooting hours: one-half hour before sunrise to one-half hour after sunset.

C. Other Season Dates

1. Turkey. Please refer to turkey regulations.

2. Raccoon and Opossum. No closed season. Raccoon and opossum can be taken at night by one or more licensed hunters with one or more dogs and one .22 caliber or smaller rimfire firearm. A licensed hunter may take raccoon or opossum with .22 caliber or smaller rimfire firearm, .36 caliber or smaller muzzleloader rifle or shotgun during daylight hours. Hunting from boats or motor vehicles is prohibited. No bag limit for nighttime or daytime raccoon or opossum hunting during the open trapping season except on certain WMAs as listed. The remainder of the year, the raccoon and opossum bag limit for daytime or nighttime is two per person per day or night. No one who hunts raccoons or opossums as prescribed above shall pelt during the closed trapping season nor sell skins or carcasses of raccoons and opossums taken during the open trapping season unless he is the holder of a valid trapping license which shall be required in addition to his basic hunting license. Pelting or selling carcasses is illegal during closed trapping season.

3. Nutria. On WMAs and private property nutria may be taken recreationally by licensed hunters from September 1 through the last day of February, during legal shooting hours by any legal hunting method with a daily limit of five. Except nutria may be taken on Atchafalaya Delta, Salvador/Timken, Pointe-Aux-Chenes and Pass-a-Loutre WMAs from September 1 to March 31. When taken with a shotgun, non-toxic shot must be used. On WMAs during waterfowl seasons, nutria may be taken only with the use of shotguns with shot no larger than F steel, and during gun deer seasons, anyone taking nutria must display 400 square inches of "hunter orange" and wear a "hunter orange" cap or hat. Recreational nutria hunters must remove each nutria carcass in whole condition from the hunting area, except that nutria may be gutted. Possession of detached nutria parts, including nutria tails, by recreational hunters is illegal. Nutria harvested recreationally may not be pelted nor may such nutria or any nutria parts from recreationally taken nutria be sold, including the tail. Trespassing upon private property for the purpose of taking nutria or other furbearing animals is punishable by fines and possible jail time (R.S. 56:265). The Coastwide Nutria Control Program is a

separate program and is in no way related to the nutria recreational season. For questions on the Coastwide Nutria Control Program, call the New Iberia office (337) 373-0032.

4. Blackbirds and Crows. The season for crows shall be September 1 through January 1 with no limit; however crows, blackbirds, cowbirds and grackles may be taken year round during legal shooting hours if they are depredating or about to depredate upon ornamentals or shade trees, agricultural crops, livestock, wildlife, or when concentrated in such numbers as to cause a health hazard. Louisiana has determined that the birds listed above are crop depredators and that crows have been implicated in the spread of the West Nile virus in humans. As described in 50 CFR Part 21, non-toxic shot must be used for the take of crows, blackbirds, cowbirds and grackles under the special depredation order. In addition an annual report has to be submitted to the U.S. Fish and Wildlife Service for those that participate in the take of these species.

5. Pheasant. Open concurrently with the quail season; no limit.

6. Falconry. Special permit required. Resident and migratory game species may be taken except turkeys. Seasons and bag limits are the same as for statewide and WMA regulations. Refer to LAC 76:V.301 for specific falconry rules.

7. Licensed Hunting Preserve, October 1-April 30, Pen-Raised Birds Only. No limit entire season. Refer to LAC 76:V.305 for specific hunting preserve rules.

8. Deer Management Assistance Program (DMAP). Refer to LAC 76:V.111 for specific DMAP rules. Deer management assistance tags must be in the possession of the hunter in order to harvest an antlerless deer. The tag shall be attached through the hock in such a manner that it cannot be removed before the deer is transported (including those taken on either-sex days and those taken with approved archery equipment or primitive firearms). Failure to do so is a violation of R.S. 56:115. Deer harvested on property enrolled in DMAP do not count in the season or daily bag limit for hunters when legally tagged with DMAP tags. Failing to follow DMAP rules and regulations may result in suspension and cancellation of the program on those lands involved.

9. Farm Raised White-tailed Deer and Exotics on Licensed Supplemented Shooting Preserves

a. Definitions

Exotics—for purposes of this Section means any animal of the family *Bovidae* (except the *Tribe Bovini* [cattle]) or *Cervidae* which is not indigenous to Louisiana and which is confined on a supplemented hunting preserve. *Exotics* shall include, but are not limited to, fallow deer, red deer, elk, sika deer, axis deer, and black buck antelope.

Hunting—in its different tenses and for purposes of this Section means to take or attempt to take, in accordance with R.S. 56:8.

Same as Outside—for purposes of this Section means hunting on a supplemented hunting preserve must conform to applicable statutes and rules governing hunting and deer hunting, as provided for in title 56 of the *Louisiana Revised Statutes* and as established annually by the Wildlife and Fisheries Commission.

Supplemented Hunting Preserve—for purposes of this Section means any enclosure for which a current farm-raising license has been issued by the Department of Agriculture and Forestry (LDAF) with concurrence of the LDWF and is authorized in writing by the LDAF and LDWF to permit hunting.

White-Tailed Deer—for purposes of this Rule means any animal of the species *Odocoileus virginianus* which is confined on a supplemented hunting preserve.

b. Seasons:

i. farm-raised white-tailed deer: consult the regulations pamphlet;

ii. exotics: year round.

c. Methods of take:

i. white-tailed deer: same as outside;

ii. exotics: exotics may be taken with traditional bow, compound bow and crossbow or any bow drawn, held or released by mechanical means; shotguns not larger than 10 gauge, loaded with buckshot or rifled slug; handguns and rifles no smaller than .22 caliber centerfire; or muzzleloading rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle or cap and ball cylinder, using black powder or an approved substitute only, and using ball or bullet projectile, including saboted bullets only and other approved primitive firearms.

d. Shooting hours:

i. white-tailed deer: same as outside;

ii. exotics: one-half hour before sunrise to one-half hour after sunset.

e. Bag limit:

i. farm-raised white-tailed deer: same as outside;

ii. exotics: no limit.

f. Hunting licenses:

i. white-tailed deer: same as outside;

ii. exotics: no person shall hunt any exotic without possessing a valid basic and big game hunting license.

g. Tagging. White-tailed deer and exotics: each animal shall be tagged in the left ear or left antler immediately upon being killed and before being moved from the site of the kill with a tag provided by the LDAF. The tag shall remain with the carcass at all times.

10. Bobcat. No person other than the holder of a valid big game license may take or possess bobcat, except licensed trappers who may take or possess bobcat during the open trapping season. A big game licensee shall only take bobcat during the time period from one-half hour before sunrise to one-half hour after sunset with approved archery equipment, shotgun, muzzleloader or centerfire firearm. A big game licensee shall not take more than one bobcat per calendar year. This regulation applies only to property that is privately owned, state WMAs, Kisatchie National Forest, and the Bayou des Ourses, Bodcau, Bonnet Carre, and Indian Bayou tracts owned by the Corps of Engineers, but does not apply to state wildlife refuges, or other federally owned refuges and lands. On state WMAs and Kisatchie National Forest, the take of bobcat is restricted to those open seasons on the WMAs which require the respective legal weapons noted above.

D. Hunting—General Provisions

1. A basic resident or non-resident hunting license is required of all persons to hunt, take, possess or cause to be transported by any other person any wild bird or quadruped. See information below for exceptions.

2. No person born on or after September 1, 1969, shall hunt unless that person has first been issued a certificate of satisfactory completion of a firearm and hunter education course approved by the department, except any active or veteran member of the United States armed services or any POST-certified law enforcement officer. Application for the exemption shall be filed in person at the LDWF main office building in the city of Baton Rouge. A person under 16 years of age may hunt without such certificate if he/she is accompanied by and is under the direct supervision of a person who was born before September 1, 1969, and has a valid hunting license or who is 18 years of age or older and has proof of successful completion of a firearm and hunter education course approved by the department.

3. A big game license is required in addition to the basic hunting license to hunt, take, possess or cause to be transported any deer. A separate wild turkey license is required in addition to the basic hunting license and the big game license to hunt, take, possess or cause to be transported any turkey.

4. Taking game quadrupeds or birds from aircraft or participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

5. Methods of Taking Resident Game Birds and Quadrupeds

a. It is illegal to intentionally feed, deposit, place, distribute, expose, scatter, or cause to be fed, deposited, placed, distributed, exposed, or scattered raw sweet potatoes to wild game quadrupeds.

b. Use of a traditional bow, compound bow and crossbow or any bow drawn, held or released by mechanical means or a shotgun not larger than a 10 gauge fired from the shoulder shall be legal for taking all resident game birds and quadrupeds. Also, the use of a handgun, rifle and falconry (special permit required) shall be legal for taking all game species except turkey. It shall be illegal to hunt or take squirrels or rabbits at any time with a breech-loaded rifle or handgun larger than .22 caliber, any centerfire firearm, or a muzzleloading firearm larger than .36 caliber. It shall be legal to hunt or take squirrels, rabbits, and outlaw quadrupeds with air rifles.

c. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs is prohibited when or where a still hunting season or area is designated, and will be strictly enforced. Shotguns larger than 10 gauge or capable of holding more than three shells shall be prohibited. Plugs used in shotguns must be incapable of being removed without disassembly. Refer to game schedules contained within these regulations for specific restrictions on the use of firearms and other devices.

d. No person shall take or kill any game bird or wild quadruped with a firearm fitted with an infrared sight, laser sight, or except as provided in R.S. 56:116(A)(8) any sighting device which projects a beam of light to the target or otherwise electronically illuminates the target, or device specifically designed to enhance vision at night [R.S. 56:116.1(B)(3)].

6. Nuisance Animals. Landowners or their designees may remove beaver and nutria causing damage to their property without a special permit. Water set traps and firearms may be used to remove beaver; nutria may be removed by any means except that nutria cannot be taken by the use of headlight and gun between the hours of sunset and sunrise. With a special permit issued by the LDWF, beavers may be taken between one-half hour after official sunset to one-half hour before official sunrise for a period of three consecutive calendar evenings from the effective date of the permit. Any nuisance beaver or nutria trapped or shot outside open trapping season cannot be pelted or sold. A trapping license is required to sell or pelt nuisance beavers or nutria taken during open trapping season. Squirrels found depredating commercial crops of pecans may be taken year-round by permit issued by the LDWF. This permit shall be valid for 30 days from the date of issuance. Contact the local region office for details.

7. Threatened and endangered species: Louisiana black bear, Louisiana pearl shell (mussel), sea turtles, gopher tortoise, ringed sawback turtle, brown pelican, bald eagle, peregrine falcon, whooping crane, Eskimo curlew, piping plover, interior least tern, ivory-billed woodpecker, red-cockaded woodpecker, Bachman's warbler, West Indian manatee, Florida panther, pallid sturgeon, Gulf sturgeon, Atwater's greater prairie chicken, whales and red wolf. Taking or harassment of any of these species is a violation of state and federal laws.

8. Outlaw Quadrupeds. Holders of a legal hunting license may take coyotes, feral hogs, and armadillos year round during legal daylight shooting hours. The running of coyotes with dogs is prohibited in all turkey hunting areas during the open turkey season. Coyote hunting is restricted to chase only when using dogs during still hunting segments of the firearm and archery only seasons for deer. Foxes are protected quadrupeds and may be taken only with traps by licensed trappers during the trapping season. Remainder of the year "chase only" allowed by licensed hunters.

9. Nighttime Take of Nuisance Animals and Outlaw Quadrupeds. On private property, the landowner, or his lessee or agent with written permission and the landowner's contact information in his possession, may take outlaw quadrupeds (coyotes, armadillos and feral hogs), nutria, or beaver during the nighttime hours from one-half hour after official sunset on the last day of February to one-half hour after official sunset the last day of August of that same year. Such taking may be with or without the aid of artificial light, infrared or laser sighting devices, or night vision devices. In addition, pursuant to R.S. 56:116(D)(3) any person who is authorized to possess a firearm suppressor may use a firearm fitted with a sound suppressor when taking outlaw quadrupeds, nutria, or beaver. Any person attempting to take outlaw quadrupeds under the provisions of the paragraph, within 24 hours prior to the attempted taking, shall notify the sheriff of the parish in which the property is located and the LDWF Enforcement Division by calling (800) 442-2511 of their intention to attempt to take outlaw quadrupeds under the provision of this Paragraph.

10. Hunting and/or Discharging Firearms on Public Roads. Hunting, standing, loitering or shooting game

quadrupeds or game birds while on a public road or public road right-of-way is prohibited. Hunting or the discharge of firearms on roads or highways located on public levees or within 100 feet from the centerline of such levee roads or highways is prohibited. Spot lighting or shining from public roads is prohibited by state law. Hunting from all public roads and public road rights-of-way is prohibited.

11. Tags. Any part of the deer or wild turkey divided shall have affixed thereto the name, date, address and big game license number of the person killing the deer or wild turkey and the sex of that animal. This information shall be legibly written in pen or pencil, on any piece of paper or cardboard or any material, which is attached or secured to or enclosing the part or parts. On lands enrolled in DMAP, deer management assistance tags must be attached and locked through the hock of antlerless deer, (including those taken with approved archery and primitive firearms, and those antlerless deer taken on either-sex days) in a manner that it cannot be removed, before the deer is moved from the site of the kill.

12. Sex Identification. Positive evidence of sex identification, including the head or sex organs, shall remain on any deer taken or killed within the state of Louisiana, or on all turkeys taken or killed so long as such deer or turkey is kept in camp or field, or is in route to the domicile of its possessor, or until such deer or turkey has been stored at the domicile of its possessor or divided at a cold storage facility and has become identifiable as food rather than as wild game.

E. General Deer Hunting Regulations

1. Prior to hunting deer, all deer hunters, regardless of age or license status, must obtain deer tags and have in possession when hunting deer. Immediately upon harvesting a deer, the hunter must tag the deer with the appropriate carcass tag and document the kill on the deer tag license. Within seven days the hunter must validate the kill. Hunters harvesting deer on DMAP lands can validate deer per instructions by LDWF using the DMAP harvest data sheets. Hunters on WMAS can validate deer during mandatory deer check hunts, when deer check stations are in operation. Hunters may validate deer by calling the validation toll free number or using the validation website.

2. 2016-2017 Season. One antlered and one antlerless deer per day (when legal) except on Kisatchie National Forest , Indian Bayou Area owned by the US Army Corps of Engineers, and some federal refuges (check refuge regulations) where the daily limit shall be one deer per day. Season limit is six, not to exceed three antlered deer or four antlerless deer (all segments included) by all methods of take, except antlerless harvest on property enrolled in DMAP does not count in the season or daily bag limit for hunters. Antlerless deer may be harvested during entire deer season on private lands (all seasons included) except as specified in deer hunting schedule. Consult deer hunting schedule in the regulations pamphlet for either-sex days for these parishes and areas. This does not apply to public lands (WMAs, national forest lands, and federal refuges) which will have specified either-sex days.

3. 2017-2018 Season. One antlered and one antlerless deer per day (when legal) except on Kisatchie National Forest, Indian Bayou area owned by the US Army Corps of Engineers, and some federal refuges (check refuge regulations) where the daily limit shall be one deer per day. Season limit is six, not to exceed three antlered deer or four antlerless deer (all segments included) by all methods of take, except antlerless harvest on property enrolled in DMAP does not count in the season or daily bag limit for hunters. Antlerless deer may be harvested during entire deer season on private lands (all seasons included) except as specified in deer hunting schedule. Consult deer hunting schedule in the regulations pamphlet for either-sex days for these parishes and areas. This does not apply to public lands (WMAs, national forest lands, and federal refuges) which will have specified either-sex days.

4. A legal antlered deer is a deer with at least one visible antler of hardened bony material, broken naturally through the skin, except on Alexander State Forest WMA, Bayou Macon WMA, Big Lake WMA, Bodcau WMA, Boeuf WMA, Buckhorn WMA, Dewey Wills WMA, Jackson-Bienville WMA, Loggy Bayou WMA, Ouachita WMA, Pearl River WMA, Pomme de Terre WMA, Red River WMA, Russell Sage WMA, Sicily Island Hills WMA, Spring Bayou WMA, Three Rivers WMA and Union WMA during the experimental quality deer season (See the specific WMA schedule for more information.). A legal antlered deer during the experimental quality deer season shall be defined as a deer with at least four points on one side. To be counted as a point, a projection must be at least on inch long and its length must exceed the length of its base. The beam tip is counted as a point but not measured as a point. Killing antlerless deer is prohibited except where specifically allowed.

5. *Either-sex deer* is defined as male or female deer. Taking or possessing spotted fawns is prohibited.

6. It is illegal to hunt or shoot deer with firearms smaller than .22 caliber centerfire or a shotgun loaded with anything other than buckshot or slug. Handguns may be used for hunting.

7. Taking game quadrupeds or birds from aircraft, participating in the taking of deer with the aid of aircraft or from automobiles or other moving land vehicles is prohibited.

8. Still hunting is defined as stalking or stationary stand hunting without the use of dog(s). Pursuing, driving or hunting deer with dogs or moving vehicles, including ATVs, when or where a still hunting season or area is designated, is prohibited and will be strictly enforced. The training of deer dogs is prohibited in all still hunting areas during the gun still hunting and archery only season. Deer hunting with dogs is allowed in all other areas having open deer seasons that are not specifically designated as still hunting only. A leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address, and phone number. In addition, a dog may be used to trail and retrieve

unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

9. It is illegal to take deer while deer are swimming or while the hunter is in a boat with motor attached in operating position; however the restriction in this Paragraph shall not apply to any person who has lost one or more limbs.

10. Areas not specifically designated as open are closed.

11. Primitive Firearms Season: Still Hunt Only. Specific WMAs will also be open, check WMA schedule for specific details. Primitive firearms license is required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all deer hunting areas except as otherwise specified. It is unlawful to carry a gun, other than a primitive firearm, including those powered by air or other means, while hunting during the special primitive firearms segment. Except, it is lawful to carry a .22 caliber rimfire pistol loaded with #12 shot (ratshot only).

a. Legal Firearms for Primitive Firearms Season

i. Rifles or pistols, .44 caliber minimum, or shotguns 10 gauge or smaller, all of which must load exclusively from the muzzle, use black powder or approved substitute only, take ball, shot, or bullet projectile only, including saboted bullets, and may be fitted with magnified scopes.

ii. Single shot, breech loading rifles or single shot, breech loading pistols, .35 caliber or larger, having an exposed hammer, that use metallic cartridges loaded either with black powder or modern smokeless powder, and may be fitted with magnified scopes.

iii. Single shot, breech loading shotguns, 10 gauge or smaller, having an exposed hammer, loaded with buckshot or slug.

iv. Youths 17 or younger may hunt deer with any legal weapon during the primitive firearms season in each deer hunting area.

12. Archery Season. Archery license required for resident bow hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all areas open for deer hunting except when a bucks only season is in progress for gun hunting, and except in areas 6 and 9 from October 1-15. Archers must conform to the bucks only regulations. Either-sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMA. Also, archery season restricted on Atchafalaya Delta, Salvador, Lake Boeuf, and Pointe-aux-Chenes WMAs (see schedule).

a. Bow and Arrow Regulations. Traditional bow, compound bow and crossbow or any bow drawn, held or released by mechanical means will be a legal means of take for all properly licensed hunters. Hunting arrows for deer must have well-sharpened broadhead points. Bow and arrow fishermen must have a sport fishing license and may not carry any arrows with broadhead points unless a big game season is in progress.

i. It is unlawful:

(a). to have in possession or use any poisoned or drugged arrow or arrows with explosive tips;

(b). to hunt deer with a bow having a pull less than 30 pounds;

(c). to hunt with a bow or crossbow fitted with an infrared, laser sight, electrically-operated sight or device specifically designed to enhance vision at night (does not include non-projecting red dot sights) [R.S. 56:116.1.B.(4)].

13. Hunter Orange. Any person hunting any wildlife during the open gun deer hunting season and possessing buckshot, slugs, a primitive firearm, or a centerfire rifle shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange". Persons hunting on privately owned land may wear a hunter orange cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned or to archery deer hunters hunting on lands where firearm hunting is not allowed by agreement of the landowner or lessee. However, anyone hunting deer on such lands where hunting with firearms is allowed shall be required to display the 400 square inches or a hunter orange cap or hat while walking to and from elevated stands. While a person is hunting from an elevated stand, the 400 square inches or cap or hat may be concealed. Warning: deer hunters are cautioned to watch for persons hunting other game or engaged in activities not requiring "hunter orange".

14. Physically Challenged Season on Private Lands (Either-Sex): first Saturday of October for two days. Restricted to individuals with physically challenged hunter permit.

15. Youth and Honorably Discharged Veterans Season on Private Lands (Either-Sex). Areas 1, 4, 5, 6 and 9: last Saturday of October for seven days; area 2: second Saturday of October for seven days; and areas 3, 7, 8 and 10: fourth Saturday of September for seven days. Youths 17 or younger only. Youths must be accompanied by an adult 18 years of age or older. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual andvoice contact with the youth at all times. Except properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. One of the following must be carried by veterans while hunting:

a. Louisiana OMV issued U.S. Veterans Driver's License; or

b. U.S. Department of Defense Form 214 or one of the following DD_214 equivalents:

i. pre DD 214 era documents (1941_1950):

(a). WE AGO (war department adjutant general) forms, to include WD AGO 53, WD AGO 55, WD AGO 53_55;

(b). JAVPERS (naval personnel) discharge documents, to include NAVPERS 553, NAVMC78PD, NAVCG 553;

ii. National Personnel Records Center NPRC "statement of service," issued as a result of a destroyed discharge record during the 1973 National Archives fire;

iii. National Guard/Air National Guard must have NGB_22 with 6 or more years of service.

F. Description of Areas, 2015-2017

1. Area 1

a. All of the following parishes are open: Concordia, East Carroll, Franklin, Madison, Richland, Tensas, West Carrol.

b. Portions of the following parishes are also open:

i. Catahoula—east of Boeuf River to Ouachita River, east of Ouachita River from its confluence with Boeuf River to LA 8, south and east of LA 8 southwesterly to parish line;

ii. Grant—east of US 165 and south of LA 8;

iii. LaSalle—south of a line beginning where Little River enters Catahoula Lake following the center of the lake eastward to Old River then to US 84, east of US 84 northward to LA 8, south of LA 8 eastward to parish line;

iv. Ouachita—south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse line at Wham Bake;

v. Rapides—east of US 165 and north of Red River.

c. Still hunting only in all or portions of the following parishes:

i. Catahoula—south of Deer Creek to Boeuf River, east of Boeuf and Ouachita Rivers to LA 8 at Harrisonburg, west of LA 8 to LA 913, west of LA 913 and LA 15 to Deer Creek;

ii. East Carroll—all;

iii. Franklin—all;

iv. Morehouse—east of US 165 (from Arkansas state line) to Bonita, south and east of LA 140 to junction of LA 830-4 (Cooper Lake Road), east of LA 830-4 to Bastrop, east of LA 139 at Bastrop to junction of LA 593, east and north of LA 593 to Collinston, east of LA 138 to junction of LA 134 and south of LA 134 to Ouachita line at Wham Brake;

v. Ouachita—south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse line at Wham Bake;

vi. Richland—all;

vii. West Carroll.

2. Area 2

a. All of the following parishes are open:

i. Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Jackson, Lincoln, Natchitoches, Red River, Sabine, Union, Webster, Winn;

ii. except: Kisatchie National Forest which has special regulations. Caney, Corney, Middlefork tracts of Kisatchie have the same regulations as area 2, except still hunting only for deer.

b. Portions of the following parishes are also open:

i. Allen—north of US 190 from parish line westward to Kinder, east of US 165 from Kinder northward to LA 10 at Oakdale, north of LA 10 from Oakdale westward to the parish line;

ii. Avoyelles—that portion west of I-49;

iii. Catahoula—west of Boeuf River to Ouachita River, west of Ouachita River from its confluence with Boeuf River to LA 8, north and west of LA 8 southwesterly to parish line;

iv. Evangeline—all except the following portions: east of I-49 to junction of LA 29, east of LA 29 south of I-49 to Ville Platte, and north of US 167 east of Ville Platte;

v. Grant—all except that portion south of LA 8 and east of US 165;

vi. Jefferson Davis—north of US 190;

vii. LaSalle—north of a line beginning where Little River enters Catahoula Lake, following the center of the lake eastward to Old River then to US 84, west of US 84 northward to LA 8, north of LA 8 eastward to parish line;

viii. Morehouse—west of US 165 (from Arkansas state line) to Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to Bastrop, west of LA 139 to junction of LA 593, west and south of LA 593 to Collinston, west of LA 138 to junction of LA 134 and north of LA 134 to Ouachita Parish line at Wham Brake;

ix. Ouachita—all except south of US 80 and east of Ouachita River, east of LA 139 from Sicard to junction of LA 134, south of LA 134 to Morehouse Parish line at Wham Brake;

x. Rapides—all except north of Red River and east of US 165, south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill, and north of LA 113 from Union Hill to Vernon Parish line, and that portion south of Alexandria between Red River and US 167 to junction of US 167 with I-49 at Turkey Creek exit, east of I-49 southward to parish line;

xi. Vernon—north of LA 10 from the parish line westward to LA 113, south of LA 113 eastward to parish line. Also the portion north of LA 465 west of LA 117 from Kurthwood to Leesville and north of LA 8 from Leesville to Texas state line.

c. Still hunting only in all or portions of the following parishes:

i. Claiborne and Webster—Caney, Corney and Middlefork tracts of Kisatchie National Forest (see Kisatchie National Forest regulations);

ii. Ouachita—east of Ouachita River;

iii. Rapides—west of US 167 from Alexandria southward to I-49 at Turkey Creek exit, west of I-49 southward to parish line, north of parish line westward to US 165, east of US 165 northward to US 167 at Alexandria. North of LA 465 from Vernon Parish line to LA 121, west of LA 121 to I-49, west of I-49 to LA 8, south and east of LA 8 to LA 118 (Mora Road), south and west of LA 118 to Natchitoches Parish line;

iv. Vernon—east of Mora-Hutton Road from Natchitoches Parish line to Hillman Loop Road, south and east of Hillman Loop Road to Comrade Road, south of Comrade Road to LA 465, east and north of LA 465 to Rapides Parish line.

3. Area 3

a. Portions of the following parishes are open:

i. Acadia—north of I-10;

ii. Allen—south of US 190 and west of LA 113;

iii. Beauregard—west of LA 113 and east of LA 27 from the parish line northward to DeRidder and north of US 190 westward from DeRidder to Texas state line;

iv. Calcasieu—east of LA 27 from Sulphur northward to the parish line, and north of I-10;

v. Jefferson Davis—north of I-10 and south of US 190;

vi. Lafayette—west of I-49 and north of I-10;

vii. Rapides—south of LA 465 to junction of LA 121, west of LA 121 and LA 112 to Union Hill and north of LA 113 from Union Hill to Vernon Parish line;

viii. St. Landry—west of US 167;

ix. Vernon—west and north of LA 113, south of LA 465, east of LA 117 from Kurthwood to Leesville, and south of LA 8 from Leesville to Texas state line.

4. Area 4

a. All of St. Helena and Washington Parishes are open.

b. Portions of the following parishes are also open:

i. East Baton Rouge—all except that portion north of I-110 and west of US 61;

ii. East Feliciana—east of US 61;

iii. West Feliciana—east of US 61;

iv. Livingston—north of I-12;

v. Tangipahoa—north of I-12;

vi. St. Tammany—all except that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain.

c. Still hunting only in all or portions of the following parishes:

i. East Feliciana and East Baton Rouge—east of Thompson Creek from the Mississippi state line to LA 10, north of LA 10 from Thompson Creek to LA 67 at Clinton, west of LA 67 from Clinton to Mississippi state line, south of Mississippi state line from LA 67 to Thompson Creek. Also that portion of East Baton Rouge Parish east of LA 67 from LA 64 north to Parish Line, south of Parish Line from LA 64 eastward to Amite River, west of Amite River southward to LA 64, north of LA 64 to LA 37 at Magnolia, east of LA 37 northward to LA 64 at Indian Mound, north of LA 64 from Indian Mound to LA 67. Also, that portion of East Feliciana Parish east of LA 67 from parish line north to LA 959, south of LA 959 east to LA 63, west of LA 63 to Amite River, west of Amite River southward to parish line, north of parish line westward to LA 67;

ii. St. Helena—north of LA 16 from Tickfaw River at Montpelier westward to LA 449, east and south of LA 449 from LA 16 at Pine Grove northward to Rohner Road, south of Rohner Road to LA 1045, south of LA 1045 to the Tickfaw River, west of the Tickfaw River from LA 1045 southward to LA 16 at Montpelier;

iii. Tangipahoa—that portion of Tangipahoa Parish north of LA 10 from the Tchefuncte River to LA 1061 at Wilmer, east of LA 1061 to LA 440 at Bolivar, south of LA 440 to the Tchefuncte River, west of the Tchefuncte River from LA 440 southward to LA 10;

iv. Washington and St. Tammany—east of LA 21 from the Mississippi state line southward to the Bogue Chitto River, north of the Bogue Chitto River from LA 21 eastward to the Pearl River Navigation Canal, east of the Pearl River Navigation Canal southward to the West Pearl River, north of the West Pearl River from the Pearl River Navigation Canal to Holmes Bayou, west of Holmes Bayou from the West Pearl River northward to the Pearl River, west of the Pearl River from Holmes Bayou northward to the Mississippi state line, south of the Mississippi state line from the Pearl River westward to LA 21. Also, that portion of Washington Parish west of LA 25 from the Mississippi state line southward to the Bogue Chitto River, then west of the Bogue Chitto River to its junction with the St. Tammany Parish line, north of the St. Tammany Parish line to the Tangipahoa Parish line, east of the Tangipahoa Parish line to the Mississippi state line, south of the Mississippi state line to its junction with LA 25;

v. West Feliciana—west of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of US 61 and LA 966, east of LA 966 from US 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

5. Area 5

a. Portions of the following parishes are open:

i. St. Martin Parish south of I-10 and east of the West Atchafalaya Basin Protection Levee and west of the East Atchafalaya Basin Protection Levee;

ii. Iberville Parish—south of I-10 and west of the East Atchafalaya Basin Protection Levee;

iii. Iberia Parish—east of the West Atchafalaya Basin Protection Levee and west of the East Atchafalaya Basin Protection Levee;

iv. St. Mary Paris—east of the West Atchafalaya Basin Protection Levee;

v. high water benchmark closure. Deer hunting in those portions of Iberville and St. Martin parishes south of I-10, west of the East Atchafalaya Basin Protection Levee, east of the West Atchafalaya Basin Protection Levee, and north of Alligator Bayou and Bayou Sorrel will be closed when the river stage of the Atchafalaya River reaches 18 feet at Butte LaRose. Deer hunting in those portions of Iberville, St. Martin, St. Mary and Iberia parishes west of the East Atchafalaya Basin Protection Levee, east of the West Atchafalaya Basin Protection Levee and south of Alligator Bayou and Bayou Sorrel will be closed when the river stage of the Atchafalaya River reaches 15 feet msl at Butte LaRose.

6. Area 6

a. All of Point Coupee Parish is open.

b. Portions of the following parishes are also open:

i. Avoyelles—all except that portion west of I-49;

ii. Evangeline—that portion east of I-49 to junction of LA 29, east of LA 29 south of I-49 to Ville Platte and north of US 167 east of Ville Platte;

iii. Iberville—all north of I-10, and that portion south of I-10 at the Atchafalaya Basin protection levee south to Upper Grand River, then north of Upper Grand River to the Intracoastal Canal at Jack Miller, then west of the Intracoastal Canal northward to Bayou Plaquemine, then north of Bayou Plaquemine to the Mississippi River;

iv. Lafayette—north of I-10 and east of I-49;

v. Rapides—south of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line;

vi. St. Landry—east of US 167;

vii. St. Martin—north of I-10;

viii. East Baton Rouge—north of I-110 and west of US 61;

ix. West Feliciana—west of US 61;

x. East Feliciana—west of US 61;

xi. West Baton Rouge—north I-10.

c. Still hunting only in all or portions of the following parishes:

i. Avoyelles—north of LA 1 from Simmesport westward to LA 115 at Marksville, east of LA 115 from Marksville northward to the Red River near Moncla, south and west of the Red River to LA 1 at Simmesport;

ii. Rapides—south of Alexandria between Red River and US 167 to the junction of US 167 with I-49 at Turkey Creek Exit, east of I-49 southward to parish line;

iii. West Feliciana—west of Thompson Creek to Illinois-Central Railroad, north of Illinois-Central Railroad to Parish Road #7, east of Parish Road #7 to the junction of US 61 and LA 966, east of LA 966 from US 61 to Chaney Creek, south of Chaney Creek to Thompson Creek.

7. Area 7

a. Portions of the following parishes are open:

i. Iberia—south of LA 14 and west of US 90;

ii. St. Mary—all except that portion north of US 90 from Iberia Parish line eastward to Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River.

8. Area 8

a. Portions of the following parishes are open:

i. Allen—that portion east of LA 113 from the parish line to US 190, north of US 190 eastward to Kinder, west of US 165 northward to LA 10 at Oakdale and south of LA 10 from Oakdale westward to parish line;

ii. Beauregard—that portion east of LA 113. Also that portion west of LA 27 from parish line northward to DeRidder, south of US 190 from DeRidder to Texas state line;

iii. Calcasieu—that portion west of LA 27 from the parish line southward to Sulphur and north of I-10 from Sulphur to the Texas state line;

iv. Vernon—that portion west of LA 113 from the parish line northward to Pitkin and south of LA 10 from Pitkin southward to the parish line.

9. Area 9

a. All of the following parishes are open: Ascension, Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John, Terrebonne.

b. Portions of the following parishes are open:

i. Iberia—east of US 90 and west of the West Atchafalaya Basin Protection Levee and east of the East Atchafalaya Basin Protection Levee;

ii. Iberville—east of the East Atchafalaya Basin Protection Levee and south of Upper Grand River to the Intracoastal Canal to Bayou Plaquemines, then south of Bayou Plaquemines to the Mississippi River;

iii. Lafayette—south of I-10 and east of US 90;

iv. Livingston—south of I-12;

v. St. Martin—west of the Atchafalaya Basin Protection Levee and south of I-10. East of the East Atchafalaya Basin Protection Levee and south of I-10;

vi. St. Mary—east of US 90 from Iberia Parish line to the Wax Lake Outlet, east of Wax Lake Outlet southward to Intracoastal Waterway, north of Intracoastal Waterway eastward to the Atchafalaya River, east of the Atchafalaya River except for portion within the East and West Atchafalaya Basin Protection Levees;

vii. St. Tammany—that portion south of I-12, west of LA 1077 to LA 22, south of LA 22 to Tchefuncte River, west of Tchefuncte River southward to Lake Pontchartrain;

viii. Tangipahoa—south of I-12.

c. Still hunting only in all or portions of the following parishes:

i. Iberville—east of the Mississippi River;

ii. Plaquemines—east of the Mississippi River;

iii. St. Bernard—all of the parish shall be still hunting only except that portion of St. Bernard known as the spoil area between the MRGO on the east and Access Canal on the west, south of Bayou Bienvenue and north of Bayou la Loutre;

iv. St. John—south of Pass Manchac from Lake Pontchartrain to US 51, east of US 51 from Pass Manchac to LA 638 (Frenier Beach Road). North of LA 638 from US 51 to Lake Pontchartrain, west of Lake Pontchartrain from LA 638 to Pass Manchac.

10. Area 10

a. All of Cameron and Vermillion Parishes are open.

b. Portions of the following parishes are open:

i. Acadia—south of I-10;

ii. Calcasieu—south of I-10;

iii. Iberia—west of US 90 and north of LA 14;

iv. Jefferson Davis—south of I-10;

v. Lafayette—south of I-10 and west of Hwy 90.

G. WMA Regulations

1. General

a. The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in *Louisiana Revised Statutes* of 1950, section 109 of title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

b. Citizens are cautioned that by entering a WMA managed by the LDWF they may be subjecting themselves and/or their vehicles to game and/or license checks, inspections and searches.

c. WMA seasons may be altered or closed anytime by the LDWF secretary in emergency situations (floods, fire or other critical circumstances).

d. Hunters may enter the WMA no earlier than 4 a.m. unless otherwise specified. Hunters must check out and

exit the WMA no later than two hours after sunset, or as otherwise specified.

e. Lands within WMA boundaries will have the same seasons and regulations pertaining to baiting and use of dogs as the WMA within which the lands are enclosed; however, with respect to private lands enclosed within a WMA, the owner or lessee may elect to hunt according to the regular season dates and hunting regulations applicable to the geographic area in which the lands are located, provided that the lands are first enrolled in DMAP. Interested parties should contact the nearest LDWF region office for additional information.

f. Dumping garbage or trash on WMAs is prohibited. Garbage and trash may be properly disposed of in designated locations if provided.

g. Disorderly conduct or hunting under influence of alcoholic beverages, chemicals and other similar substances is prohibited.

h. Damage to or removal of trees, shrubs, hard mast (including but not limited to acorns and pecans), wild plants, non-game wildlife (including reptiles and amphibians) or any species of butterflies, skippers or moths is prohibited without a permit from the LDWF. Gathering and/or removal of soft fruits, mushrooms and berries shall be limited to five gallons per person per day.

i. Burning of marshes is prohibited. Hunting actively burning marsh is prohibited.

j. Nature Trails. Trails shall be limited to pedestrians only. No vehicles, ATVs, horses, mules, bicycles, etc. allowed. Removal of vegetation (standing or down) or other natural material prohibited.

k. Deer seasons are for legal buck deer unless otherwise specified.

l. Small game, when listed under the WMA regulations may include both resident game animals and game birds as well as migratory species of birds.

m. Oysters may not be harvested from any WMA, except that oysters may be harvested from private oyster leases and state seed grounds located within a WMA, when authorized by the Wildlife and Fisheries Commission and upon approval by the Department of Health and Hospitals.

n. Free ranging livestock prohibited.

2. Permits

a. A WMA hunting permit is required for persons ages 18 through 59 to hunt on WMAs.

b. Self-Clearing Permits. A self-clearing permit is required for all activities (hunting, fishing, hiking, bird watching, sightseeing, etc.) on WMAs unless otherwise specified. The self-clearing permit will consist of two portions: check in, check out. On WMAs where self-clearing permits are required, all persons must obtain a WMA self-clearing permit from an information station. The check in portion must be completed and put in a permit box before each day's activity on the day of the activity (except if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA, users need only to check in once during any 72 hour period). Users may check-in one day in advance of use. The check-out portion must be carried by each person while on the WMA and must be completed and put in a permit box immediately upon exiting the WMA or within 72 hours after checking in if hunting from a private camp adjacent to the WMA being hunted or if camping on the WMA. No permit is required of fishers and boaters who do not travel on a WMA road and/or launch on the WMA as long as they do not get out of the boat and onto the WMA. When mandatory deer checks are specified on WMAs, hunters must check deer at a check station. When mandatory check-in for deer seasons is specified on WMAs, hunters must check in at designated locations, and obtain a daily hunt permit. Self-clearing permits are not required for persons only traveling through the WMA provided that the most direct route is taken and no activities or stops take place.

c. Persons using WMAs or other LDWF administered lands for any purpose must possess one of the following: a valid wild Louisiana stamp, a valid Louisiana fishing license, or a valid Louisiana hunting license. Persons younger than 16 or older than 60 years of age are exempt from this requirement. Also a self-clearing WMA permit, detailed above, may be required (available at most entrances to each WMA). Check individual WMA listings for exceptions.

3. Special Seasons

a. Youth Deer Hunt. Youths 17 or younger only. Youths must be accompanied by an adult 18 years of age or older. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. Legal firearms are the same as described for deer hunting. The supervising adult shall maintain visual and voice contact with the youth at all times, except properly licensed youths and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Contact the appropriate region office for maps of specific hunting areas. Either-sex deer may be taken on WMAs with youth hunts. Consult the regulations pamphlet for WMAs offering youth hunts.

NOTE: Some hunts may be by pre-application lottery.

b. Youth Squirrel Hunt (on selected WMAs only). Only youths 17 or younger may hunt. Squirrel, rabbit, raccoon, hogs and opossum may be taken. No dogs allowed. All other seasons will remain open to other hunters. Youths must possess a hunter safety certification or proof of successful completion of a hunter safety course. Youths must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for the youth. Adults may not possess a firearm. Youths may possess only one firearm while hunting. The supervising adult shall maintain visual and voice contact with the youth at all times, except properly licensed youths and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Self-clearing permits are required. Consult the regulations pamphlet for WMAs offering youth squirrel hunts.

c. Youth Mourning Dove Hunt. A youth mourning dove hunt will be conducted on specific WMAs and will follow the same regulations provided for youth deer hunts on

the first or second weekend of the mourning dove season (Saturday and/or Sunday only). Consult the regulations pamphlet for WMAs offering youth mourning dove hunts.

d. Physically Challenged Season. An either-sex deer season will be held for hunters possessing a physically challenged hunter permit on WMAs during the dates specified under the individual WMA. Participants must possess a physically challenged hunter permit. Contact region office for permit application and map of specific hunting area. Consult the regulations pamphlet for WMAs offering physically challenged seasons.

e. Turkey Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadlines. All turkeys must be reported at self-clearing station. Contact region offices for more details. Consult separate turkey hunting regulations pamphlet for more details.

f. Waterfowl Lottery Hunts. Hunts restricted to those persons selected by lottery. Consult the regulations pamphlet for deadline. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division office for more details.

g. Mourning Dove Lottery Hunts. Consult regulations pamphlet for individual WMA schedules or contact any Wildlife Division office for more details.

h. Trapping. Consult annual trapping regulations for specific dates. All traps must be run daily. Traps with teeth are illegal. Hunter orange required when a deer gun season is in progress.

i. Raccoon Hunting. A licensed hunter may take raccoon or opossum, one per person per day, during daylight hours only, during the open rabbit season on WMAs.

Nighttime Experimental—all nighttime raccoon hunting where allowed is with dogs only. There is no bag limit. Self-clearing permit required.

j. Sport Fishing. Sport fishing, crawfishing and frogging are allowed on WMAs when in compliance with current laws and regulations except as otherwise specified under individual WMA listings.

k. Small Game Emphasis Areas. Specially designated areas on certain WMAs will allow small game hunting with dogs, confined to that specific area when the remainder of the WMA is restricted to still hunt only. Additionally, off season training of rabbit and bird dogs may be allowed on some of the small game emphasis areas. Small game emphasis areas are offered on Big Colewa Bayou, Bayou Macon, Bayou Pierre, Boeuf, Dewey W. Wills, Marsh Bayou, Ouachita, Richard K. Yancey, Sandy Hollow, Sherburne, and Walnut Hill WMAs.

4. Firearms

a. Firearms having live ammunition in the chamber, magazine, cylinder or clip when attached to firearms and crossbows cocked in the ready position are not allowed in or on vehicles, boats under power, motorcycles, ATVs, UTVs, ATCs or in camping areas on WMAs. Firearms may not be carried on any area before or after permitted hours except in authorized camping areas and except as may be permitted for authorized trappers.

b. Firearms and bows and arrows are not allowed on WMAs during closed seasons except on designated shooting ranges or as permitted for trapping and except as allowed pursuant to R.S. 56:109(C) and R.S. 56:1691. Bows and broadhead arrows are not allowed on WMAs except during deer archery season, turkey season or as permitted for bowfishing. Active and retired law enforcement officers in compliance with POST requirements, federal law enforcement officers and holders of Louisiana concealed handgun permits or permit holders from a reciprocal state who are in compliance with all other state and federal firearms regulations may possess firearms on WMAs provided these firearms are not used for any hunting purpose.

c. Encased or broken down firearms and any game harvested may be transported through the areas by the most direct route provided that no other route exists except as specified under WMA listing.

d. Loaded firearms are not allowed near WMA check stations.

e. The following cannot be carried onto any WMA except during modern and primitive firearm deer seasons and during special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs (consult regulations pamphlet for specific WMA regulations):

i. centerfire rifles;

ii. break-action and bolt-action handguns;

iii. scoped handguns;

iv. shotgun slugs or shot larger than BB lead or F steel.

f. Target shooting and other forms of practice shooting are prohibited on WMAs except as otherwise specified.

g. Discharging of firearms on or across, or hunting from designated roads, ATV/UTV trails, nature trails, hiking trails, and their rights-of-way is prohibited during the modern firearms and primitive firearms deer seasons.

5. Methods of Taking Game

a. Moving deer or hogs on a WMA with organized drives and standers, drivers or making use of noises or noise-making devices is prohibited.

b. On WMAs the daily limit shall be one antlered deer and one antlerless deer (when legal) per day, not to exceed three antlered deer or four antlerless deer per season (all segments included) by all methods of take.

c. Baiting, hunting over bait, or possession of bait is prohibited on all WMAs, EXCEPT bait may be kept in a vehicle traversing a WMA road or parked on a WMA road. Bait is defined as any substance used to attract game via ingestion.

d. During mandatory deer check hunts, deer may not be skinned nor have any external body parts removed including but not limited to feet, legs, tail, head or ears before being checked out.

e. Deer hunting on WMAs is restricted to still hunting only.

f. Construction of and/or hunting from permanent tree stands or permanent blinds on WMAs is prohibited. Any permanent stand or permanent blind will be removed and destroyed. A permanent blind is any blind using non-natural materials or having a frame which is not dismantled within two hours after the end of legal shooting time each day. Blinds with frames of wood, plastic, metal poles, wire, mesh, webbing or other materials may be used but must be removed from the WMA within two hours after the end of

legal shooting time each day. Blinds made solely of natural vegetation and not held together by nails or other metallic fasteners may be left in place but cannot be used to reserve hunting locations. Natural vegetation (including any material used as corner posts) is defined as natural branches that are 2 inches or less in diameter. All decoys must be removed from the WMA daily. Permanent tree stands are any stands that use nails, screws, spikes, etc., to attach to trees and are strictly prohibited. Deer stands may not be left on WMAs unless the stands are removed from trees, placed flat on the ground, and left in a non-hunting position (a non-hunting position is one in which a hunter could not hunt from the stand in its present position). Also, all stands left must be legibly tagged with the user's name, address, phone number and LDWF ID number. No stand may be left on any WMA prior to the day before deer season opens on that WMA and all stands must be removed from the WMA within one day after the close of deer hunting on that WMA. Free standing blinds must be disassembled when not in use. Stands left will not reserve hunting sites for the owner or user. All portable stands, blinds, tripods, etc., found unattended in a hunting position, not placed flat on the ground, or untagged will be confiscated and disposed of by the LDWF. LDWF is not responsible for unattended stands left on an area.

g. Physically Challenged Wheelchair Confined Deer and Waterfowl Hunting Areas: special deer and waterfowl hunting areas, blinds and stands identified with LDWF logos, have been established for physically challenged hunter permit (PCHP) wheelchair confined hunters on WMAs. Hunters must obtain a PCHP permit and are required to make reservations to use blinds and stands. PCHP wheelchair hunting areas are available on Alexander State Forest, Big Colewa Bayou, Buckhorn, Clear Creek, Elbow Slough, Floy McElroy, Jackson-Bienville, Ouachita, Sandy Hollow, and Sherburne WMAs. Check WMA hunting schedules or call the LDWF field offices in Pineville, Lake Charles, Opelousas, Minden, Monroe or Hammond for information.

h. Hunting from utility poles and structures, and oil and gas exploration facilities or platforms is prohibited.

i. It is illegal to save or reserve hunting locations using permanent stands or blinds. Stands or blinds attached to trees with screws, nails, spikes, etc. are illegal.

j. Tree climbing spurs, spikes or screw-in steps are prohibited.

k. Unattended decoys will be confiscated and forfeited to the LDWF and disposed of by the LDWF. This action is necessary to prevent preemption of hunting space.

l. Spot lighting (shining) from vehicles is prohibited on all WMAs.

m. Horses and mules may be ridden on WMAs except where prohibited and except during gun seasons for deer and turkey. Riding is restricted to designated roads and trails depicted on WMA map, self-clearing permit is required. Organized trail rides prohibited except allowed by permit only on Camp Beauregard. Hunting and trapping from horses and mules is prohibited except for quail hunting or as otherwise specified. Horse-drawn conveyances are prohibited.

n. All hunters (including archers and small game hunters) except waterfowl hunters and mourning dove hunters on WMAs must display 400 square inches of "hunter orange" and wear a "hunter orange" cap during open gun season for deer. Quail and woodcock hunters and hunters participating in special dog seasons for rabbit, squirrel and feral hogs are required to wear a minimum of a "hunter orange" cap. All other hunters and archers (while on the ground) except waterfowl hunters also must wear a minimum of a "hunter orange" cap during special dog seasons for rabbit and squirrel and feral hogs. Also all persons afield during hunting seasons are encouraged to display "hunter orange". Hunters participating in special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs must display 400 square inches of hunter orange and wear a "hunter orange" cap.

o. Deer hunters hunting from concealed ground blinds must display a minimum of 400 square inches of "hunter orange" above or around their blinds which is visible from 360 degrees.

p. Archery Season for Deer. The archery season on WMAs is the same as outside and is open for either-sex deer except as otherwise specified on individual WMAs. Archery season restricted on Atchafalaya Delta and closed on certain WMAs when special seasons for youth or physically challenged hunts are in progress. Consult regulations pamphlet for specific seasons.

q. Either-sex deer may be taken on WMAs at any time during archery season except when bucks only seasons are in progress on the respective WMAs. Archers must abide by bucks only regulations and other restrictions when such seasons are in progress.

r. Primitive Firearms Season for Deer. Either-sex unless otherwise specified. See WMA deer schedule. Except youths 17 or younger may use any legal weapon during the primitive firearm season.

6. Camping

a. Camping on WMAs, including trailers, houseboats, recreational vehicles and tents, is allowed only in designated areas and for a period not to exceed 16 consecutive days, regardless if the camp is attended or unattended. At the end of the 16-day period, camps must be removed from the area for at least 48 hours. Camping area use limited exclusively to outdoor recreational activities. Camping is available on a first-come, first-serve basis unless otherwise specified.

b. Houseboats are prohibited from overnight mooring within WMAs except on stream banks adjacent to LDWF-owned designated camping areas. Overnight mooring of vessels that provide lodging for hire are prohibited on WMAs. Houseboats shall not impede navigation. On Atchafalaya Delta WMA houseboats may be moored by permit only in designated areas during hunting season. Permits are available by lottery annually or by five year lease through a bid program.

c. Discharge of human waste onto lands or waters of any WMA is strictly prohibited by state and federal law. In the event public restroom facilities are not available at a WMA, the following is required. Anyone camping on a WMA in a camper, trailer, or other unit (other than a houseboat or tent) shall have and shall utilize an operational disposal system attached to the unit. Tent campers shall have and shall utilize portable waste disposal units and shall remove all human waste from the WMA upon leaving.

Houseboats moored on a WMA shall have a permit or letter of certification from the Health Unit (Department of Health and Hospitals) of the parish within which the WMA occurs verifying that it has an approved sewerage disposal system on board. Further, that system shall be utilized by occupants of the houseboats when on the WMA.

d. No refuse or garbage may be dumped from these boats.

e. Firearms may not be kept loaded or discharged in a camping area unless otherwise specified.

f. Campsites must be cleaned by occupants prior to leaving and all refuse placed in designated locations when provided or carried off by campers.

g. Trash must be contained at all times while camping.

h. Burning of trash is prohibited.

i. Glass containers prohibited on campgrounds.

j. Non-compliance with camping regulations will subject occupant to immediate expulsion and/or citation, including restitution for damages.

k. Swimming is prohibited within 100 yards of boat launching ramps.

7. Restricted Areas

a. For your safety, all oil and gas production facilities (wells, pumping stations and storage facilities) are off limits.

b. No unauthorized entry or unauthorized hunting in restricted areas, refuges, or limited use areas unless otherwise specified.

8. Dogs. All use of dogs on WMAs, except for bird hunting and duck hunting, is experimental as required by law. Having or using dogs on any WMA is prohibited except for nighttime experimental raccoon hunting, squirrel hunting, rabbit hunting, bird hunting, duck hunting, hog hunting and bird dog training when allowed; see individual WMA season listings for WMAs that allow dogs. Dogs running at large are prohibited on WMAs. The owner or handler of said dogs shall be liable. Only recognizable breeds of bird dogs and retrievers are allowed for quail and migratory bird hunting. Only beagle hounds which do not exceed 15 inches at the front shoulders and which have recognizable characteristics of the breed may be used on WMAs having experimental rabbit seasons. A leashed dog may be used to trail and retrieve wounded or unrecovered deer during legal hunting hours. Any dog used to trail or retrieve wounded or unrecovered deer shall have on a collar with owner's name, address and phone number. In addition, a dog may be used to trail and retrieve unrecovered deer after legal hunting hours; however, no person accompanying a dog after legal hunting hours may carry a firearm of any sort.

9. Vehicles

a. An all-terrain vehicle is an off-road vehicle (not legal for highway use) with factory specifications not to exceed the following: weight-750 pounds, length-85", and width-48". ATV tires are restricted to those no larger than 26 x 12 with a maximum l" lug height and a maximum allowable tire pressure of 12 psi. as indicated on the tire by the manufacturer. Use of all other ATVs or ATV tires are prohibited on a WMA.

b. *Utility Type Vehicle* (*UTV*, also *Utility Terrain Vehicle*)—any recreational motor vehicle other than an ATV, not legal for highway use, designed for and capable of travel over designated unpaved roads, traveling on four or more low-pressure tires, with factory specifications not to exceed the following: weight-1900 pounds, length-128" and width-68". UTV tires are restricted to those no larger than 26 x 12 with a maximum 1" lug height and a maximum allowable tire pressure of 12 psi. UTV's are commonly referred to as side by sides and may include golf carts.

c. Vehicles having wheels with a wheel-tire combination radius of 17 inches or more measured from the center of the hub and horizontal to ground are prohibited.

d. The testing, racing, speeding or unusual maneuvering of any type of vehicle is prohibited within WMAs due to property damages resulting in high maintenance costs, disturbance of wildlife and destruction of forest reproduction.

e. Tractor or implement tires with farm tread designs Rl, R2 and R4 known commonly as spade or lug grip types are prohibited on all vehicles.

f. Airboats, aircraft, personal water craft, "mud crawling vessels" (commonly referred to as crawfish combines which use paddle wheels for locomotion) and hover craft are prohibited on all WMAs and refuges, except type A personal water craft, model year 2003 and beyond, which are eight feet in length and greater, may be operated within WMAs from April 1 until the Monday of Labor Day weekend, from sunrise to sunset only, and except personal water craft allowed on designated portions of Alexander State Forest WMA year-round. Personal water craft are defined as a vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and is designed to be operated by a person sitting, standing or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel. No person shall operate such water craft at a speed greater than slow/no wake within 100 feet of an anchored or moored vessel, shoreline, dock, pier, persons engaged in angling or any other manually powered vessel.

g. Driving or parking vehicles on food or cover plots and strips is prohibited.

h. Blocking the entrance to roads and trails is prohibited.

i. Licensed motorized vehicles (LMVs) legal for highway use, including motorcycles, are restricted entirely to designated roads as indicated on WMA maps. UTVs are restricted to marked UTV trails only, except that those UTVs in which the manufacturer's specifications do not exceed the weight, length, width, and tire restrictions for ATVs are allowed on ATV trails. ATVs are restricted to marked ATV trails only when WMA roads are closed to LMVs, ATVs and UTVs may then use those roads when allowed. This restriction does not apply to bicycles.

NOTE: Only ATV and UTV trails marked with signs and/or paint, and depicted on WMA maps are open for use.

j. Use of special ATV trails for physically challenged persons is restricted to ATV physically challenged permittees. Physically challenged ATV permittees are restricted to physically challenged ATV trails or other ATV trails only as indicated on WMA maps or as

marked by sign and/or paint. Persons 60 years of age and older, with proof of age, are also allowed to use special physically challenged trails and need not obtain a permit. However, these persons must abide by all rules in place for these trails. Physically challenged persons under the age of 60 must apply for and obtain a physically challenged hunter program permit from the LDWF.

k. Entrances to ATV trails will be marked with peach colored paint. Entrances to physically challenged-only ATV trails will be marked with blue colored paint. Entrances to ATV trails that are open all year long will be marked with purple paint. The end of all ATV trails will be marked by red paint. WMA maps serve only as a general guide to the route of most ATV trails, therefore all signage and paint marking as previously described will be used to determine compliance. Deviation from this will constitute a violation of WMA rules and regulations.

l. Roads and trails may be closed due to poor condition, construction or wet weather.

m. ATVs, and motorcycles cannot be left overnight on WMAs except on designated camping areas. ATVs are prohibited from two hours after sunset to 4 a.m., except raccoon hunters may use ATVs during nighttime raccoon take seasons only. ATVs are prohibited from March 1 through August 31 except squirrel hunters are allowed to use ATV trails during the spring squirrel season on the WMA and except certain trails may be open during this time period to provide access for fishing or other purposes and some ATV trails will be open all year long on certain WMAs.

n. Caution. Many LDWF-maintained roadways on WMAs are unimproved and substandard. A maximum 20 mph speed limit is recommended for all land vehicles using these roads, unless specific signage otherwise allows or restricts.

o. Hunters are allowed to retrieve their own downed deer and hogs with the aid of an ATV except on Thistlethwaite, Sherburne, Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes, Salvador, Timken, Lake Bouef, and Biloxi WMAs under the following conditions:

i. no firearms or archery equipment is in possession of the retrieval party or on the ATV;

ii. the retrieval party may consist of no more than one ATV and one helper;

iii. ATVs may not be used to locate or search for wounded game or for any other purpose than retrieval of deer and hogs once they have been legally harvested and located;

iv. UTV's may not be used to retrieve downed deer or hogs.

10. Commercial Activities

a. Hunting Guides/Outfitters. No person or group may act as a hunting guide, outfitter or in any other capacity for which they are paid or promised to be paid directly or indirectly by any other individual or individuals for services rendered to any other person or persons hunting on any WMA, regardless of whether such payment is for guiding, outfitting, lodging or club memberships.

b. Except for licensed activities otherwise allowed by law, commercial activities are prohibited without a permit issued by the secretary of the LDWF.

c. Commercial Fishing. Permits are required of all commercial fishermen using Grassy Lake, Pomme de Terre and Spring Bayou WMAs. Gill nets or trammel nets and the take or possession of grass carp are prohibited on Spring Bayou WMA. Drag seines (except minnow and bait seines) are prohibited except experimental bait seines allowed on Dewey Wills WMA north of LA 28 in Diversion Canal. Commercial fishing is prohibited during regular waterfowl seasons on Grand Bay, Silver Lake and Lower Sunk Lake on Richard K. Yancey WMA. Commercial fishing is prohibited on Salvador/Timken, Ouachita and Pointe-aux-Chenes WMAs except commercial fishing on Pointe-aux-Chenes is allowed in Cut Off Canal and Wonder Lake. No commercial fishing activity shall impede navigation and no unattended vessels or barges will be allowed. Non-compliance with permit regulations will result in revocation of commercial fishing privileges for the period the license is issued and one year thereafter. Commercial fishing is allowed on Pass-a-Loutre and Atchafalaya Delta WMAs. See Pass-a-Loutre for additional commercial fishing regulations on mullet.

11. WMAs Basic Season Structure. For season dates, bag limits, shooting hours, special seasons and other information consult the annual regulations pamphlet for specific details.

12. Resident Small Game (squirrel, rabbit, quail, mourning dove, woodcock, snipe, rail and gallinule). Same as outside except closed during modern firearm either-sex deer seasons on certain WMAs (see WMA schedule) and except non-toxic shot must be used for rail, snipe, and gallinule. Consult regulations pamphlet. Unless otherwise specified under a specific WMA hunting schedule, the use of dogs for rabbit and squirrel hunting is prohibited. Spring squirrel season with or without dogs: first Saturday of May for nine days. Consult regulations pamphlet for specific WMAs.

13. Waterfowl (ducks, geese and coots). Consult regulations pamphlet. Hunting after 2 p.m. prohibited on all WMAs except for Atchafalaya Delta, Attakapas, Biloxi, Lake Boeuf, Pass-a-Loutre, Pointe-aux-Chenes, and Salvador/Timken WMAs. Consult specific WMA regulations for shooting hours on these WMAs.

14. Archery. Consult regulations pamphlet.

15. Hogs. Feral hogs may be taken during any open hunting season on WMAs by properly licensed and/or permitted hunters using only guns or bow and arrow legal for specified seasons in progress, except take of hogs is prohibited during nighttime raccoon seasons. Hogs may not be taken with the aid of dogs, except feral hogs may be taken with the aid of dogs during the month of February on Attakapas, Bodcau, Clear Creek, Jackson-Bienville, Little River, Pass a Loutre, Pearl River, Sabine, Sabine Island, and West Bay and that portion of Dewey W. Wills north of the Catahoula Lake Diversion Canal by self-clearing permit. All hogs must be killed immediately and may not be transported live under any conditions, except as allowed by permit from either the Minden, Lake Charles, Monroe, Pineville, Hammond or Opelousas offices. During the February dog season hunters may use centerfire pistols in addition to using guns allowed for season in progress. Additionally, feral hogs may be taken on Atchafalaya Delta, Pass-a-Loutre, Pointe-

aux-Chenes and Salvador/Timken WMAs from February 16 through March 31 with archery equipment, shotguns loaded with buckshot or slugs or rimfire rifles no larger than .22 caliber. Additional requirements may be specified under individual WMAs, see regulation pamphlet.

16. Outlaw Quadrupeds and Birds. Consult regulations pamphlet. During hunting seasons specified on WMAs, except the turkey and spring squirrel seasons, take of outlaw quadrupeds and birds, with or without the use of electronic calls, is allowed by properly licensed hunters and only with guns or bows and arrows legal for season in progress on WMA. However, crows, blackbirds, grackles and cowbirds may not be taken before September 1 or after January 1. As described in 50 CFR Part 21, non-toxic shot must be used for the take of crows, blackbirds, cowbirds and grackles under the special depredation order. In addition an annual report has to be submitted to the U.S. Fish and Wildlife Service for those that participate in the take of these species.

17. WMAs Hunting Schedule and Regulations

a. Alexander State Forest. From December through February all hunters must check daily with the Office of Forestry for scheduled burning activity. No hunting or other activity will be permitted in burn units the day of the burning. Call (318) 487-5172 or (318) 487-5058 for information on burning schedules. Vehicles restricted to paved and graveled roads. No parking on or fishing or swimming from bridges. No open fires except in recreation areas.

b. Atchafalaya Delta. Water control structures are not to be tampered with or altered by anyone other than employees of LDWF. All-terrain vehicles, motorcycles, horses, and mules prohibited except as permitted for authorized WMA trappers. Mudboats or air-cooled propulsion engines powered by more than 36 total horsepower are prohibited on the WMA. Limited access area, no internal combustion engines allowed from September through January. See WMA map for specific locations.

c. Bayou Macon. All night activities prohibited except as otherwise provided.

d. Big Colewa Bayou. All nighttime activities prohibited.

e. Big Lake. Use of nets, yoyos, and trotlines prohibited on Big and Chain Lakes.

f. Biloxi. ATVs, UTVs, motorcycles, horses, and mules are prohibited. Mud boats or air-cooled propulsion vessels can only be powered by straight shaft “long tail” air-cooled mud motors that are 16 total horsepower or less on the WMA. All other types of mud boats or air cooled propulsion vessels (including “surface drive” boats) are prohibited. All ATVs, UTVs, and motorcycles are prohibited.

g. Bodcau-towable watersports not allowed in Ivan Lake. Nets and traps prohibited on Ivan Lake.

h. Camp Beauregard. Daily military clearance required for all recreational users. Retriever training allowed on selected portions of the WMA. Contact the LDWF field office for specific details.

i. Dewey W. Wills. Crawfish: 100 pounds per person per day. Limited access area, no motorized vessels or vehicles allowed from November through January.

j. Elbow Slough. Non-toxic shot (minimum size #6) only for all hunting. All motorized vehicles prohibited.

k. Elm Hall. No ATVs or UTVs allowed.

l. Fort Polk. Daily military clearance required to hunt or trap. New special regulations apply to ATV users.

m. Grassy Lake. Commercial Fishing: Permitted except on Smith Bay, Red River Bay and Grassy Lake proper on Saturday and Sunday and during waterfowl season. Permits available from area supervisor at Spring Bayou headquarters or Opelousas field office. No crawfishing traps or nets may be left overnight. No hunting in restricted area.

n. Joyce. Swamp walk: no loaded firearms or hunting allowed within 100 yards of walkways. Crawfish: 100 pounds per person per day.

o. Lake Boeuf. Hunting allowed until 12 noon on all game, except deer may be hunted until one-half hour after sunset. All nighttime activities prohibited. All-terrain vehicles, motorcycles, horses, and mules are prohibited.

p. Lake Ramsay. Foot traffic only; all vehicles restricted to parish roads.

q. Manchac. Crabs: no crab traps allowed. Attended lift nets are allowed.

r. Maurepas Swamp. No loaded firearms or hunting allowed within 100 yards of nature trail. Crawfish: 100 pounds per person per day. Benchmark closure: area closed to all deer hunting when USGS water level gauge CRMS 5373, available at http://waterdata.usgs.gov/la/nwis/rt is at or above 3.0 ft. msl.

s. Pass-a-Loutre. Commercial fishing: same as outside. Commercial mullet fishing open only in: South Pass, Pass-a-Loutre, North Pass, Southeast Pass, Northeast Pass, Dennis Pass, Johnson Pass, Loomis Pass, Cadro Pass, Wright Pass, Viveats Pass, Cognevich Pass, Blind Bay, Redfish Bay, Garden Island Bay, Northshore Bay, East Bay (west of barrier islands) and oil and gas canals as described on the LDWF Pass-a-Loutre WMA map. All ATVs, UTVs, motorcycles, horses, and mules prohibited on this area. Oyster harvesting is prohibited. Mudboats or air-cooled propulsion engines powered by more than 36 total horsepower are prohibited on the WMA. Operation of mud boats and air-cooled propulsion engines prohibited after 2 p.m. September through January, except allowed after 2:00 p.m. in South Pass, Pass-a-Loutre, Southeast Pass, Loomis Pass, Dennis Pass, and Cadro Pass. Limited access area, no internal combustion engines allowed from September through January. See WMA map for specific locations.

t. Pearl River. All roads closed 8 p.m. to 4 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting except waterfowl will be closed when the river stage at Pearl River reaches 16.5 feet. No hunting in the vicinity of nature trail. Observe "No Hunting" signs. Rifle range open Friday, Saturday and Sunday with a fee. Crawfish: 100 pounds per person per day.

u. Peason Ridge. Daily military clearance required to hunt or trap. Special federal regulations apply to ATV users.

v. Pointe-aux-Chenes. Hunting until 12 noon on all game, except for mourning dove hunting and youth lottery deer hunt as specified in regulation pamphlet. Point Farm: gate will be open all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational fishing: shrimp may be taken by the use of cast

nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. All castnet contents shall be contained and bycatch returned to the water immediately. Oyster harvesting is prohibited. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the WMA and shall be limited to 100 pounds per person per day. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. All boats powered by engines having total horsepower above 25 h.p. are not allowed in the Grand Bayou, Montegut and Pointe-aux-Chenes water management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue, Grand Bayou Blue, St. Louis Canal and Bayou Pointe-aux-Chenes unless authorized by the LDWF. All other motorized vehicles, horses and mules are prohibited unless authorized by the LDWF. Limited access area, no internal combustion engines allowed from September through January. See WMA map for specific locations. All ATVs, UTVs, motorcycles, horses, and mules prohibited.

w. Pomme de Terre. Commercial fishing: permitted Monday through Friday, except closed during duck season. Commercial fishing permits available from area supervisor, Opelousas field office or Spring Bayou headquarters. Sport fishing: same as outside except allowed only after 2 p.m. only during waterfowl season. Crawfish: March 15-July 31, recreational only, 100 lbs. per person per day. No crawfishing traps or nets may be left overnight.

x. Richard K. Yancey. Recreational Crawfishing: west of the Mississippi River Levee March 15-July 31. 100 pounds per person per day. No traps or nets left overnight. No motorized watercraft allowed.

y. Russell Sage. Transporting trash or garbage on WMA roads is prohibited. All nighttime activities prohibited except as otherwise provided. On Wham Brake, all nighttime activity prohibited during open waterfowl seasons. Internal combustion engines and craft limited to 10 h.p. rating or less in the Greentree Reservoirs. Waterfowl refuge: north of LA 15 closed to all hunting, fishing and trapping and ATV/UTV use during duck season including early teal season, except hunting allowed during waterfowl falconry season. Crawfish: 100 pounds per person per day limit. Night crawfishing prohibited. No traps or nets left overnight. All nighttime activities prohibited except as otherwise provided.

NOTE: All season dates on Chauvin Tract (U.S. 165 North) same as outside, except still hunt only and except deer hunting restricted to archery only. All vehicles including ATVs prohibited.

z. Sabine Island. Sabine Island boundaries are Sabine River on the west, Cut-Off Bayou on the north, and Old River and Big Bayou on the south and east.

aa. Salvador/Timken. Hunting until 12 noon only for waterfowl. Recreational fishing: Shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be permitted. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) maximum may be taken for bait. All castnet contents shall be contained and bycatch returned to the water immediately. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none of the lines are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the WMA and shall be limited to 100 pounds per person per day. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. Use of mudboats powered by internal combustion engines with more than four cylinders is prohibited. Pulling boats over levees, dams or water control structures or any other activities which cause detriment to the integrity of levees, dams and water control structures is prohibited.

bb. Sandy Hollow. Bird dog training: consult regulation pamphlet. Wild birds only (use of pen-raised birds prohibited). Bird dog field trials: permit required from Hammond field office. Horseback riding: self-clearing permit required. Organized trail rides prohibited. Riding allowed only on designated roads and trails depicted on WMA map. Horses and mules are specifically prohibited during turkey and gun season for deer except as allowed for bird dog field trials. No horses and mules on green planted areas. Horse-drawn conveyances are prohibited.

cc. Sherburne. Crawfishing: recreational crawfishing only. Crawfish harvest limited to 100 pounds per person per day. No traps or nets left overnight. No motorized watercraft allowed on farm complexes. Retriever training allowed on selected portions of the WMA. Contact the Opelousas field office for specific details. Vehicular traffic prohibited on Atchafalaya River levee within Sherburne WMA boundaries. Rifle and pistol ranges open daily. Skeet ranges open by appointment only, contact hunter education office. No trespassing in restricted area behind ranges.

NOTE: Atchafalaya National Wildlife Refuge, and U.S. Army Corps of Engineers land holdings adjacent to the Sherburne WMA will have the same rules and regulations as Sherburne WMA. No hunting or trapping in restricted area.

dd. Soda Lake. No motorized vehicles allowed. Bicycles allowed. All trapping and hunting prohibited except archery hunting for deer and falconry. Closed to fishing west of Twelve Mile Bayou from October 1-March 31.

ee. Spring Bayou. Commercial fishing: permitted Monday through Friday except slat traps and hoop nets permitted any day and except gill or trammel nets or the take or possession of grass carp are prohibited. Permits available from area supervisor or Opelousas field office. Closed until after 2 p.m. during waterfowl season. Sport fishing: same as outside except allowed only after 2 p.m. during waterfowl season. Crawfish: recreational only, limit 100 pounds per

person per day. No hunting allowed in headquarters area. Only overnight campers allowed in the improved Boggy Bayou camping area. Rules and regulations posted at camp site. A fee is assessed for use of this campsite. Water skiing allowed only in Old River and Grand Lac.

ff. Sonny J. C. Gilbert. Fishing restricted to rod and reel, and pole fishing only. All other gear prohibited.

gg. Tangipahoa Parish School Board. No horseback riding during gun season for deer or turkey. ATVs/UTVs are not allowed except as otherwise specified.

hh. Thistlethwaite. All motorized vehicles restricted to improved roads only. All users must enter and leave through main gate only.

ii. Tunica Hills. Camping limited to tents only in designated area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003), amended LR 30:1495 (July 2004), LR 31:1611 (July 2005), LR 32:1251 (July 2006), LR 33:1382 (July 2007), LR 34:1429 (July 2008), LR 35:1264 (July 2009), LR 36:1566 (July 2010), LR 37:2190 (July 2011), LR 38:1732 (July 2012), LR 39:2292 (August 2013), LR 40:1540 (August 2014), LR 41:963 (May 2015), LR 42:1112 (July 2016).

§113. General and WMA Turkey Hunting Regulations

A. General Regulations. Only gobblers (male turkeys) may be taken. Taking of hen (female) turkeys, including bearded hens, is prohibited; still hunting only. Use of dogs, electronic calling devices and live decoys is illegal. Turkeys may be hunted with shotguns, including muzzleloading shotguns, using shot not larger than #2 lead, #2 non-toxic, or BB steel shot, and approved archery equipment but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited. Shotguns capable of holding more than three shells prohibited. The running of coyote with dogs is prohibited in all turkey hunting areas during the open turkey season. No person shall hunt, trap or take turkeys by the aid of baiting or on or over any baited area. Baiting means placing, exposing, depositing or scattering of corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed so as to constitute a lure, attraction or enticement to, on or over any areas where hunters are attempting to take turkeys. A baited area is any area where corn (shelled, shucked or unshucked), wheat or other grain, salt, or other feed capable of luring, attracting or enticing turkeys is directly or indirectly placed, exposed, deposited, distributed or scattered. Such areas remain baited areas for 15 days following complete removal of all such corn, wheat or other grain, salt, or other feed. Wildlife agents are authorized to close such baited areas and to place signs in the immediate vicinity designating closed zones and dates of closures. No person hunting turkeys more than 200 yards from a baited area will be in violation of the turkey baiting regulation.

B. Tags

1. Prior to hunting turkeys, all turkey hunters, regardless of age or license status, must obtain turkey tags and have them in their possession while turkey hunting. Immediately upon killing a turkey, hunters must attach a carcass tag to the turkey before it is moved from the site of the kill and must document the kill on the turkey harvest report card. The date of kill and parish of kill must be recorded on the carcass tag. The tag must remain attached to the turkey while kept at camp or while it is transported to the domicile of the hunter or to a cold storage facility. Hunters who keep the carcass or meat at a camp must also comply with game possession tag regulations. Within seven days of the kill, the hunter must report the kill. Hunters may report turkeys by calling the validation phone number or using the validation website.

2. Turkey hunters purchasing licenses by phone or internet will be given an authorization number and a LDWF identification number that will serve as their license and tags until the physical license and tags arrive by mail. Turkey hunters who have purchased a license with tags, but have not yet received their physical license and tags, must immediately tag their kill with a possession tag before moving it from the site of the kill. The authorization number and LDWF identification number must be recorded on the possession tag. Hunters must retain documentation of any turkeys killed and upon receiving their physical tags and harvest report card, validate their kill as required in these regulations. The tags for turkeys killed prior to receiving the physical tags must be removed from the turkey harvest report card and discarded.

3. Tags removed from the turkey harvest report card prior to killing a turkey are no longer valid and if lost will not be replaced. Duplicate tags and turkey harvest report cards are available to replace lost report cards and attached tags. Hunters will be charged a fee for duplicate turkey harvest report cards and tags. Hunters that have killed a turkey prior to losing their remaining tag and harvest report card must remove and discard the duplicate tag to account for the original tag that was used and validated. Hunters must record any previously validated turkey on the duplicate turkey harvest report card.

C. Possession of Live Wild Turkeys. No person shall take live wild turkeys or their eggs from the wild. No person shall possess captive live wild turkeys, (*Meleagris gallopavo silvestris, M.g. osceola, M.g. intermedia, M.g. merriami, M.g. mexicana*) or their eggs, regardless of origin, without a valid game breeder license. No penraised turkeys from within or without the state shall be liberated (released) within the state.

D. Statewide Youth and Physically Challenged Season Regulations. Only youths 17 years of age or younger or hunters possessing a physically challenged hunter permit with wheelchair classification may hunt. Youth must possess a hunter safety certification or proof of successful completion of a hunter safety course. Youths must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for youth younger than 16 years of age. Adults accompanying youth may not possess a firearm or bow. Youths may possess only one firearm or bow while hunting. The supervising adult shall maintain visual and voice contact with the youth at all times, except properly licensed youths 16-17 years old and youths 12 years old or older who have successfully completed a hunter safety course may hunt without a supervising adult. Only one gobbler per day may

be taken and any gobbler taken by the hunter during this special season counts towards their season bag limit of two.

E. Shooting Hours—one-half hour before sunrise to one-half hour after sunset.

F. Turkey Hunting Area Descriptions

1. Area A

a. All of the following parishes are open:

i. Beauregard;

ii. Bienville;

iii. Claiborne;

Exception: see federal lands hunting schedule for Kisatchie National Forest dates.

iv. East Baton Rouge;

v. East Feliciana;

vi. Grant;

Exception: see federal lands hunting schedule for Kisatchie National Forest dates;

vii. Jackson;

viii. LaSalle;

ix. Lincoln;

x. Livingston;

xi. Natchitoches;

Exception: see federal lands hunting schedule for Kisatchie National Forest dates.

xii. Pointe Coupee;

Exception: see Sherburne WMA for special season dates on all state, federal, and private lands within Sherburne boundaries.

xiii. Rapides;

Exception: see federal lands hunting schedule for Kisatchie National Forest dates.

xiv. Sabine;

xv. St. Helena;

xvi. Tangipahoa;

xvii. Union;

xviii. Vernon;

Exception: see federal lands hunting schedule for Kisatchie National Forest dates.

xix. West Baton Rouge;

xx. West Feliciana (including Raccourci Island);

xxi. Winn.

Exception: see federal lands hunting schedule for Kisatchie National Forest dates.

b. Portions of the following parishes are also open:

i. Allen—north of US 190 east of Kinder, west of US 165 south of Kinder;

ii. Avoyelles—that portion bounded on the east by the Atchafalaya River, on the north by Red River to the Brouillette Community, on the west by LA 452 from Brouillette to LA 1, on the south by LA 1, eastward to Hamburg, thence by the west Atchafalaya Basin protection levee southward;

iii. Calcasieu—north of I-10;

iv. Caldwell—west of Ouachita River southward to Catahoula Parish line;

v. Catahoula—south and west of the Ouachita River from the Caldwell Parish line southward to LA 8 at Harrisonburg, north and west of LA 8 from Harrisonburg to the LaSalle Parish line, also that portion lying east of LA 15;

vi. Evangeline—north and west of LA 115, north of LA 106 west of LA 115 to US 167, west of US 167 south to LA 10, north of LA 10 west of US 167 to LA 13, west of LA 13 south of LA 10 to Mamou and north of LA 104 west of Mamou;

vii. Franklin—that portion lying east of LA 17 and east of LA 15 from its juncture with LA 17 at Winnsboro;

viii. Iberville—west of the Mississippi River;

Exception: see Sherburne WMA for special season dates on all state, federal and private lands within Sherburne boundaries.

ix. Jefferson Davis—north of US 190 from junction with LA 26 to Kinder, west of US 165 and north of I-10 west from junction of US 165;

x. Madison—that portion lying east of US 65 from East Carroll Parish line to US 80 and south of US 80. Also, all lands east of the main channel of the Mississippi River;

xi. Morehouse—west of US 165 from the Arkansas line to the junction of LA 140 at Bonita, north and west of LA 140 to junction of LA 830-4 (Cooper Lake Road), west of LA 830-4 to US 165 at Bastrop, south of US 165 to junction of LA 3051 (Grabault Road) south of LA 3051 to junction of LA 138, west of LA 138 to junction of LA 134, north of LA 134 to the Ouachita Parish line;

xii. Ouachita—all west of the Ouachita River. That portion east of the Ouachita River lying north of US 80;

xiii. Richland—that portion south of US 80 and east of LA 17;

xiv. St. Landry—that portion bounded on the west by the west Atchafalaya Basin Protection Levee and on the east by the Atchafalaya River;

Exception: the Indian Bayou area; see federal lands hunting schedule for Indian Bayou area dates.

xv. Upper St. Martin—all within the Atchafalaya Basin;

Exceptions: Sherburne WMA and Indian Bayou area, see WMA Turkey Hunting Schedule for special season dates on all state, federal and private lands within Sherburne WMA boundaries and see federal lands hunting schedule for Indian Bayou dates.

xvi. Tensas—that portion west of US 65 from the Concordia Parish line to its juncture with LA 128, north of LA 128 to St. Joseph; west and north of LA 605, 604 and 3078 northward to Port Gibson Ferry; also all lands east of the main channel of the Mississippi River.

2. Area B

a. All of the following parishes are open:

i. Ascension;

ii. Bossier;

iii. DeSoto;

iv. Red River;

v. St. Tammany;

vi. Washington;

vii. Webster.

b. Portions of the following parishes are open:

i. Caddo—all except that portion north of I-20 from the Texas state line to I-220. west of I-220 to LA 1. west of LA 1 to Caddo Lake, south of Caddo Lake to the Texas state line;

ii. East Carroll—east of US 65 from Arkansas state line to Madison Parish line;

iii. Iberville—all east of the Mississippi River;

Exception: see federal lands hunting schedule for Kisatchie National Forest dates.

3. Area C

a. All of the following parishes are open:

i. Concordia.

b. Portions of the following parishes are open:

i. Caldwell—all east of the Ouachita River;

ii. Catahoula—all of the parish except for that portion located in area A;

iii. Franklin—west of LA 17 from the Richland Parish line southward to Winnsboro, west of LA 15 southward to the Catahoula Parish line;

iv. Iberia—east of the west Atchafalaya Basin protection levee;

v. Richland—west of LA 17 from Franklin Parish line to Ringle Road, south of Ringle Road to Ferguson Road, south of Ferguson Road to Little Road, south of Little Road to Big Creek, east of Big Creek to Franklin Parish line;

vi. Tensas—east and south of US 65 from Concordia Parish line to LA 128, south of LA 128 to St. Joseph, east and south of LA 605, 604 and 3078 northward to Port Gibson Ferry.

4. Turkey season dates on wildlife management areas, national wildlife refuges, Kisatchie National Forest and U.S. Army Corps of Engineers land located within areas A, B, and C may vary from the season set for the parish in which they are located. Seasons for these lands are specified in LAC 76:XIX.115.

G. WMA Turkey Hunting Regulations

1. WMAs with youth turkey hunts are closed to all activities except turkey hunting by authorized youth hunt participants, shooting range use, and fishing on the day(s) of the youth hunt.

2. Self-Clearing Permits. All turkey hunts, including lottery hunts, are self-clearing. Hunters must check in daily by obtaining a permit from a self-clearing station prior to hunting. The self-clearing permit must be in the hunter's possession while hunting. Upon completion of each days hunt, the hunter must check out by completing and depositing the hunter report portion of the permit in the check-out box at a self-clearing station before exiting the WMA.

3. Lottery Hunts. All or portions of some WMA seasons are designated as lottery hunts and are restricted to hunters selected by pre-application lottery. To apply for these lottery hunts, a hunter must submit a completed official application form to the Baton Rouge office by the deadline printed on the application. A non-refundable fee of $5 must be sent with each application. Applicants for WMA youth hunts must be 17 years of age or younger and at least 8 years old on the day of the hunt. Applicants may submit only one application and may be selected for only one spring WMA turkey lottery hunt annually, except, youths may also apply for the regular WMA turkey lottery. Submitting more than one application per lottery type will result in disqualification. Hunters must abide by self-clearing permit requirements. Hunters chosen for WMA lottery hunts may be accompanied by one person. The person accompanying a lottery hunter shall not possess a firearm/bow or take a turkey, and must remain within a distance that allows normal voice contact with the lottery hunter at all times. Youths chosen for special youth only hunts may be assigned a guide on the day of the hunt provided that guides are available. One person may accompany the youth and guide, but may not hunt.

4. WMA Physically Challenged Hunt (wheelchair confined)—open only to hunters with a physically challenged hunter permit with wheelchair classification. During this hunt, ATVs may be used by hunters on all designated ATV trails in accordance with the physically challenged hunter permit. Hunters must abide by self-clearing permit requirements.

5. Rules Specific to Certain WMAs

a. Sandy Hollow. No turkey hunting within 100 yards of food plots identified by two yellow paint rings around the nearest tree.

b. Sherburne. All turkeys taken must be checked at the WMA headquarters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2375 (November 2002), LR 29:2512 (November 2003), LR 30:2874 (December 2004), LR 31:3167 (December 2005), LR 32:2272 (December 2006), LR 33:2469 (November 2007), LR 35:91 (January 2009), LR 35:2478 (November 2009), LR 36:2581 (November 2010), LR 37:3535 (December 2011), LR 38:2941 (November 2012), LR 40:96 (January 2014), LR 40:1554 (August 2014), LR 41:977 (May 2015), LR 42:1127 (July 2016).

§115. Turkey Hunting Areas, Seasons, and Bag Limits

A. Daily limit is one gobbler. Season limit is two gobblers. Turkeys taken on WMAs are part of the season bag limit. Only one turkey may be taken during spring WMA lottery hunts.

B. Turkey season will open on the fourth Saturday in March. The area A turkey season will be 30 consecutive days in length, the area B turkey season will be 23 consecutive days in length, and the area C turkey season will be 16 consecutive days in length. Wildlife management areas, national forests, national wildlife refuges, and U.S. Army Corps of Engineers land may vary from this framework. Deviation from this framework may occur in those years when the fourth Saturday in March falls the day before Easter.

C. Statewide youth turkey and physically challenged season on private lands shall be the weekend prior to the start of the regular turkey season.

D. Only those wildlife management areas listed herein are open to turkey hunting. All other wildlife management areas are closed.

E. 2017 Turkey Hunting Schedule

Area	Season Dates
A	March 25-April 23
B	March 25-April 16
C	March 25-April 9
Private Lands Youth and Physically Challenged Hunter (Wheelchair Confined) Hunt	March 18-19

F. Wildlife Management Area Turkey Hunting Schedule

WMA	Non-Lottery Hunt Dates	Lottery Hunt Dates
Attakapas	March 25-April 2	None
Bayou Macon	None	April 15-16
Big Lake	March 25-April 9	None
Bodcau	March 25-April 9	None
Boeuf	March 25-April 9	None
Camp Beauregard	March 25-April 2	None
Clear Creek	April 3-23	March 25-26 April 1-3
Dewey Wills	None	March 25-26 April 1-2

WMA	Non-Lottery Hunt Dates	Lottery Hunt Dates
Fort Polk-Vernon	March 25-April 23	None
Grassy Lake	March 25-April 2	None
Hutchinson Creek	March 25-April 23	None
Jackson-Bienville	March 25-April 9	None
Lake Ramsey	March 25-April 9	None
Little River	March 25-April 9	None
Pearl River	None	March 25-26
Peason Ridge	March 25-April 23	None
Pomme de Terre	April 19-April 23	None
Richard K. Yancey	March 25-April 9	None
Sabine	None	March 31-April 2 April 14-16
Sandy Hollow	March 25-April 9	None
Sherburne	April 17-19	April 15-16
Sicily Island	None	March 25-26 March 28-30 March 31-April 2 April 3-5 April 6-9
Tangipahoa Parish School Board	March 25-April 23	None
Tunica Hills	April 10-16	March 25-26 April 1-2 April 8-9
Walnut Hills	March 25-April 23	None
West Bay	None	March 25-26 April 1-2 April 8-9

G. Wildlife Management Area Lottery Youth Hunts

WMA/Ranger District	Lottery Youth Hunt Date
Clear Creek	March 18
Fort Polk-Vernon/Peason Ridge	March 18
Grassy Lake	March 18
Pearl River	March 18
Pomme de Terre	April 8-9
Richard K. Yancey	March 18-19
Sherburne	April 8
Sicily Island	March 18
Spring Bayou	April 8-9
Tunica Hills	March 18
West Bay	March 18

H. Non-Lottery WMA Youth Hunts

1. Big Lake will be open March 18-19 (only youths may hunt).

2. Bodcau WMA will be open March 18-19 and April 15-16 (only youths may hunt).

3. Jackson-Bienville WMA will be open March 18-19 and April 15-16 (only youths may hunt).

I. Wildlife Management Area Physically Challenged (Wheelchair Confined) Hunt

1. Jackson-Bienville WMA will be open April 17-23 to holders of valid physically challenged hunter (wheelchair classification) permits.

J. Federal Lands Turkey Hunting Schedule

1. Kisatchie National Forest (KNF) turkey hunting schedule: (youth only) March 18-19 on all Ranger Districts (except Vernon Unit lands within Ft. Polk-Vernon WMA) Caney Ranger District, March 25-April 9; all remaining KNF lands, March 25-April 16 (including Catahoula and Red Dirt National Wildlife Management Preserves, except self-clearing permit required to hunt turkey on Catahoula and Red Dirt National Wildlife Management Preserves).

2. U.S. Army Corps of Engineers turkey hunting schedule: Indian Bayou area, March 18-19 youth and physically challenged lottery only hunt, and lottery hunt only on March 25-26 and April 1-2, and open April 8-9. Old River Control and Lock Areas, March 25-April 9.

3. National wildlife refuges: Bayou Cocodrie NWR, March 18-19 (youth only); Bogue Chitto NWR, March 25-April 16, March 18-19 (youth only); Lake Ophelia NWR, March 18 (youth lottery only), March 25-April 9 hunt ends at 12 p.m. each day; Tensas NWR, March 18-19 (youth only), March 25-April 9; Upper Ouachita NWR, March 18 (youth lottery only).

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2264 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2376 (November 2002), LR 29:2512 (November 2003), LR 30:2875 (December 2004), LR 31:3167 (December 2005), LR 32:2272 (December 2006), LR 33:2470 (November 2007), LR 35:90 (January 2009), LR 35:2481 (November 2009), LR 36:2583 (November 2010), LR 37:3541 (December 2011), LR 38:2944 (November 2012), LR 40:99 (January 2014), LR 40:1556 (August 2014), LR 41:980 (May 2015), LR 42:1129 (July 2016).

§117. Migratory Bird Seasons, Regulations, and Bag Limits

A. Seasons and Bag Limits

Species	Season Dates	Daily Bag Limit	Possession Limit
Mourning and White Winged Doves and fully-dressed Eurasian and Collared Doves	South Zone: Sept. 3-11 Oct. 8-Nov. 27 Dec. 17-Jan. 15 North Zone: Sept. 3-25 Oct. 8-Nov. 13 Dec. 17-Jan. 15	15 (in aggregate)	45 (in aggregate)
Woodcock	Dec. 18-Jan. 31	3	9
Teal (Blue-winged, Green-winged and Cinnamon)	Sept. 10-25	6	18
King and Clapper Rails	Sept. 10-25 Nov. 12-Jan. 4	15 (in aggregate)	45 (in aggregate)
Sora and Virginia Rails	Sept. 10-25 Nov. 12-Jan. 4	25 (in aggregate)	75 (in aggregate)

Species	Season Dates	Daily Bag Limit	Possession Limit
Gallinules	Sep. 10-25 Nov. 12-Jan. 4	15	45
Snipe	Coastal Zone: Nov. 2-Dec. 4 Dec. 17-Feb. 28 West Zone: Nov. 2-Dec. 4 Dec. 17-Feb. 28 East Zone: Nov. 2-Dec. 4 Dec. 17-Feb. 28	8	24
Ducks, Coots and Mergansers	Coastal Zone: Nov. 5-6 (youth only) Nov. 12-Dec. 4 Dec. 17-Jan. 22 West Zone: Nov. 5 (youth only) Nov. 12-Dec. 4 Dec. 17-Jan.22 Jan. 28 (youth only) East Zone: Nov. 12 (youth only) Nov. 19-Dec. 4 Dec. 17-Jan. 29 Feb. 4 (youth only)	Daily bag limit on ducks is 6 and may include no more than 4 mallards (no more than 2 of which may be females), 2 canvasback, 1 mottled duck, 1 black duck, 3 wood ducks, 3 scaup, 2 redheads, and 2 pintails. Daily bag limit on coots is 15. Daily bag limit on mergansers is 5, only 2 of which may be hooded mergansers. Merganser limits are in addition to the daily bag limit for ducks.	Three times the daily bag limit.
Light Geese (Snow, Blue, and Ross') and White-Fronted Geese	North Zone: Nov. 5-Dec.4 Dec. 17-Feb. 12 South Zone: Nov. 5-Dec. 4 Dec. 17-Feb. 12	Daily bag limit on Light Geese (snow, blue, and ross') is 20. Daily bag limit on White-Fronted Geese is 2.	No possession limit on Light Geese (snow, blue, and ross') Possession limit on White-Fronted Geese is 6.
Canada Geese	North Zone: Nov. 5-Dec. 4 Dec. 12-Jan. 31 South Zone: Nov. 5-Dec. 4 Dec. 17-Jan. 31	1	3

B. Conservation Order for Light Geese Seasons and Bag Limits

Species	Season Dates	Daily Bag Limit	Possession Limit
Light Geese (Snow, Blue, and Ross')	North Zone: Dec. 5-16 Feb. 13-Mar. 12 South Zone: Dec. 5-16 Feb. 13-Mar. 12	No daily bag limit.	No possession limit.

C. Extended Falconry Seasons and Bag Limits

Species	Season Dates	Daily Bag Limit
Mourning and White Winged Doves and fully-dressed Eurasian and Collared Doves	Sept. 15-Oct. 1	Falconry daily bag and possession limit for all permitted migratory game birds must not exceed 3 and 9 birds, respectively, singly or in aggregate, during the extended falconry seasons and regular hunting seasons.
Woodcock	Nov. 2-Jan. 31	
Rails and Gallinule	Nov. 2-Jan. 31	
Ducks	Nov. 3-Jan. 31	

D. Dove Hunting Regulations

1. Shooting hours one-half hour before sunrise to sunset except on opening day of the first split on Wildlife Management Areas and on fields leased through the LDWF experimental dove field leasing program, where hunting will be from 12 p.m. to sunset, except for elbow slough and Point-Aux-Chenes wildlife management areas which will be open one-half hour before sunrise to sunset.

2. There is no bag limit on Eurasian collared-doves or Ringed Turtle-doves provided that a fully feathered wing and head remain attached to the carcass of the bird. Fully dressed Eurasian collared-doves and ringed turtle doves

(those without a fully feathered wing and dead naturally attached to the carcass) shall be included in the aggregate bag.

3. The following boundary divides the dove season zones: beginning at the Texas-Louisiana order on LA Hwy. 12; thence east along LA Hwy 12 to its intersection with U.S. Hwy 190; thence east along U.S. Hwy 190 to its intersection with I-12; thence east along I-12 to its intersection with I-10; then east along I-10 to the Mississippi state line.

E. Snipe Hunting Regulations. Shooting hours one-half hour before sunrise to sunset, except at the Spanish Lake recreation area in Iberia Parish where shooting hours, including the conservation end at 2 p.m.

F. Conservation Order for light geese. Only snow, blue, and Ross' geese may be taken under the terms of the conservation order. Electronic calls and unplugged shotguns allowed. No daily bag or possession limit. Shooting hours one-half hour before sunrise until one-half hour after sunset.

G. Canada Goose Season Closure. The Canada goose season will be open statewide except for a portion of southwest Louisiana described as follows: beginning at the Texas State Line, proceeding east along LA Hwy. 82 to the Calcasieu Ship Channel, then north along the Calcasieu Ship Channel to its junction with the Intracoastal Canal, then east along the Intracoastal Canal to its juncture with LA Hwy. 82, then south along LA Hwy. 82 to its juncture with Parish Road 3147, then south and east along Parish Road 3147 to Freshwater Bayou Canal, then south to the Gulf of Mexico, then west along the shoreline of the Gulf of Mexico to the Texas State Line, then north to the point of beginning at LA Hwy. 82. Open waters of Lake Arthur and the Mermentau River, from the Hwy 14 bridge southward, will also be closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2264 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2376 (November 2002), LR 29:2512 (November 2003), LR 30:2875 (December 2004), LR 31:3167 (December 2005), LR 32:2272 (December 2006), LR 33:2470 (November 2007), LR 35:90 (January 2009), LR 35:2481 (November 2009), LR 36:2583 (November 2010), LR 37:3541 (December 2011), LR 38:2944 (November 2012), LR 40:99 (January 2014), LR 40:1556 (August 2014), LR 41:980 (May 2015), LR 42:1130 (July 2016).

Pat Manuel
Chairman

1607#056

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Turtle Excluder Device (LAC 76:VII.374)

Pursuant to Act 416 of the 2015 Regular Legislative Session the Wildlife and Fisheries Commission does hereby adopt the following administrative Rule relative to the use, possession, and configuration of devices designed to exclude the take of marine wildlife from shrimp trawls within the territorial waters of Louisiana and in the adjacent federal exclusive economic zone.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§374. Turtle Excluder Device (TED) Requirements; Use; Exemptions; Prohibitions

A. The Wildlife and Fisheries Commission does hereby adopt the following rules and regulations regarding the use of turtle excluder devices.

B. It is unlawful for any person to do any of the following while trawling for shrimp within and without Louisiana's territorial waters: operate, be on board a vessel, fish for, catch, take, harvest, or possess, fish, shrimp or wildlife unless that vessel is in compliance with all applicable provisions of this Section regarding use of turtle excluder device (TED) requirements as contained herein.

C. Gear Requirements for Shrimp Trawlers

1. TED Requirement for Shrimp Trawlers. Any shrimp trawler that is in Louisiana waters or waters of the adjacent Gulf of Mexico area must have an approved TED installed in each net that is rigged for fishing. A net is rigged for fishing if it is in the water, or if it is shackled, tied, or otherwise connected to any trawl door or board, or to any tow rope, cable, pole or extension, either on board or attached in any manner to the shrimp trawler.

D. Approved TEDs. Approved TEDs are those devices and their uses as approved and authorized by NOAA Fisheries Service as specified by 50 CFR 223.207.

E. Exemptions from the TED Requirement

1. Alternative tow-time restrictions. A shrimp trawler is exempt from the TED requirements of this Section if it complies with the alternative tow-time restrictions and if it:

a. has on board no power or mechanical-advantage trawl retrieval system (i.e., any device used to haul any part of the net aboard);

b. is a bait shrimper that retains all live shrimp on board with a circulating seawater system if it has a valid original state bait-shrimp license, and if the state license allows the licensed vessel to participate in the bait shrimp fishery;

c. has only a pusher-head trawl, butterfly net, skimmer trawl, or wing net rigged for fishing;

d. is in an area during a period for which tow-time restrictions apply under a specific declaration; or

e. is using a single test net (try net) with a head rope length of 12 ft (3.6 m) or less and with a lead-line length of 15 ft (4.6 m) or less, if it is pulled immediately in front of another net or is not connected to another net in any way, if no more than one test net is used at a time, and if it is not towed as a primary net.

2. Tow-Time Restrictions; Duration of Tows. If tow-time restrictions are utilized a shrimp trawler must limit tow-times as described herein.

a. The tow-time is measured from the time that the trawl door enters the water until it is removed from the water. For a trawl that is not attached to a door, the tow-time is measured from the time the cod end enters the water until it is removed from the water. Tow-times may not exceed:

i. 55 minutes from April 1 through October 31; and

ii. 75 minutes from November 1 through March 31.

F. No person who, pursuant to state or federal law, is subject to the jurisdiction of this state shall violate any federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulation*s as amended title 50 and 15, for sea turtles and turtle excluder devices while fishing in the EEZ, or possess, purchase, sell, barter, trade, or exchange shrimp taken with a trawl within or without the territorial boundaries of Louisiana in violation of any state or federal law, rule or regulation particularly those rules and regulations enacted pursuant to the Magnuson-Stevens Fishery Conservation Act and published in the *Code of Federal Regulations* as amended title 50 and 15 law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:15, 56:23, 56:492.1, and 56:493.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 42:1132 (July 2016).

Edwin "Pat" Manuel
Chairman

1607#060

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Boll Weevil Eradication Commission

Maintenance and Inspection Fees
(LAC 7:XV.Chapter 3)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of enabling statutes, R.S. 3:1604.1, R.S. 3:1652, and R.S. 3:1655, the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences and the Boll Weevil Eradication Commission intend to amend LAC 7:XV.301, 303 and 321 to reduce the fee paid by cotton producers for the inspection and certification of cotton for the presence of the boll weevil from $6 per acre to $5 per acre. Current cotton commodity prices are the lowest seen in over ten years, thus significantly reducing farm income for cotton producers. The proposed reduction in the maintenance inspection fee, while not affecting the quality of inspection and certification for the presence of the boll weevil, will provide some relief in input costs for cotton producers in this state.

Title 7
AGRICULTURE AND ANIMALS
Part XV. Plant Protection and Quarantines
Chapter 3. Boll Weevil

§301. Maintenance Inspection Fee

A. In accordance with R.S. 3:1655(D), the state entomologist is authorized to assess fees to defray the costs of inspections or the issuance of certificates or permits for the shipment of agricultural products, commodities, packaging, or equipment. There is hereby established a fee for the inspection and certification of cotton for the presence of the boll weevil to ensure the marketability of cotton in commerce and maintain Louisiana's boll weevil-free status. The fee shall be $5 per acre for each acre of cotton planted in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 40:1517 (August 2014), LR 42:

§303. Definitions Applicable to Boll Weevil

A. The words and terms defined in R.S. 3:1603 are applicable to this Chapter.

B. The following words and terms are defined for the purposes of this Chapter.

* * *

Maintenance Inspection Fee—the fee paid by cotton producers to finance, in whole or in part, a program to inspect cotton for the presence of the boll weevil in the state and to issue certificates or permits in accordance with R.S. 3:1655(D). The charge to the producer is calculated at the rate of $5 per acre for each acre of cotton planted in the state.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 23:195 (February 1997), LR 37:2583 (September 2011), LR 40:1517 (August 2014), LR 42:

§321. Maintenance Inspection Fees, Payment and Penalties

A. The annual maintenance inspection fee on cotton producers in the Louisiana eradication zone shall be $5 per acre for each acre of cotton planted in the state. Each cotton producer shall pay his annual maintenance inspection fee directly to the department no later than July 15 or final certification with the FSA for that growing season, whichever is later. The signed and completed cotton acreage reporting and payment form with FSA Form 578 attached shall be submitted with the annual payment of the maintenance inspection fee.

B. - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1609, 1610, 1612, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997), LR 24:2231 (December 1998), LR 25:829 (May 1999), LR 29:859 (June 2003), LR 30:1142 (June 2004), LR 30:2443 (November 2004), LR 37:2583 (September 2011), LR 40:1519 (August 2014), LR 42:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Marc Bordelon, Director of the Boll Weevil Eradication Commission, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3002, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on September 6, 2016. No preamble is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Maintenance and Inspection Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will align expenditures from the statutorily dedicated Boll Weevil Eradication Fund in FY 17 and subsequent fiscal years for the LA Dept. of Agriculture & Forestry's (LDAF) Boll Weevil Eradication Program by reducing the per-acre fee for inspection of cotton for the presence of boll weevils by $1, from $6 to $5. The $1 fee reduction aligns the Boll Weevil Eradication Program's expenditures with its associated workload. The program has seen a reduction in full-time staff as a result of the boll weevil's eradication statewide. The Boll Weevil Eradication Program's trapping and monitoring efforts have decreased, as have associated expenditures, which necessitates the fee reduction.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will reduce revenue collections for the statutorily dedicated Boll Weevil Eradication Fund by $124,000 based upon a projected cotton acreage of 124,000 acres in FY 17 and by $160,000 in FYs 18 and 19 based upon a projected cotton acreage of 160,000 acres. The reduction of the per-acre inspection fee by $1, from $6 to $5, aligns the revenues with associated expenditures necessary to continue the Boll Weevil Eradication Program's trapping and monitoring efforts, which have decreased after the boll weevil's eradication.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will affect cotton producers in Louisiana. Cotton producers statewide will realize a savings of $1 per acre of cotton planted as a result of the fee being reduced from $6 to $5.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action will not have a direct material effect on competition or employment.

Dane Morgan	John D. Carpenter
Assistant Commissioner	Legislative Fiscal Officer
1607#063	Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Horticulture Commission

Arborists, Utility Arborists, and Landscape Irrigation Contractors—Insurance Coverage (LAC 7:XXIX.117)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Agriculture and Forestry ("department") and the Horticulture Commission intend to amend LAC 7:XXIX.117 to clarify that an arborist, utility arborist and landscape irrigation contractor must maintain insurance coverage while operating in their professions. Current regulation requires an arborist, utility arborist and landscape irrigation contractor to obtain insurance prior to licensure and to show proof of insurance prior to license renewal. Although the department and Horticulture Commission have consistently interpreted the current laws and rules to require continued insurance coverage, the proposed amendment expressly states the requirement and removes any confusion over the requirement for ongoing, continuous insurance coverage in these professions. In addition, the proposed rule changes the word "must" to "shall" throughout §117 for consistency.

Title 7
AGRICULTURE AND ANIMALS
Part XXIX. Horticulture Commission
Chapter 1. Horticulture
§117. Professional and Occupational Standards and Requirements

A. Retail Florist

1. Professional Standards

a. All cut flowers, ornamental plants, and living or freshly cut plant materials sold or offered for sale shall be fresh, of high quality, and free from injurious insects, diseases, and other pests. No plant material of low quality and no wilted or dead plant materials may be offered for sale to the general public or sold to a consumer except when specifically requested by the consumer.

b. Floral designs, cut flowers, ornamental plants, and living or freshly cut plant materials shall be cared for in a manner that, to the extent reasonably possible, maintains their freshness and increases their longevity.

c. Coolers where floral designs, cut flowers, ornamental plants, or living or freshly cut plant materials, are kept or stored shall be clean and maintained at a temperature conducive to prolonging the freshness of the said products kept or stored in the coolers.

d. Containers holding cut flowers or living or freshly cut plant materials shall be maintained in a manner that does not adversely affect the cut flowers or plant

material. Water in containers shall be changed periodically so as to remain clean at all times.

e. Floral designs shall be prepared in a good and workmanlike manner and shall satisfy the consumer's requests that are objective in nature. All reasonable efforts should be made to satisfy the consumer's requests that are subjective in nature. All floral designs shall be constructed in such a manner as to remain intact during transportation.

f. All wires, steel picks, corsage pins, and other sharp objects employed in the construction of a floral design shall be used in a manner that will maintain the integrity of the floral design while minimizing the risk of injury to any person handling the floral design.

g. Compliance with equivalent procedures and techniques set forth in James L. Johnson, William J. McKinley, Jr. and M. Buddy Benz, *Flowers: Creative Design* (San Jacinto Publishing Co., 7th ed., 2001; distributed by Texas A and M Univ. Press) will establish a rebuttable presumption of compliance by the licensee with these professional standards.

2. Requirements

a. Retail florist shops that lose their licensed florist will be granted a grace period of 90 days of operating without the services of a full-time licensed florist. This grace period shall end 90 days from that date. The purpose of this grace period is to provide the florist shop an opportunity to employ a licensed person. This grace period can only be used once in a 12-month period. Retail florist shops shall cease to engage in the profession of retail florist after the grace period has been exhausted. In the event a retail florist shop, despite reasonable prevention efforts, loses its only or only remaining regularly employed licensed retail florist, the florist shop shall replace the regularly employed licensed retail florist as soon as possible but in no event more than 90 days from the first day the retail florist shop operated without a regularly employed licensed retail florist. Notwithstanding the foregoing, no retail florist shop shall operate without a regularly licensed retail florist for more than a total of 90 days in any 12-month period that follows the first day of operation without a regularly employed licensed retail florist.

b. Retail florists may rent potted ornamental plants for special events such as weddings, conventions, trade shows, etc., if such plants are normally and customarily sold by florists and such plants do not require maintenance, other than normal watering. Plants rented by retail florists for a special event shall be rented only for the duration of that special event.

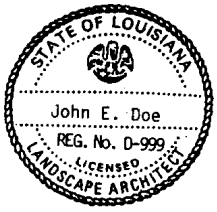
B. Landscape Architect

1. Without good cause, all designs shall make use of plant materials commonly found growing in Louisiana or which are suitable for growth in Louisiana's growing conditions.

2. Licensees shall meet the standards established by the Council of Landscape Architects Registration Board.

3. Each landscape architect shall obtain a seal of the design authorized by the commission. The seal shall be placed on all professional documents, including contracts, maps, plans, designs, drawings, specifications, estimates and reports, issued by a licensed landscape architect for use in this state.

a. The seal required shall be circular and 1 5/8 inches in diameter. The words "State of Louisiana" shall be along the top circumference and the words "Licensed Landscape Architect" shall be along the bottom circumference. The individual's name shall be placed horizontally in the center of the field with his registration number below. Letters and figures shall be as shown on the example printed herein to insure uniformity.



b. A rubber stamp facsimile, which conforms to the official design of the seal described in §117.B.3.a of this Part, may be obtained and used in place of the seal by a licensed landscape architect.

c. The licensee shall sign his or her legal name on each document and shall then affix his or her seal over that signature. The presence of one's seal over the signature on any document constitutes proof that he or she accepts all legal and professional responsibility for the work accomplished. The seal shall be used only by the licensee responsible to this commission for authorship of the documents thus identified. No person other than the licensee represented shall use or attempt to use the prescribed seal, and no unlicensed person shall be authorized to use the prescribed seal. Authorized use of the prescribed seal is an individual act whereby the licensee shall personally inscribe the seal over his or her signature. The licensee is responsible for the security of the seal when not in use.

4. All designs and specifications utilizing sod shall specify the type and class of sod to be used as provided in §115.D of this Part and accompanied by the sod classification form specified by the commission.

5. Continuing Education Requirements

a. Compliance with these continuing education requirements is necessary for a landscape architect ("licensee") to maintain a landscape architect license in this state.

b. The commission shall administer the continuing education requirements through a standing continuing education committee consisting of not more than two staff members and at least three licensed Louisiana landscape architects elected by mail ballot. The landscape architects on the committee will each serve a term of two years. The call for nominations and balloting for committee service will be conducted concurrent with annual balloting for members of the Louisiana Landscape Architects Selection Board.

c. A licensee shall attend, or complete an approved substitute for attendance, a minimum of 8 credit hours of continuing education within each calendar year. If more than 8 credit hours are obtained during a calendar year, a licensee may carry over a maximum of 4 credit hours from one calendar year to the next. Any credit hours carried over into a following calendar year shall apply to that year only and may not be carried forward into subsequent years. A credit

hour shall contain at least 50 minutes of actual instruction or education.

d. Activities that may be approved for continuing education credits shall contain instructional or educational components. Such activities include annual professional meetings, lectures, seminars, workshops, conferences, university or college courses, in-house training, and self-directed activities. The commission's staff shall make the initial determination as to whether an activity qualifies for continuing education credit. If the commission's staff determines that an activity may not qualify, that activity request will be automatically forwarded to the continuing education committee for review and the committee's determination. Any licensee or other applicant for approval of an activity may appeal any committee rejection of an activity for continuing education credit to the commission. However, the commission retains the right to review and approve or disapprove any activity as a qualifying continuing education activity and the number of credit hours arising from such activity, even if there is no appeal. Any appeal from any decision of the commission shall be taken in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.).

e. A licensee shall keep all records showing attendance, or completions of an approved substitute for attendance, at continuing education activities for three years following the year in which attendance or completion was done.

f. Each licensee shall annually submit a written certification signed by the licensee that the licensee has, during that calendar year, attended, or completed an approved substitute for attendance, the number of credit hours stated in the certification. If credit hours carried over from the previous year are being used as a substitute for attendance then the certification shall state the number of carried over credit hours that are being used. The certifications shall be attached to the licensee's annual license renewal application. Any renewal application received without this certification shall not be processed for license renewal and the license fees submitted with the application shall be refunded to the licensee.

g. The commission shall cause an annual audit of licensees to be conducted. Licensees shall be selected for audit either by cross-section of licensees or by random audit. The provisions of this subsection notwithstanding, an investigation of a licensee for possible violation of these continuing education requirements may be conducted if there is reason to believe that a violation may have occurred. Licensees selected for audit will be required to provide documented proof of their having obtained the continuing education credits for the year being audited. A licensee's failure to provide documented proof of having attended, or completed an approved substitute for attendance, for each credit hours certified for the year being audited shall be a violation of this Part. In the event that a licensee provides documented proof of having attended, or undertaken an approved substitute for attendance, any credit hour certified for the year being audited and such credit hour is disallowed then the licensee shall have six months from date of notification of the disallowance to attend, or complete an approved substitute for attendance, a sufficient number of approved credit hours to make up for the disallowed credits. The credit hours attended to make up for any disallowed credit hours shall not count toward the minimum credit hours needed for any other year. Failure to timely make up for the disallowed credit hours shall be deemed a violation of this Part. An appeal from a disallowance of any credit hour may be taken as provided in Subparagraph d of this Paragraph.

h. A licensee may submit a written request for an approved substitute for attendance or for a hardship exemption or extension of time in which to obtain the minimum credit hours for the year in which the request is made. The licensee shall detail the reason for the request, such as the benefit of any substitution, any physical disability, illness, or extenuating circumstance, and a specification of the requested substitute for attendance, including number of credit hours, course of study, etc. The licensee shall also provide any additional information asked for in consideration of the request.

C. Wholesale Florist

1. All flowers or greenery sold or offered for sale shall be fresh and of high quality. No wilted or dead plant materials may be offered for sale to persons holding the proper license or permits.

2. All nursery stock sold or offered for sale shall be fresh and of high quality and free from injurious insects, diseases, and other pests. No low quality plant materials may be offered for sale.

3. Coolers from which cut flowers or greenery are sold, or in which cut flowers or greenery are stored prior to sale, shall be kept clean at all times. Water in containers shall be changed regularly and kept clean at all times.

D. Landscape Horticulturist

1. Any nursery stock used in landscaping, leased, or sold, or offered for use in landscaping, lease, or sale, shall be of high quality and free from injurious insects, diseases, and other pests. Nursery stock which is leased shall be maintained in high quality and free from injurious insects, diseases, and other pests.

2. All plant beds shall be properly prepared and shall allow for proper drainage.

3. All recommendations and maintenance and planting practices shall incorporate sound horticultural practices.

4. All sod installed, sold, or recommended shall be classified as provided in §115.D of this Part.

5. Recommendations and maintenance and planting practices shall meet the standards outlined in *The Louisiana Manual for the Environmental Horticulture Industry* (April 2014 ed.) published by the Louisiana Nursery and Landscape Association.

6. Landscape horticulturists who prepare drawings to indicate the planting and location and arrangement of plant materials by that landscape horticulturist shall place his name, the words "Landscape Horticulturist," and his license number on each drawing prepared by him. Drawings prepared by a landscape horticulturist may be used only by that landscape horticulturist and no one else in connection with the submission of a bid proposal.

7. Licensees shall display their license at all times in a location accessible to the general public or any representative of the commission.

E. Arborist

1. Licensees may not use climbing irons in any trees which are not to be removed except as provided §117.E.3 of this Part hereof.

2. Before the commission issues an arborist's license, the person to be licensed shall first furnish to the commission the following:

a. a certificate of insurance, written by an insurance company authorized to do business in Louisiana, covering the public liability of the applicant for personal injuries and property damages, providing for not less than $25,000 per person for personal injuries and not less than $50,000 for property damages, both limits applicable to each separate accident, provided that the commission may waive the requirement for the stated insurance coverages for any licensed arborist who does not physically work on trees or accept responsibility for work on trees but only provides consultation with respect to work on trees. The certificate of insurance shall provide for 30 days' written notice to the commission prior to cancellation.

b. Failure to maintain the required insurance may constitute a violation of this Part.

3. When the characteristics of a tree require the use of climbing irons, the licensee may use climbing irons but only with the prior written permission of the owner of the tree.

4. Licensees shall enter into a written contract with the property owner employing him for arboricultural work, which contract shall specify the services to be performed and the sum to be paid for the services. Both parties shall receive a copy of the contract.

5. Licensees may apply pesticides only for the purposes of retarding decay or disease. See also §119.A of this Part relative to application of pesticides.

6. Licensees engaged in the feeding of trees shall follow proper fertilizer schedules and rates according to label directions. Representatives of the commission may take a sample of the nutrients applied during any tree feeding operation for the purpose of verifying its chemical analysis.

7. Licensees shall display their license at all times in a location accessible to the general public or any representative of the commission.

8. Prior to renewal of an arborist license, the licensee shall provide the commission with certifiable evidence of completion of a continuing training seminar which was previously approved by the commission.

9. Recommendations and pruning practices shall meet the standards outlined in the *Arborists' Certification Study Guide* (3rd ed. 2010) published by the International Society of Arboriculture.

F. Nursery Stock Dealer

1. All nursery stock sold or offered for sale shall be fresh and of high quality and shall be free from injurious insects, diseases, and other pests. No low quality plant materials may be offered for sale to the general public.

2. All indoor nursery stock offered for sale shall be displayed or offered for sale under the protection of some type of covering, such as inside a building or under a carport, tent, or canopy, which will protect such plant material from exposure to sun, wind, or rain.

3. A clean source of water shall be provided at all times when plants are offered for sale.

4. Nursery stock dealers operating from a mobile unit shall not sell nursery stock within 300 feet of a place of business that holds a nursery stock dealer's permit, nursery certificate permit, horticulture service license, retail florist license or a wholesale florist license.

5. The permit holder shall display his permit at all times in a location accessible to the general public or any representative of the commission.

6. All sod sold shall be classified as provided in §115.D of this Part.

G. Cut Flower Dealer

1. All flowers or greenery offered for sale shall be fresh and of high quality. No wilted or dead plant materials may be offered for sale to the general public, save and except when specifically requested by consumer.

2. A clean source of water shall be provided for all flowers or greenery that are offered for sale. Water in containers shall be changed regularly and kept clean at all times.

3. The permit holder shall display his decal and/or permit at all times in a location accessible to the general public or any representative of the commission.

4. The restriction against a cut flower dealer locating within 300 feet of an established retail florist shall not apply to cut flower dealers in permanent locations. In addition, cut flower dealers operating from a mobile unit shall not sell cut flowers, within 300 feet of place of business that holds a cut flower dealer's permit.

H. Utility Arborist

1. Licensees may not use climbing irons in any trees which are not to be removed except in remote utility rights-of-way that are inaccessible to tree trimming equipment where no other practical means of trimming the tree is available or as provided in §117.E.3 of this Part.

2. Before the commission issues a utility arborist license, the person to be licensed shall first furnish to the commission a certificate of insurance as provided in §117.E.2 of this Part.

a. Failure to maintain the required insurance may constitute a violation of this Part.

3. Licensees shall make their license available to the public or any representative of the commission at all times.

4. Prior to renewal of a utility arborist license, the licensee shall provide the commission with certifiable evidence of completion of a continuing training seminar which was previously approved by the commission.

5. Recommendations and pruning practices shall meet the standards outlined in the *International Society of Arboriculture Certification Manual* (3rd ed. 2010) and *Best Management Practices—Utility Pruning of Trees* (rev. or copyright date 2004), a publication by the International Society of Arboriculture.

I. Landscape Irrigation Contractor

1. Before the commission issues a landscape irrigation contractor license the person to be licensed shall first furnish to the commission a certificate of insurance, written by an insurance company authorized to do business in Louisiana, covering the public liability of the applicant, as a licensee, for personal injuries and property damages. The insurance policy shall provide for not less than $25,000 per personal injuries and not less than $50,000 for property damages, both limits applicable to each separate accident. The

certificate of insurance shall provide for 30 days' written notice to the commission prior to cancellation. The commission may, however, waive the requirement for the stated insurance coverage for any licensed landscape irrigation contractor who does not physically work on landscape irrigation systems or accept responsibility for work on landscape irrigation systems but only provides consultation or other associated services with respect to landscape irrigation systems or the work performed on such systems.

2. Failure to maintain the required insurance may constitute a violation of this Part.

3. Licensees are required to attend and complete a commission approved continuing training seminar at least once every three years. Each licensee, prior to renewal of his or her license, shall provide the commission with certifiable evidence that the licensee has timely and successfully completed such a seminar.

4. Licensed landscape irrigation contractors shall enter into a written contract with the property owner, specifying the landscape irrigation services to be performed and the sum to be paid for the services. The contract shall include the following statement: "Any complaints regarding landscape irrigation installation should be directed to the Louisiana Horticulture Commission at (225) 952-8100." Both parties shall receive a copy of the contract.

5. Licensees shall display their license at all times in a location accessible to the general public or any representative of the commission.

6. The following clarifications apply to licensed landscape irrigation contractors.

a. A licensed landscape irrigation contractor is not required to have a water supply protection specialist endorsement from the state Plumbing Board in order to install an irrigation system up to the point of connecting the irrigation system to a public or private water supply system or installing a backflow prevention device.

b. A licensed landscape irrigation contractor shall also have a water supply protection specialist endorsement from the state Plumbing Board before connecting any irrigation system to a public or private water supply system or installing a backflow prevention device, pursuant to R.S. 3:3808(P)(4) and (5).

c. A governing authority, such as a parish or municipality, shall issue all necessary permits, including necessary electrical permits, to a licensed landscape irrigation contractor who does not hold a water supply protection specialist endorsement for the installation of an irrigation system, except for those permits that would allow such a licensed landscape irrigation contractor to connect the irrigation system to a public or private water supply system or install a backflow prevention device.

d. A governing authority, such as a parish or municipality shall issue all necessary permits to a licensed landscape irrigation contractor who holds a water supply protection specialist endorsement from the state Plumbing Board for the installation of an irrigation system, including necessary electrical permits and those permits that would allow such a licensed landscape irrigation contractor to connect the irrigation system to a public or private water supply system or install a backflow prevention device.

e. A licensed landscape irrigation contractor who also holds a water supply protection specialist endorsement from the state Plumbing Board is required by R.S. 3:3816(6) to install backflow prevention devices in accordance with ordinances adopted by local governing authorities, such as parishes and municipalities, regulating the installation of backflow prevention devices. If a local governing authority does not have an ordinance regulating the installation of backflow prevention devices, such devises shall be installed in accordance with the requirements of LAC 51, Part XIV (Plumbing) of the *Sanitary Code*, state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001), LR 31:1054 (May 2005), LR 32:78 (January 2006), LR 32:1010 (June 2006), LR 33:1854 (September 2007), LR 53:1228 (July 2009), LR 36:2520 (November 2010), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 42:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Ansel Rankins, Director of the Horticulture Commission, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3002, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on September 6, 2016. No preamble is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Arborists, Utility Arborists, and Landscape Irregation Contractors—Insurance Coverage

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in any costs or savings to state or local governmental units.

The substantive proposed rule change to LAC 7:XXIX.117 expressly requires arborists, utility arborists, and landscape irrigation contractors to maintain insurance coverage while in operation, and that failure to do so may constitute a violation. Present administrative rules require persons actively engaged in the aforementioned professions to present proof of insurance prior to licensure and renewal of licensure. Furthermore, the proposed rule change makes technical changes throughout LAC 7:XXIX.117. As a result, the proposed rule changes will not result in any costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change should not result in any costs or economic benefits to directly affected persons or non-governmental groups. Arborists, utility arborists, and landscape irrigation contractors must already present proof of active insurance policies prior to licensure and license renewal. The proposed rule change expressly states that persons actively engaged in the aforementioned professions must maintain insurance while operating.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not have an effect on competition and employment.

Dane Morgan
Assistant Commissioner
1607#062

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agro-Consumer Services
Division of Weights and Measures

Weights and Measures Fee Structure and Registration
(LAC 7:XXXV.125 and 127)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Agriculture and Forestry ("department"), through the Office of Agro-Consumer Services and the Division of Weights and Measures intends to amend LAC 7:XXXV.125 and 127. The proposed rules create a new category of devices called "mass flow meters." Currently, mass flow meters were registered with the department as a class 3 scale and the fee for registering the device was $185. Mass flow meters are not actually scales and should have their own category. The amendment to LAC 7:XXXV.125 creates a new fee for registration of mass flow meters based on the internal diameter of the meter tube. Under the proposed Rule, mass flow meters will be separated into two classes: those with tubes whose internal diameter is 2 inches or more and those with tubes that are less than 2 inches.

Title 7
AGRICULTURE AND ANIMALS
Part XXXV. Agro-Consumer Services
Chapter 1. Weights and Measures
§125. Weights and Measures Fee Structure

A. - G. …

H. The annual fee for registration of mass flow meters will be based on the internal diameter of the meter tube.

Class	Internal Tube Diameter	Fee
1	Less than 2 inches	$80
2	2 inches or greater	$185

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608 and 3:4622.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), amended LR 23:857 (July 1997), LR 30:1142 (June 2004), LR 42:218 (February 2016), LR 42:

§127. Registration

A. - D.4. …

E. Mass flow meters shall be registered according to the following criteria:

1. make;
2. model;
3. serial number;
4. internal tube diameter in inches; and
5. intended use.

F. A late fee of $25 will be assessed for each device, the maximum penalty of $100 per outlet, when the application is submitted after December 31.

G. A late fee of $25 will be assessed for each new device not registered within 30 days from the date it is put into service.

H. A compound weighing device shall be considered one or more devices for the purpose of registration in accordance with the following.

1. A compound weighing device that consists of a single load receiving element and more than one indicating element shall be considered a single device when all indicating elements may be tested during the same test for the purpose of sealing the device as correct. Said device shall be considered separate devices for each separate test necessary for sealing.

2. A compound weighing device that consists of one indicating element and more than one load receiving element shall for the purpose of registration be considered a separate device for each load receiving element.

I. Applicants for registration may request application forms, verbally or in writing, from the Division of Weights and Measures of the Department of Agriculture and Forestry.

J. Each application for annual registration shall be accompanied by payment of the required fee and said registration shall be valid until December 31. To remain valid, each annual registration must be renewed before January 1. This Subsection shall not apply to the registration of taxicab meters.

K. Taxicab meters shall be registered annually with the division. Each registration shall be valid for one year from the date of issuance. Taxi meters may only be registered with the division upon completion of an inspection of the taxi meter by the department and payment of the required registration fee. The inspection period for taxicab meters for registration purposes shall occur from January 1 through June 30 each year. After June 30, inspections for registration purposes will be done by appointment only.

1. If a taxicab operates in a municipality or parish which requires a local inspection, the inspection required under this Part shall be completed no later than the month in which the taxicab's parish, municipal, or airport inspection is due.

2. Taxicab meters inspected after June 30 will be charged a late fee of $25 unless the late inspection is due to a meter being new, repaired, replaced, or being placed in a different vehicle.

L. Any registration obtained without complying with all of the requirements of these regulations may be voided by the division.

M. Before a device may be sealed to certify the accuracy and correctness of a device, that device must be registered with the Division of Weights and Measures of the Louisiana Department of Agriculture and Forestry.

N. In accordance with R.S. 3:4611, no one shall use a weight, measure or weighing or measuring device which has not been sealed by the division, its director, or its inspectors, at its direction, within the year prior thereto, unless written notice has been given to the division to the effect that the weight, measure or weighing or measuring device is available for examination or is due for re-examination.

O. Application for registration or renewal of registration shall fulfill the requirement of notification in Subsection L of this Section.

P. Applications for annual renewal of registration shall be mailed by the Division of Weights and Measures of the Department of Agriculture and Forestry to all registrants, at the last address provided by the registrant, on or before November 15 and must be returned before January 1.

Q. The record of all registrations shall be maintained by the Division of Weights and Measures and the director of the Division of Weights and Measures in its office in Baton Rouge.

R. Any registrant having a device registered under provisions of this regulation, and that is taken out of commercial use at the location shown on the application for registration, shall notify the commission's office in writing to remove said device from its records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3), 3:4607, 4608, and 3:4622.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:158 (March 1987), amended LR 15:78 (February 1989), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), LR 23:857 (July 1997), LR 41:2098 (October 2015), LR 42:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Dr. Steven O. Sessums, Director of the Division of Weights and Measures, Department of Agriculture & Forestry, 5825 Florida Blvd., Suite 5000, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on September 6, 2016. No preamble is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Weights and Measures Fee Structure and Registration

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change may decrease expenditures in the statutorily dedicated Weights and Measures Fund in FY 17 for the LA Dept. of Agriculture & Forestry (LDAF) to the extent mass flow meters less than 2 inches in diameter are in use. The proposed rule change adds a new fee of $80 for the inspection of mass flow meters that are less than 2 inches in diameter compared to the current flat fee of $185 for all mass flow meters. The department anticipates that the new fee of $80 will fund all expenditures associated with inspections, whereas the fee of $185 will remain to fund all expenditures associated with inspections of mass flow meters greater than or equal to 2 inches in diameter. As a result expenditures associated with inspecting mass flow meters will decrease to the extent the use of smaller mass flow meters become more common.

The form the Louisiana Department of Agriculture and Forestry (LDAF) currently uses to register mass flow meters will be altered to include specific information related to mass flow meters. LDAF will incur a marginal expenditure increase associated with altering the existing form, but reports that it can absorb the expenditure utilizing existing resources and budget authority.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Louisiana Department of Agriculture and Forestry (LDAF) anticipates revenues deposited into the statutorily dedicated Weights and Measures Fund will decrease in FY 17 and in subsequent fiscal years to the extent mass flow meters less than 2 inches in diameter come into use. The department has not yet encountered this size of mass flow meters, but expects revenues generated by the $80 inspection fee to fund all expenditures associated with the inspection.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will decrease costs for persons who must pay inspection fees on mass flow meters 2 inches or less in diameter to the extent such mass flow meters are in use.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The department anticipates that implementation of the proposed rule changes will not have an effect on employment or competition.

Dane Morgan
Assistant Commissioner
1607#061

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Children and Family Services
Economic Stability Section

Community Supervision Program (LAC 67:III.5573)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:III., Subpart 15, Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55, TANF Initiatives, Section 5573, Community Supervision Program.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) block grant, amendment of Section 5577 is necessary to clarify the program's service period and financial eligibility criteria, which must mirror eligibility rules in effect as of August 21, 1996 under the Louisiana Aid to Families with Dependent Children (AFDC) Emergency Assistance Program.

This action was made effective by an Emergency Rule effective July 1, 2016.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives
Chapter 55. TANF Initiatives
§5573. Community Supervision Program

A. The department has an agreement with the Department of Public Safety and Corrections, Office of Juvenile Justice (DPSC-OJJ), to provide services to youth and their families as a result of an adjudication and disposition by a court that orders (DPSC-OJJ) to supervise youth in their communities in an effort to prevent removal from the home.

B. OJJ will complete an intake/assessment and develop a case plan for addressing the needs of the youth. The case plan will contain goals for all need areas and when indicated, include referrals to community programs for both youth and parents. These referrals may include, but are not limited to:

1. case management, counseling, and in-home services;

2. parenting education and training, either in-home or out-of-home;

3. diagnostic and evaluation services provided in an attempt to make the most appropriate out-of-home placement;

4. supervision or non-residential programs for youth who remain in the home.

C. TANF eligibility is limited within any 12-month period to a single episode of need with a maximum duration of 12 months. TANF eligibility is also limited to families with income less than twice the state median income (SMI).

D. These services are TANF-eligible based on inclusion in the state's approved AFDC Emergency Assistance Program that was in effect as of August 21, 1996.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 46:231, and R.S. 36:474, amended Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:2511 (November 2003), amended LR 31:487 (February 2005), LR 34:697 (April 2008), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through, August 24, 2016 to Sammy Guillory, Deputy Assistant Secretary of Programs, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804.

Public Hearing

A public hearing on the proposed Rule will be held on August 24, 2016 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Garner Walters
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Community Supervision Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Department of Children and Family Services (DCFS) proposes to continue the provisions of the July 1, 2016 emergency rule, which amends Louisiana Administrative Code (LAC), Title 67, Part III, Subpart 15 Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55 TANF Initiatives, Section 5573 – Community Supervision Program. The proposed rule clarifies the program's service period and financial eligibility criteria, which must mirror eligibility rules in effect as of August 21, 1996 under the Louisiana Aid to Families with Dependent Children (AFDC) Emergency Assistance Program. The proposed rule helps maintain the overall TANF expenditures of the department by providing services for the correct duration to eligible families.

The only cost associated with this proposed rule is the cost of publishing rulemaking. It is anticipated that $1,172 (Federal) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed rule will have no effect on revenue collections of State or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule will have no cost or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will not have an impact on competition and employment for low-income families.

Sammy Guillory
Deputy Assistant Secretary
1607#064

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Children and Family Services
Economic Stability Section

Income Exclusions for Public Assistance Programs
(LAC 67:III.1229 and Chapter 19)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:III, Subpart 2, Family Independence Temporary Assistance Program, Section, 1229 Income; Subpart 3, Supplemental Nutritional Assistance Program (SNAP), Section 1938, Work Registration Requirements and Section 1940, Work Participation Requirements for Able-Bodied Adults without Dependents; and Subchapter I, Income and Deductions, Section 1980, Income Exclusions.

Amendment of Sections 1229 and 1980 is necessary to include grant-funded research payments as non-countable income for SNAP and cash assistance programs and to add clarification regarding the alignment of countable income across programs. Amendment of Section 1938 is necessary to comply with 7 CFR 273.7. Amendment of Section 1940 is necessary to clarify the individuals who are exempt from work participation requirements.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) block grant and to the authority granted to the department by the Food and Nutrition Services (FNS), the department considers these amendments necessary to clarify the programs' eligibility rules regarding income exclusions and work participation requirements. Excluding grant funded research payments as countable income allows families to participate in studies without negatively impacting their public assistance benefits. Excluding some types of income not countable by cash assistance programs

ensures fairness in eligibility determinations for SNAP applicants and recipients. Aligning countable income across programs also allows for consistency and aids staff in making accurate eligibility determinations.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 2. Family Independence Temporary Assistance Program
Chapter 12. Application, Eligibility, and Furnishing Assistance
Subchapter B. Conditions of Eligibility
§1229. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. adoption assistance;
2. earned income of a child, including a minor unmarried parent, who is in school and working toward a high school diploma, GED, or special education certificate;
3. disaster payments;
4. Domestic Volunteer Service Act;
5. earned income credits (EIC);
6. education assistance;
7. energy assistance;
8. foster care payments;
9. monetary gifts up to $30 per calendar quarter;
10. Agent Orange settlement payments;
11. HUD payments or subsidies other than those paid as wages or stipends under the HUD Family Investment Centers Program;
12. income in-kind;
13. Indian and native claims and lands;
14. irregular and unpredictable sources;
15. lump sum payments;
16. nutrition programs;
17. job training income that is not earned;
18. relocation assistance;
19. loans;
20. supplemental security income;
21. wartime relocation of civilians payments;
22. developmental disability payments;
23. Delta Service Corps post-service benefits paid to participants upon completion of the term of service if the benefits are used as intended for higher education, repayment of a student loan, or for closing costs or down payment on a home;
24. Americorps VISTA payments to participants (unless the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage);
25. radiation exposure compensation payments;
26. payment to victims of Nazi persecution;
27. restricted income received for a person not in the assistance unit or not in the income unit. Restricted income is income which is designated specifically for a person's use by federal statute or court order and may include RSDI, VA benefits and court ordered-support payments;
28. crime victim compensation program payments to an applicant/recipient whose assistance is necessary, in full or in part, because of the commission of a crime against the applicant, and to the extent it is sufficient to fully compensate the applicant for losses suffered as a result of the crime;
29. effective October 1, 2004 additional pay received and made available to the household by a member of the United States Armed Forces deployed to a designated combat zone;
30. effective March 1, 2006, interest income;
31. effective March 1, 2006, dividend income;

Exception: Dividends received from a resource-exempt trust fund will not be excluded as income.

32. any payments other than wages received as a result of the Mississippi Canyon 252 well incident in the Gulf of Mexico on April 20, 2010; or
33. grant funded research payments.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq., and 10602(c), R.S. 36:474, R.S. 46:231.1(B), R.S. 46:231.2, P.L. 108-447, Act 16, 2005 Reg. Session, and 7 CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 26:2831 (December 2000), LR 31:2956 (November 2005), LR 32:1616 (September 2006), LR 32:1912 (October 2006), LR 34:2678 (December 2008), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2524 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1675 (September 2014), LR 42:

Subpart 3. Supplemental Nutritional Assistance Program (SNAP)
Chapter 19. Certification of Eligible Households
Subchapter G. Work Requirements
§1938. Work Registration Requirements

A. - A.4. ...

B. Determining Whether a Work Requirement Violation Occurred

1. When a household files an application for participation, or when a participating household reports the loss of a source of income, the DCFS shall determine whether any household member:

a. refused without good cause to provide sufficient information to allow a determination of his/her employment status or job availability;

b. voluntarily and without good cause quit a job;

c. voluntarily and without good cause reduced his/her work effort (and, after the reduction, is working less than 30 hours a week);

d. refused, at the time of application and every 12 months thereafter, to register for employment;

e. refused without good cause to participate in an employment and training program;

f. refused without good cause to accept an offer of employment.

2. Benefits shall not be delayed beyond the normal processing times pending the outcome of this determination. This provision applies only if the employment involved 30 hours or more per week or provided weekly earnings equivalent to the federal minimum wage multiplied by 30 hours; the violation occurred within 60 days prior to the date of application or anytime thereafter, and was without good cause. Terminating a self-employment enterprise or resigning from a job at the demand of the employer will not

be considered a violation for purpose of this Section. An employee of the federal government, or of a state or local government who participates in a strike against such government, and is dismissed from his or her job because of participation in the strike, shall be considered to have violated the work requirements without good cause.

3. If an application for participation is filed in the last month of the disqualification period, the eligibility worker shall use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met.

4. Upon a determination that a violation of the work requirements occurred, the DCFS shall determine if the violation was with good cause. If it is determined that good cause does not exist, the sanction will be imposed. The DCFS shall provide the household with a notice of ineligibility. The notice shall inform the household of the proposed period of disqualification; its right to reapply at the end of the disqualification; and of its right to a fair hearing.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:80 (January 1997), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2528 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:

§1940. Work Participation Requirements for Able-Bodied Adults without Dependents [Effective 10/1/97 by Emergency Rule]

A. Individuals are ineligible to continue to receive SNAP benefits if, during the preceding 36-month period they received SNAP benefits for at least 3 months (consecutive or otherwise) while that individual did not either:

1. work an average of 20 hours per week;

2. participate in and comply with a Job Training Partnership Act Program, Trade Adjustment Act Program, or employment and training program (other than a job search or job search training program) for 20 hours or more per week; or

3. participate in and comply with a workfare program.

B. An individual is exempt from this requirement if the individual is:

1. under age 18, or 50 years of age or older;

2. medically certified as physically or mentally unfit for employment;

3. residing in a SNAP household where a household member is under age 18, even if the household member who is under age 18 is not eligible to receive SNAP benefits;

4. pregnant; or

5. otherwise exempt from work registration requirements.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, 7 CFR 273.24, and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:81 (January 1997) amended LR 34:885 (May 2008), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2528 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:

Subchapter I. Income and Deductions

§1980. Income Exclusions

A. In addition to those income exclusions previously adopted and codified in Chapter 19, Certification of Eligible Households, the following income types will be excluded from countable income for the Supplemental Nutrition Assistance Program (SNAP):

1. payments or allowances to provide energy assistance under any federal law, including the Department of Housing and Urban Development and the Farmers Home Administration, except that provided under Title IV-A;

2. earnings of an elementary or secondary student through age 17 who is the child of, or under parental control of, a member of the household;

3. legally obligated child support payments to non-household members are excluded when determining eligibility based on gross income standards;

4. effective October 1, 2004, additional pay received and made available to the household by a member of the United States Armed Forces deployed to a designated combat zone;

5. agent orange settlement payments income (retroactive to 01-01-89);

6. agriculture and stabilization and conservation service payments received as a result of a presidentially declared disaster or emergency;

7. assistance payments income that is being recouped for overpayment of non-fraud overpayments;

8. bonus income that is non-recurring or cannot be anticipated to recur;

9. child care food program payments received for the client's own children;

10. child support income received by FITAP/KCSP recipients, which must be transferred to IV-D to maintain eligibility;

11. child support arrearage payments that were previously counted as income or payment that is a one-time non-recurring lump-sum payment;

12. deposits made into joint accounts when the joint account is considered a convenience account, the income deposited into the account is verified to be a loan, or the account is considered inaccessible to the household;

13. disaster payments provided to rebuild a home or replace personal possessions damaged in a disaster if the household is subject to legal sanction if the funds are not used as intended. This includes Individual and family grant payments or small business administration loans;

14. disaster relief income funded under national emergency grants or disaster unemployment assistance paid to an individual who is unemployed as a result of a major disaster;

15. the prorated portion of the income for persons disqualified for SSNs, for ineligible aliens, or for persons who failed to attest to citizenship/alien status;

16. Delta Service Corps income if the allowances, earnings, and payments to individuals participating in the programs are received under title I of the National and Community Service Act;

17. Domestic Volunteer Service Act income received by volunteers for services performed in programs stipulated in Title II of the amended Domestic Volunteer Service Act of

1973 (P.L. 93-118), which include Foster Grandparents and Retired Senior Volunteer Program; or payments received by volunteers for services in programs under title I (VISTA) if the person was receiving food stamps or public assistance when he joined VISTA or the household was receiving an income exclusion for a title I subsistence allowance at the time of conversion to the Food Stamp Act of 1977;

18. Indian and native claims and lands income received:

a. under Public Law 94-189, (Sac and Fox Indian Claims Agreement);

b. under Public Law 94-540, (Grand River Band of Ottawa Indians);

c. under Public Law 95-433, section 2, Confederated Tribes and Bands of the Yakima Nation and the Apache Tribe of the Mescalero Reservation received from the Indian Claims Commission;

d. by certain Indian tribal members under Public Law 94-114, section 6, regarding submarginal lands held in trust by the United States;

e. under Public Law 93-531 (Navajo and Hopi Tribes);

f. tax-exempt portions made pursuant to Public Law 92-203, The Alaska Native Claims Settlement Act; or

g. under Public Law 96-420 (Passamaquoddy Tribe and Penobscot Nation, or the Houlton Band of Maliseet Indians pursuant to the Maine Indian Claims Settlement Act of 1980);

19. Indian gambling operations income paid to children under 18 when the household is not given a choice and the money is deposited in an inaccessible trust fund;

20. in-kind income not in the form of money payable directly to the household except earned income vendor payments made by the employer instead of all or part of the salary;

21. irregular and unpredictable income when the anticipated income will be less than $30 in a three-month period, and the income is received too infrequently and irregularly to be reasonably anticipated;

22. strategies to empower people (STEP) payments for supportive services;

23. loans;

24. non-recurring lump-sum payments;

25. crime victim compensation payments made to a client whose assistance is necessary, in full or in part, because of the commission of a crime against the client, and to the extent it is sufficient to fully compensate the client for losses suffered as a result of the crime;

26. National and Community Service Corporation payments for living allowance (stipend) and child care received by participants as well as in-kind benefits provided to the participants;

27. non-household member's portion of income that is received by a household member which is intended and used for care and maintenance of a third-party beneficiary who is not a household member;

28. nutrition programs income—the value of supplemental food assistance under the Child Nutrition Act of 1966 and under the Special Food Service Program for Children (the National School Lunch Act) or benefits received under title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965;

29. payments made to victims of Nazi persecution;

30. payments made to persons through the Radiation Exposure Compensation Act, which was enacted October 15, 1990;

31. railroad retirement income that is being recouped for a prior overpayment;

32. reimbursement income which:

a. is not a gain or benefit to the household;

b. is not provided specifically for normal living expenses; or

c. does not exceed the actual expenses for which the reimbursement was paid;

33. relocation assistance income if received under Title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970;

34. Senior Community Service Employment Program (SCSEP) income received by individuals 55 or older;

35. supplemental security income that is being recouped for non-fraud SSI overpayment;

36. unemployment compensation benefits that are paid as the result of unemployment due to a major disaster and funded through the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

37. vendor payments made by a person or organization outside the household/assistance unit directly to the client's creditor or to a person or organization providing the service unless:

a. the vendor payment is made by an employer instead of all or part of the salary;

b. it is a local GA vendor payment provided to cover housing expenses exclusive of energy or utility expenses; or

c. the vendor payment is made in lieu of payments which are legally obligated to the household;

38. severance pay received in a single lump-sum payment;

39. payments made through the Wartime Relocation of Civilians Law:

a. payments of $20,000 made to eligible persons of Japanese ancestry who were interned during World War II, or such payments made to the spouse, children or parents if the eligible individual is deceased;

b. payments of $12,000 made to eligible Aleuts who were relocated from their home on the Pribolof or Aleutian Islands to an internment camp during World War II, or such payments made to an individual who was born while his mother was relocated;

40. effective March 1, 2006, dividend income;

Exception: Dividends received from a resource-exempt trust fund will not be excluded as income.

41. effective March 1, 2006, interest income;

42. effective March 1, 2006, education assistance;

43. any payments other than wages received as a result of the Mississippi Canyon 252 well incident in the Gulf of Mexico on April 20, 2010; or

44. grant-funded research payments.

B. Any type of income excluded when determining eligibility or benefits for cash assistance as defined by 45 CFR 260.31(a)(1) and (a)(2), will be excluded from countable income for SNAP, except for those types determined countable by 7 CFR 273.9(c)(19), such as wages, salaries, etc.

AUTHORITY NOTE: Promulgated in accordance with P.L. 103-66, 7 CFR 273.9(c)(11), P.L. 104-193, P.L. 107-171, P.L. 108-447, and CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 21:188 (February 1995), amended LR 23:82 (January 1997), LR 29:607 (April 2003), LR 31:2956 (November 2005), LR 32:1616 (September 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2530 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through, August 25, 2016 to Sammy Guillory, Deputy Assistant Secretary, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804.

Public Hearing

A public hearing on the proposed Rule will be held on August 25, 2016 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Garner Walters
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Income Exclusions for Public Assistance Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Department of Children and Family Services (DCFS) proposes to amend the following sections of Louisiana Administrative Code (LAC), Title 67, Part III: (1) Subpart 2 Family Independence Temporary Assistance Program, Section 1229 – Income; and (2) Subpart 3 Supplemental Nutritional Assistance Program (SNAP), Section 1938 – Work Registration Requirements; Section 1940 – Work Participation Requirements for Able-Bodied Adults without Dependents; and Subchapter I Income and Deductions, Section 1980 – Income Exclusions.

Amendments to Section 1229 and Section 1980 adds grant funded research payments as non-countable income for SNAP and cash assistance programs as well as to add clarification regarding the alignment of countable income across programs. An amendment to Section 1938 complies with federal law, 7 CFR 273.7. Finally, an amendment to Section 1940 clarifies individuals who are exempt from work participation requirements.

The proposed rule will not impact the overall revenues or expenditures of the department. The only cost associated with this proposed rule is the cost of publishing rulemaking. It is anticipated that $2,982 ($745.50 Federal and $745.50 State General Fund for the SNAP portion of the cost and $1,491 Federal for the TANF/FITAP portion of the cost) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed rule will have no effect on revenue collections of State or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule allows families to participate in grant funded research studies without negatively impacting their public assistance benefits and allows equity in eligibility determinations for SNAP applicants and recipients, by excluding some types of income not countable by cash assistance programs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will not have an impact on competition and employment for low-income families.

Sammy Guillory
Deputy Assistant Secretary
1607#065

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Civil Service
Board of Ethics

Late Filings; Records and Reports
(LAC 52:I.Chapter 12 and 1309)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to amend rules for late filing procedures and to correctly reference a statute for certain disclosure forms.

Title 52
ETHICS
Part I. Board of Ethics

Chapter 12. Late Filings

§1201. Late Filing; Notice of Delinquency [Formerly §1202]

A. The staff shall mail, by certified mail, a notice of delinquency within four business days after the due date for any report or statement, of which the staff knows or has reason to know is due by the filer that is due under any law within the board's jurisdiction which has not been timely filed.

B. If the date on which a report is required to be filed occurs on a weekend or federal or state holiday, the report shall be filed no later than the first working day after the date it would otherwise be due that is not a federal or state holiday.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 26:628 (April 2000), LR 30:2669 (December 2004), LR 38:1207 (May 2012), LR 42:

§1203. Late Filing; Assessment of Late Fee

A. The staff of the board shall automatically assess and order the payment of late filing fees for any failure to timely file any report or statement due under any law within the board's jurisdiction in accordance with the law on the assessment of late fees.

B. The assessment and order of the late fee shall be mailed by certified mail to the late filer. If the assessment and order is not claimed by the late filer, the assessment and order shall be served on the late filer via a subpoena of notice.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 38:1208 (May 2012), LR 42:

§1205. Late Filing
[Formerly §1204]

A. Definitions. For purposes of §1205, the following definitions shall apply.

Amount of Activity—the total amount of receipts or expenditures, whichever is greater.

Person Regularly Responsible—the person designated by the person required to file a report, in accordance with any law under the jurisdiction of the board, who is responsible for keeping the records and filing the reports on behalf of the required filer.

B. An automatic late fee shall not be assessed, and if one is assessed shall be rescinded by the staff, if the person required to file the report did not file the report for any of the following reasons which occurred on the due date or during the 14 days prior to the date the report was due:

1. death of the person required to file or the person regularly responsible, or a death in their immediate family, as defined in R.S. 42:1102(13);

2. serious medical condition, in the considered judgment of the staff, which prevented the person required to file or the person regularly responsible from filing the report timely;

3. a natural disaster, an act of God, force majeure, a catastrophe, or such other similar occurrence.

C. If a report is filed more than 10 days late and the amount of activity on the report is less than the amount of the late fee to be assessed, the staff may reduce the late fee to the amount of activity or 10 times the per day penalty, whichever is greater.

D. An automatic late fee for a candidate's campaign finance disclosure report shall not be assessed, and if one is assessed, shall be rescinded by the staff, if the candidate officially withdrew with the Secretary of State from the election and received no contributions or loans and/or made any expenditures, excluding his qualifying fee.

E. An automatic late fee for a candidate personal financial disclosure statement shall not be assessed, and if one is assessed, shall be rescinded by the staff, if the candidate officially withdrew with the Secretary of State from the election.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 26:628 (April 2000), LR 31:1227 (June 2005), LR 38:1208 (May 2012), LR 42:

§1207. Late Filing; Waiver
[Formerly §1205]

A. Any person assessed with automatic late filing fees may request a waiver of the late fee, in writing, to the board within 20 days after the receipt of the assessment requiring the payment of late filing fees, setting forth the facts which tend to prove that the late filer had good cause for filing late.

B. The executive secretary shall place all such requests for a waiver on the board's agenda for consideration. If a late filer requests to make an appearance, the executive secretary shall schedule the appearance.

C. At the time of submission of his request for a waiver, the late filer shall submit all information and documentation to support his request.

D. If the board affirms the order assessing the late fee, notice shall be mailed by certified mail to the late filer, notifying him that the order was affirmed.

E. If the board waives the late fee, notice of the board's decision shall be issued by regular mail.

F. If the board alters in any way the assessment of the late fee after consideration of a waiver request, a new order shall be issued by the staff of the board consistent with the decision of the board after consideration of the waiver request. The new order shall be sent to the late filer in the manner set forth in §1203.B.

G. Within 20 days of receipt of the notice of the board's decision on the waiver request, the late filer may seek reconsideration of the board's decision only upon submission of information not provided or available to the board during its initial consideration of the matter.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 30:2669 (December 2004), LR 38:1208 (May 2012), LR 42:

§1209. Late Filing; Appeal

A. Any person ordered to pay late filing fees pursuant to §1203 may appeal the order to the Ethics Adjudicatory Board.

B. Notice of the person's intent to appeal should be submitted in writing to the executive secretary of the board within 20 days of the receipt of the order.

C. The notice of intent to appeal shall include all grounds for which the late filer is seeking an appeal, along with any documentation and evidence to be considered by the Ethics Adjudicatory Board.

D. The executive secretary shall forward the notice of appeal, along with the order assessing the late fee and any correspondence concerning the assessment of the late fee to the Ethics Adjudicatory Board. The notice from the executive secretary shall include the name of the attorney for the board and contact information for the late filer.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1208 (May 2012), amended LR 42:

Chapter 13. Records and Reports

§1309. Disclosure Forms Filed Pursuant to R.S. 42:1119(B)(2) of the Code

A. Disclosure forms filed pursuant to R.S. 42:1119(B)(2)(a) of the code shall:

1. be on a form approved by the board or a form which is substantially the same as the form approved by the board;

2. be filed no later than 30 days after the beginning of the school year;

3. be signed by the school board member or superintendent and contain:

a. the name, address, and position of the school board member or superintendent;

b. the name, relationship, and position of the immediate family member and the date of the family member's employment;

c. the parish in which the school board member or superintendent serves and the date of the commencement of such service; and

d. which of the following exceptions applies to the immediate family member:

i. classroom teacher certified to teach;

ii. employed by school board for more than one year prior to the school board member or the superintendent becoming a member of the school board or the superintendent; or

iii. served in public employment on April 1, 1980, the effective date of the code.

B. Disclosure forms filed pursuant to R.S. 42:1119(B)(2)(b) of the code shall:

1. be in writing and on a form approved by the board or a form which is substantially the same as the form approved by the board;

2. be filed no later than January 30 of each year;

3. be signed by the chief executive or member of the board of a hospital service district or hospital public trust authority and contain:

a. the name, address, and position of the chief executive or member of the board of a hospital service district or hospital public trust authority;

b. the calendar year for which the disclosure statement is being filed;

c. the name, relationship, and position of the immediate family member and the date of the family member's employment;

d. the name of the hospital service district or public trust authority that the chief executive or member of the board of a hospital service district or hospital public trust authority serves and the date of the commencement of such service; and

e. which of the following exceptions applies to the immediate family member:

i. employed by the hospital service district or public trust authority for more than one year prior to the chief executive or member of a board of a hospital service district or hospital public trust authority becoming the chief executive or board member for the hospital service district or hospital public trust authority;

ii. served in public employment on April 1, 1980, the effective date of the code; or

iii. the hospital service district or public trust authority is located in a parish with a population of 100,000 or less and the family member is employed as a licensed physician or registered nurse.

C. The executive secretary shall maintain these forms suitably indexed.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1300 (October 1997), amended LR 26:629 (April 2000), LR 42:

Family Impact Statement

The proposed Rule changes have no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule changes have no known impact on poverty, as described in R.S. 49:972.

Small Business Analysis

The proposed Rule should not have any known or adverse impact on small business as described in R.S. 49:956.6.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Public Comments

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, LA 70821, telephone (225) 219-5600, until 4:45 p.m. on August 10, 2016.

Kathleen M. Allen
Ethics Administrator

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Late Filings; Records and Reports

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost to implement the rule change, regarding late filings, is estimated to be $400 in FY 17, which accounts for the cost to publish the rule change in the State Register. The proposed rules provide for the manner in which notices of delinquency are mailed to late filers, late fees are assessed pursuant to R.S. 42:1157, waivers are requested from the Board of Ethics, and appeals are made for consideration by the Ethics Adjudicatory Board. The proposed rule also amends a section to correctly reference a statute for certain disclosure forms.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no anticipated effect on revenue collections of state or local governmental units. Pursuant to R.S. 42:1157, the Ethics Administration Program is responsible for issuing orders for late fees for reports and registrations that are not filed in a timely manner according to the Code of Governmental Ethics, Campaign Finance Disclosure Act, and the Legislative, Executive and Local Lobbyist Disclosure Acts. The rules do not change the amount of late fees imposed. The rules make changes with respect to the process for requesting a waiver from the Board of Ethics.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have no anticipated costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no anticipated effect on competition and employment.

Kathleen Allen	Gregory V. Albrecht
Ethics Administrator	Chief Economist
1607#071	Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.301, 701, 703, and 2107)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

This rulemaking clarifies the definition of *eligible non-citizen*, clarifies that Performance and Honors Award stipends are paid for each semester for which tuition is paid by TOPS and for which the student remains eligible for the Award, and implements Acts 18, 388, and 503 of the 2016 Regular Session of the Louisiana Legislature. (SG16172NI)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 3. Definitions
§301. Definitions

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Award Amount—

a. Through the 2015-2016 academic year (college), an amount equal to tuition at the school attended, for those students attending a Louisiana public college or university, as determined by the commission, which may be used by the student to pay any educational expense included in that student's "cost of attendance." The amount paid for TOPS and TOPS-Tech Awards shall be as follows.

i. For students with the TOPS Opportunity, Performance, and Honors Award attending a Louisiana public college or university and enrolled in an academic degree program, the amount shall equal the actual cost of tuition.

ii. For students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or an out-of-state college or university if all of the conditions of §703.I are met and enrolled in an academic degree program, the amount shall equal the weighted average award amount.

iii. For students with the TOPS Opportunity, Performance, and Honors Award attending a Louisiana public college or university and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the actual cost of tuition.

iv. For students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or who attend an eligible cosmetology or proprietary school and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the average award amount (TOPS-Tech).

v. For students with the TOPS-Tech Award attending an eligible public college or university that does not offer an academic undergraduate degree at the baccalaureate level or higher and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the actual cost of tuition.

vi. For students with a TOPS-Tech Award attending an eligible college or university that offers an academic undergraduate degree at the baccalaureate level or higher and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the average award amount (TOPS-Tech).

vii. For students with the TOPS Opportunity, Performance, and Honors Award enrolled in a Louisiana professional school, the amount shall be equal to the tuition charged or the tuition charged a student pursuing a baccalaureate degree at the highest cost public school, whichever is less or the weighted average award amount, depending upon whether the Louisiana professional school is a public or private school.

viii. For students with the TOPS Opportunity, Performance and Honors Award enrolled in a Louisiana graduate degree program, the amount shall be equal to the tuition or the tuition charged for a student while pursuing a baccalaureate degree at the highest cost public school in the state, whichever is less.

b. Beginning with the 2016-2017 academic year (college), the award amount determined by the administering agency in accordance with Clauses a.i-a.viii above during the 2016-2017 academic year (college), plus any increase in the award amount specifically authorized by the Louisiana Legislature.

* * *

Eligible Noncitizen—

a. an individual who can provide documentation from the U.S. Citizenship and Immigration Services (USCIS) or its successor that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident, including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of

the United States must provide documentation from the USCIS to verify permanent residency. For 1997, 1998 and 1999 high school graduates, an eligible noncitizen shall be treated as meeting the citizenship requirements for an award under this Part;

b. beginning with the 2018-2019 academic year (high school) and later, a student who is not a citizen of the United States but who is the child of a non-United States citizen who is either serving in any branch of the United States armed forces or has been honorably discharged from any branch of the United States armed forces shall be treated as meeting the citizenship requirements for an award under this Part.

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 40:53 (January 2014), LR 40:281 (February 2014), LR 41:649, 658 (April 2015), LR 41:2595 (December 2015), LR 42:

Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§701. General Provisions

A. - E.1.b. ...

2.a. The TOPS Performance Award provides a $400 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1(H), or LAC 28:IV.503.D, 509.C, or 701.E.2.b. If a student attends an eligible summer session, quarter, term, or equivalent unit and requests that their TOPS Award be paid for that session, semester, quarter, term, or equivalent unit, the stipend will also be paid since payment of a TOPS Award for a summer session, quarter, term, or equivalent unit will count toward the eight semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

3.a. The TOPS Honors Award provides an $800 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1(H), or LAC 28:IV.503.D, 509.C or 701.E.3.b. If a student attends an eligible summer session, quarter, term, or equivalent unit and requests that their TOPS Award be paid for that session, semester, quarter, term, or equivalent unit, the stipend will also be paid since payment of a TOPS Award for a summer session, quarter, term, or equivalent unit will count toward the eight semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

4.a. Through the 2009-2010 academic year (college), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provided therein, plus any applicable TOPS stipend and a sum of not more than $150 per semester or $300 annually for the actual cost of books and other instructional materials.

b. Beginning with the 2010-2011 academic year (college), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students with the TOPS Opportunity, Performance and Honors Award participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provided therein, plus a sum of $300 per semester or $600 per academic year to be applied toward the cost of books and other instructional materials. In addition, those students with the Performance Award shall receive $400 per semester or $800 per academic year for other educational expenses and those students with the Honors Award shall receive $800 per semester or $1,600 per academic year for other educational expenses. If the student attends an eligible summer session, quarter, term, or equivalent unit and requests that their TOPS Award be paid for that session, semester, quarter, term, or equivalent unit in accordance with this paragraph, the amounts stipulated herein will also be paid since payment of a TOPS Award for a summer session, quarter, term, or equivalent unit will count toward the eight semester limit for TOPS.

E.5. - G.2. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1645-1648 (December 1997), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999), LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26:1995 (September 2000), LR 26:2000 (September 2000), repromulgated LR 27:1848 (November 2001), amended LR 28:447 (March 2002), LR 28:2331 (November 2002), LR 29:880 (June 2003), LR 29:2372 (November 2003), LR 30:1161 (June 2004), LR 31:2213 (September 2005), LR 35:228 (February 2009), LR 36:2854 (December 2010), LR 40:1002 (May 2014), LR 41:663 (April 2015), LR 42:

§703. Establishing Eligibility

A. - A.5.g.viii. …

6. have achieved an ACT score, as defined in §301 of at least:

a. if qualifying under the terms of §703.A.5.a, b, or g:

i. the state's reported prior year ACT composite average, truncated to a whole number, but never less than 20 for the Opportunity Award; or

ii. a 23 for the Performance Award; or

iii. a 27 for the Honors Award; or

b. if qualifying under §703.A.5.c:

i. is a Louisiana resident, except as defined in Subparagraph h of the definition of *Louisiana resident* in §301:

(a). the state's reported prior year average, truncated to a whole number plus 3 points, but never less than 23 for the Opportunity Award; or

(b). a 26 for the Performance Award; or

(c). a 30 for the Honors Award; and

ii. is a Louisiana resident as defined in Subparagraph h of the definition of *Louisiana resident* in §301:

(a). the state's reported prior year average, truncated to a whole number, plus 2 points, but never less than 22 for the Opportunity Award; or

(b). a 25 for the Performance Award; or

(c). a 29 for the Honors Award; and

c.i. if completed the 12th grade level of an approved home study program during or before the academic year (high school) 2003-2004 and qualifying under §703.A.5.d;

(a). the state's reported prior year average, truncated to a whole number, plus 3 points, but never less than 23 for the Opportunity Award; or

(b). a 26 for the Performance Award; or

(c). a 30 for the Honors Award; and

ii. if completed the 12th grade level of an approved home study program during or after academic year (high school) 2004-2005 and through academic year (high school) 2006-2007 and qualifying under §703.A.5.d;

(a). the state's reported prior year average, truncated to a whole number plus 2 points, but never less than 22 for the Opportunity Award; or

(b). a 25 for the Performance Award; or

(c). a 29 for the Honors Award; and

iii. if completed the 12th grade level of an approved home study program during or after the academic year (high school) 2007-2008 and after, and qualifying under §703.A.5.d;

(a). the state's reported prior year average, truncated to a whole number, plus 2 points, but never less than 22 for the Opportunity Award; or

(b). a 24 for the Performance Award; or

(c). a 28 for the Honors Award; and

d.i. if qualifying under §703.A.5.e by graduating from a high school defined in §1701.A.5; which is limited to the Opportunity Award only; the state's reported prior year average, truncated to a whole number, plus 3 points, but never less than 23;

ii. if qualifying under §703.A.5.e by successfully completing the 12th grade level a home study program approved by BESE and conducted outside the United States and its territories during or before the academic year (high school) 2003-2004 or during or after the academic year (high school) 2008-2009; which is limited to the Opportunity Award only; the state's reported prior year average, truncated to a whole number, plus 3 points, but never less than 23;

iii. if qualifying under §703.A.5.e by successfully completing the 12th grade level a home study program approved by BESE and conducted outside the United States and its territories during or after the academic year (high school) 2004-2005 and through the academic year (high school) 2007-2008; which is limited to the Opportunity Award only; the state's reported prior year average, truncated to a whole number, plus 2 points, but never less than 22;

e. if qualifying under §703.A.5.f; which is limited to the Performance Award only; a 24; and

7. not have a criminal conviction, except for misdemeanor traffic violations, and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

8. agree that awards will be used exclusively for educational expenses.

B. Students qualifying:

1. under §703.A.5.a and b during or before academic year (high school) 2006-2007, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.50 for the Performance or Honors Awards;

2. under §703.A.5.a and b during or after academic year (high school) 2007-2008, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.00 for the Performance or Honors Awards;

3. under §703.A.5.a and b in academic year (high school) 2020-2021 must have attained a TOPS cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.25 for the Performance; or

c. a 3.50 for the Honors Award;

4. under §703.A.5.f and graduating in academic year (high school) 2000-2001 through 2005-2006, must have attained a TOPS cumulative high school grade point average, based on a 4.00 maximum scale, of at least a 3.00 for the Performance Award.

C. - J.4.b.ii. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:651, 664 (April 2015), LR 41:1486 (August 2015), LR 41:2596, 2599 (December 2015), LR 42:

Chapter 21. Miscellaneous Provisions and Exceptions

§2107. Funds and Funding

A. - B. …

C. Insufficient Funds Appropriated

1. All LASFAC-administered state scholarship and grant program awards are contingent upon the annual appropriation of funds by the Louisiana Legislature.

2. In the event appropriated funds are insufficient to fully reimburse institutions for awards and stipends for all students determined eligible for the TOPS Opportunity, Performance, Honors and Tech Awards for a given academic year, each student's award, including stipends for TOPS Performance and Honors awards, shall be reduced by an equal percentage on a pro rata basis.

3. A student whose award is reduced pursuant to this section shall not be required to accept payment of his award or enroll or maintain continuous enrollment in an eligible college or university during the time period during which there is a funding shortfall. A student who exercises this option:

a. shall be eligible to receive his remaining TOPS award upon enrollment in an eligible college or university, provided the student meets the continuation requirements for his award except as specifically set forth in this Section; and

b. shall exhaust all award eligibility within five years of the reduction of his award, provided that if the student requests and is granted an exception to the requirement to enroll full time or to maintain continuous enrollment in school in accordance with §1901 of these rules, the time period within which the student must exhaust his award eligibility shall be extended by the number of semesters/terms for which he receives an exception.

4. The provisions of this Section shall not apply to the stipend for books and other instructional materials provided to persons serving in the Louisiana National Guard as set forth in §701.E.4.a and b of these rules or to the TOPS-Tech Early Start Program.

D. Stop Payment of Uncleared Checks. The LASFAC may stop payment on checks which are issued as scholarship or grant awards but not negotiated by September 1 following the close of the academic year for which they were issued.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:1998 (September 2000), repromulgated LR 27:1869 (November 2001), amended LR 28:449 (March 2002), LR 28:777 (April 2002), LR 28:2333 (November 2002), LR 31:40 (January 2005), LR 38:3162 (December 2012), LR 42:

Family Impact Statement

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

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG16172NI) until 4:30 p.m., August 9, 2016, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change to implement Acts 18, 388 and 503 of the 2016 Regular Legislative Session may result in a decrease in Taylor Opportunity Program for Students (TOPS) expenditures. The proposed rule change also clarifies noncitizen eligibility and TOPS summer school payments.

Act 388 of the 2016 Regular Legislative Session increases the grade point average (GPA) requirements for TOPS Performance and Honors awards from a 3.0 GPA for both awards to a 3.25 GPA for Performance award and a 3.5 GPA for Honors award. The GPA eligibility changes required by Act 388 will result in a reduction in TOPS Performance and Honors stipend payments and generate a savings, but any decrease would not occur until the 2021-2022 fiscal year.

Act 18 of the 2016 Regular Legislative Session sets the TOPS award amount at the FY 17 level; the award amount can only be raised by an act of the legislature. Any savings would begin in FY 18 in the event institutions increase tuition. Act 18 also changes the rounding provisions for ACT composite scores from rounding up to the nearest whole number to truncating to the nearest whole number. This change has no

impact since the average state ACT score (19.4) is below the minimum ACT score of 20 for the TOPS Opportunity award.

Act 503 of the 2016 Regular Legislative addressed the process for award determination in the event there are insufficient funds for the TOPS Program. Act 502 would allow awards for all recipients to be reduced on a pro-rata basis to meet the funding level. Currently the rule would first eliminate all students who did not submit a Free Application for Federal Student Aid (FAFSA), then prioritize by ACT score and expected family contribution (EFC) in ranges of $1,000. The lowest qualifying ACT score and highest EFC would be eliminated first until sufficient funding is available for awards.

For noncitizen eligibility, the rule clarifies that students eligible as a noncitizen before Act 101 of 2015 changes are still eligible. The rule change clarifies that Performance and Honors TOPS Award level students who attend summer school under current TOPS eligibility criteria are eligible to receive the stipend payments associated with their award along with the summer tuition payment.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Students may be required to pay a larger share of their educational costs if there is a funding shortfall for TOPS (Act 503) or tuition increases that are not covered by their TOPS award (Act 18). In addition, some high school graduates in 2021 and thereafter who would have otherwise qualified for TOPS Performance and Honors Award stipends under current law may not qualify for those stipends under the changes contained in Act 388 and thus may receive reduced funding for their education costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected by the proposed change.

Robyn Rhea Lively	John D. Carpenter
Senior Attorney	Legislative Fiscal Officer
1607#017	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Board of Dentistry

Dentists and Dental Hygienists Licensure Examination
(LAC 46:XXXIII.1709 and 1711)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), notice is hereby given that the Department of Health, Board of Dentistry intends to amend LAC 46:XXXIII.1709 and 1711.

The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.1709 to remove the requirement that an applicant first applies to the agency whose examination the board accepts because it is unnecessary now that the Louisiana state board accepts (or will accept) American Board of Dental Examiners (ADEX) given by any testing agency and not only Council for Interstate Testing Agencies (CITA) for licensure for by examination.

The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.1711 to allow the acceptance of the American Board of Dental Examiners (ADEX) Dental Hygiene Examination given by any testing agency for initial licensure by examination. Further, the Louisiana State Board of Dentistry is amending LAC 46:XXXIII.1711 to remove the requirement that an applicant first applies to the agency whose examination the board accepts because it is unnecessary now that the Louisiana state board accepts (or will accept) (ADEX) given by any testing agency and not only (CITA) for licensure for by examination.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Profession
Chapter 17. Licensure Examination
§1709. Examination of Dentists

A. An applicant shall be entitled to take the examinations required in this Section to practice dentistry in this state if such applicant:

1. is 18 years of age or older;
2. is of good moral character;
3. is a graduate of a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, if any, or any other nationally recognized accrediting agency; and
4. has successfully completed the National Board of Dental Examiners dental examination.

B. To be licensed as a dentist in this state, an applicant for initial licensure must successfully complete the following:

1. a written examination on the jurisprudence and ethics of the state regulating the practice of dentistry; and
2. the Louisiana State Board of Dentistry approved clinical examination. This examination will be named by the board and this approval may be changed or amended as deemed necessary by the board.

C. Examination scores are valid for initial licensure for three years following the candidate's successful completion of an accepted licensing examination. The examinations accepted by the Louisiana State Board of Dentistry for initial licensure by examination are as follows:

1. examinations conducted prior to January 1, 2012, by Council of Interstate Testing Agencies (CITA), Central Regional Dental Testing Service (CRDTS), Northeast Regional Examining Board (NERB), Southern Regional Testing Agency (SRTA), and Western Regional Examining Board (WREB);
2. examinations conducted after January 1, 2012, by Council of Interstate Testing Agencies (CITA);
3. the American Board of Dental Examiners (ADEX) Dental Examination.

D. The board is expressly authorized to utilize the services of other licensed dentists to facilitate the examination.

E. No clinical licensing examination may be conducted in the state of Louisiana without the written permission from the Louisiana State Board of Dentistry. For permission to be granted, the agency conducting the examination must have at least four current members of the Louisiana State Board of Dentistry participating in the clinical licensing examination.

F. Notwithstanding any other law to the contrary or any examination manual of any of the testing agencies listed in Subsection C of this Section, no candidate for licensure in

the state of Louisiana will be granted same if said candidate has failed any clinical licensing examination for a total of three times. This number includes the accumulation of all examinations taken regardless of the testing agency. This number excludes failures of clinical examinations taken prior to an applicant's final year of dental school. A make-up examination counts as an examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:2513 (December 2002), LR 33:2654 (December 2007), LR 37:1407 (May 2011), LR 37:2151 (July 2011), LR 37:3516 (December 2011), repromulgated LR 38:356 (February 2012), amended LR 38:1959 (August 2012), LR 39:86 (January 2013), LR 39:1282 (May 2013), LR 40:783 (April 2014), amended by the Department of Health, Board of Dentistry, LR 42:

§1711. Examination of Dental Hygienists

A. An applicant shall be entitled to take the examinations required in this Section to practice dental hygiene in this state if such applicant:

1. is 18 years of age or older;
2. is of good moral character;
3. is a graduate of a dental hygiene college or school approved by the board or accredited by the Commission on Accreditation of the American Dental Association or its successor agency; and
4. has successfully completed the National Board dental hygiene examination as administered by the American Dental Association.

B. To be licensed as a dental hygienist in this state, an applicant must successfully complete the following:

1. a written examination on the jurisprudence and ethics of the state regulating the practice of dental hygiene; and
2. the clinical examination administered by the Louisiana State Board of Dentistry approved testing agency. This agency will be named by the board and this relationship may be changed or amended as deemed necessary by the board.

C. Examination scores are valid for initial licensure for three years following the candidate's successful completion of an accepted licensing examination. The examinations accepted by the Louisiana State Board of Dentistry for initial licensure by examination are as follows:

1. examinations conducted by Council of Interstate Testing Agencies (CITA);
2. the American Board of Dental Examiners (ADEX) dental hygiene examination.

D. The board is expressly authorized to utilize the services of other licensed dentists to facilitate the examination.

E. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:1779 (August 2002), LR 33:2654 (December 2007), LR 37:1407 (May 2011), LR 37:2151 (July 2011), LR 37:3516 (December 2011), repromulgated LR 38:356 (February 2012), amended LR 38:1960 (August 2012), amended by the Department of Health, Board of Dentistry, LR 42:

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed rulemaking should not have any know or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on these proposed Rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of the publication of this notice.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur Hickham, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Advertising and Soliciting by Dentists and Complaints and Investigation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated one-time implementation cost to the Board of Dentistry for the publication of the proposed notice and rules in the State Register is approximately $500 in FY 17. There are no estimated implementation cost or savings to state or local governmental units through promulgation of the proposed rules changes.

The proposed rule changes to LAC 46:XXXIII.1709 revises language from when Louisiana accepted test results conducted by only one testing agency, the Council for Interstate Testing Agencies (CITA). The proposed rule change will allow Louisiana to accept test results from any testing agency that administers the American Board of Dental Examiners (ADEX) Dental Hygiene Examination for purposes of licensure regardless of which testing agencies gives the ADEX test.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no estimated effect on revenue collections by the board, state, or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The acceptance of the American Board of Dental Examiners (ADEX) Dental Hygiene Examination for initial licensure will allow licensees who take the examination to obtain a license in 45 jurisdictions including Louisiana. Therefore, licensees will benefit from the mobility allowed by completing this examination.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change to LAC 46:XXXIII.1711 "Examination of Dental Hygienists" may increase competition and employment opportunities as individuals successfully completing the ADEX Dental Hygiene Examination accepted in 45 jurisdictions may also seek licensure in Louisiana.

Arthur F. Hickman, Jr.
Executive Director
1607#068

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Board of Medical Examiners

Medications Used in the Treatment of Obesity
(LAC 46:XLV.6905)

Notice is hereby given in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270 and R.S. 37:1285(B), the board intends to amend its rules governing physician prescription, dispensation and administration of medications used in the treatment of obesity, LAC 46:LXV.6905. The proposed amendment would add a new Subsection (§6905.C) to the board's existing rules to expand the medication that may be utilized in the treatment of obesity to include the components of non-controlled drugs, which have been approved for the treatment of exogenous obesity by the U.S. Food and Drug Administration (FDA), even though such components have not been separately approved for such purpose by the FDA. The proposed amendment is set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 3. Practice
Chapter 69. Prescription, Dispensation, and Administration of Medications
Subchapter A. Medications Used in the Treatment of Obesity

§6905. Prohibitions

A. - B. …

C. When a non-controlled drug has been approved in the treatment of exogenous obesity by the FDA, the prohibitions in Subsection A of this Section shall not prevent the individual components of such drug from being separately prescribed, dispensed or administered for the treatment of obesity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 37:1270(B)(6), and 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:744 (July 1992), amended by the Department of Health, Board of Medical Examiners, LR 42:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendment on the family has been considered. It is not anticipated that the proposed amendment will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendment on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendment will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Impact Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendment on organizations that provide services for individuals with development disabilities has been considered. It is not anticipated that the proposed amendment will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., August 19 2016.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on August 24, 2016 at 9 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Eric D. Torres
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Medications Used in the Treatment of Obesity

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated one-time implementation cost to the Board of Medical Examiners for the publication of the proposed notice and rules in the State Register is approximately $319 in FY 17. There are no estimated implementation cost or savings to state or local governmental units through promulgation of the proposed rules changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the Board's revenue collections or those of any other state or governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change provides that the components of non-controlled medications that have been approved by the U.S. Food and Drug Administration (FDA) for use in the treatment of exogenous obesity may also be utilized by physicians in the treatment of obesity, even if these components have not been separately approved by the FDA for such purposes. Physicians and their patients, who may desire to receive such therapy on their physician's recommendation, will be directly affected by the proposed rule amendment. Otherwise, the proposed rule change will not have a material effect on costs, paperwork, or workload of physicians and/or income of licensees or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule change will have any impact on competition or employment in either the public or private sector.

Eric D. Torres
Executive Director
1607#067

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Board of Speech-Language Pathology and Audiology

Speech-Pathology and Audiology
(LAC 46:LXXV.103, 107, 109, 119, 121, 123, 130, 131, 501, and 505)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:3085, that the Board of Speech-Language Pathology and Audiology proposes to amend its current regulations to make technical changes and clarifications, add definitions for telehealth/telepractice, remove hearing aid dispensing fee from renewal and initial applications, and add telehealth registration fees.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXV. Speech Pathology and Audiology
Chapter 1. General Rules
§103. Definitions

A. ...

* * *

Asynchronous Store and Forward Transfer—the transmission of client information in the delivery of telehealth services from an originating site to the provider at the distant site without the client being present.

* * *

Distant Site—the site at which the healthcare provider delivering the service is located at the time the service is provided via a telecommunication system.

* * *

Originating Site—the location of the client at the time the service is furnished via a telecommunications system or when the asynchronous store and forward transfer occurs.

* * *

Synchronous Interaction—communication through interactive technology in the delivery of telehealth services that enable an audiologist or speech-language pathologist and a client at two locations separated by distance to interact via two-way video and audio transmissions simultaneously.

* * *

Telehealth—a mode of delivering audiology and speech-language pathology services that utilizes information and communication technologies to enable the diagnosis, consultation, treatment, education care management, and self-management of clients at a distance from the audiologist or speech-language pathologist provider. Telehealth allows services to be accessed when providers are in a distant site and patients are in the originating site. Telehealth facilitates self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

* * *

Telehealth Registration—limited to out-of-state residents whose out-of-state audiology or speech-language pathology license does not require supervision, is an unrestricted and unencumbered license in good standing to perform audiology or speech-language pathology in the state in which the provider is located, and the license is comparable to the license in Louisiana as determined by this board.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:705 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), LR 28:1781 (August 2002), LR 30:2307 (October 2004), LR 33:2192 (October 2007), LR 37:2392 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:

§107. Qualifications for Licensure

A. - J.2. …

K. Examination Requirement—Speech-Language Pathology License, Provisional Speech-Language Pathology License, Audiology License, Provisional Audiology License

1. The board recognizes only the Educational Testing Service's specialty area examinations for speech-language pathology and audiology as the licensure examination for speech-language pathology and/or audiology. Scores received directly from the applicant are not acceptable for licensing purposes.

2. The passing score for the audiology area examination is a minimum score of 170.

3. The passing score for the speech-language pathology area examination is a minimum score of 162.

4. If an individual has never held a license to practice audiology or speech-language pathology in another state, and if the degree program was completed greater than ten years from the date of application, the passing score on the specialty area examination for speech/language pathology or audiology must have been obtained within the last five years.

L. - L.1.c. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1690 (October 2001), amended LR 28:1781 (August 2002), LR 30:2308 (October 2004), LR 33:2192 (October 2007), LR 37:2393 (August 2011), LR 39:1042 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:

§109. Application Procedures

A. - P. …

Q. Licensing Military Members and Military Spouses

1. Expedited application for licensure shall be granted to military members and military spouses in the area of audiology or speech-language pathology, licensed, certified or registered in another jurisdiction, while the individual is satisfying the requirement for licensure.

a. …

b. Military members shall submit with the application a copy of current military-issued identification and military orders.

c. …

2. In accordance with the 60-day grace period, military applicants shall submit:

a. military members—official, primary-source documentation verifying requirements met in accordance with §107 and §111.

b. …

3. Active and retired military members and military spouses shall be given a 60-day grace period for submission of official documentation from the date their notarized application and license fee are received by the board office, regardless of lapsed license status. The board may consider an extension of this grace period as per House Concurrent Resolution 74 of the 2015 Regular Session of the Louisiana Legislature.

4. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:1974 (September 2002), LR 30:2311 (October 2004), LR 33:2193 (October 2007), LR 37:2393 (August 2011), repromulgated LR 37:2623 (September 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:

§119. Fees

A. The board collects the following fees, which are non-refundable:

1. initial Louisiana license application—$125;

2. dual license application (to include hearing aid dispensing)—$225;

3. renewal of license submitted on or before June 30, of each year (including hearing aid dispensing)—$65;

a. dual licensure renewal (including hearing aid dispensing)—$90;

4. delinquent renewal fee submitted between July 1 and July 31, of each year (including hearing aid dispensing)—$130;

a. dual licensure (including hearing aid dispensing)—$180;

5. delinquent renewal fee submitted between August 1 and October 31, of each year (including hearing aid dispensing)—$260;

a. dual licensure (including hearing aid dispensing)—$360;

6. registration fee for audiologists to dispense hearing aids—$25;

7. initial telehealth registration fee—$50;

8. renewal of telehealth registration submitted on or before June 30, of each year—$25;

9. renewal of telehealth registration submitted between July 1 and July 31, of each year—$50;

10. licensure upgrade—$30;

11. continuing education pre-approval fee for corporations or individuals who are not LBESPA licensees—$50;

12. mailing list—$0.05 per name and address plus postage and handling;

13. NSF or returned check—$40;

14. open book test fee—$30:

a. open book retest fee, per section—$10;

15. publications to include law, rules, etc.—$5 ea. plus postage and handling;

16. re-issuance of license certificate—$25;

17. subpoena within East Baton Rouge Parish—$50:

a. subpoena plus state-allowed travel rate per mile outside East Baton Rouge Parish—$50;

18. verification of license (written)—$10;

19. an additional fee may be charged for credit card transactions in accordance with state treasury rules.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:350 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1691 (October 2001) amended LR 30:2313 (October 2004), LR 33:2195 (October 2007), LR 37:2395 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:

§121. License Renewals

A. - E. …

F. Inactive status is granted to licensees who are retired or who do not practice audiology or speech-language pathology during the fiscal year, July 1-June 30.

1. Licensees on inactive status may retain their license by payment of the annual renewal fee.

2. These licensees shall complete the affidavit on the continuing education report and submit it at the time of licensure renewal.

3. The licensee may submit the required five hours of continuing education each year he/she is on inactive status or submit all of the hours the year he/she returns to work in the profession.

4. Licensees on inactive status or who are retired shall not supervise individuals or otherwise engage in the practice of audiology or speech-language pathology.

5. In order to resume the practice of audiology or speech-language pathology, licensees on inactive status shall demonstrate completion of 5 clock hours of continuing education in the area of licensure for each year that inactive status was maintained (maximum of 25 hours). In addition, a letter requesting a change to active status must be submitted to the board office prior to resuming the practice of audiology or speech-language pathology.

G. - J.4. …

5. Licensees who have allowed their license to lapse for a period of 5 years or greater, and do not hold a current audiology or speech-language pathology license in another state, must submit evidence of 25 continuing education hours directly related to the clinical practice of the license being sought and must have been obtained within the past 18 months.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:351 (May 1996), LR 27:198 (February 2001), LR 28:1972 (September 2002), LR 30:2314 (October 2004), LR 33:2195 (October 2007), LR 37:2395 (August 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:

§123. Continuing Education Requirements

A. - B. …

C. Audiologists who register as dispensing audiologists shall ensure that at least 3 of the total 10 hours are in areas directly related to hearing aid dispensing, such as business/practice management, marketing, aural habilitation/rehabilitation, diagnostic assessment, characteristics of hearing aids and their application, etc.

D. …

E. Out-of-state audiologists and speech-language pathologists who hold telehealth registration shall complete the continuing education requirements consistent with the license the individual possesses for the state in which the provider is located. Telehealth Registrants residing in states which do not require continuing education for audiologists and/or speech-language pathologists shall complete the annual continuing education requirements specified in this Section and may be audited.

F. Continuing education events occurring in the month of June will be accepted for the collection period in which they occur or they may be counted in the following collection period which begins on July 1. Hours from one event may not be divided between two collection periods.

G. The graduated scale for the collection of continuing education hours is based on the date an applicant receives his/her initial license.

License Received	Hours Required
April, May, June	0
January, February, March	3
October, November, December	6
July, August, September	10

H. In the case of extenuating circumstances, when the licensee does not fulfill the continuing education requirements, the licensee shall submit a written request for extension to the board for consideration.

I. Continuing education hours accrued during the applicant's grace period will be accepted.

J. Acceptable continuing education sponsors and activities that are directly related to the practice of audiology and/or speech-language pathology:

1. board-sponsored activities;

2. presentations in the area of communication disorders sponsored by professional organizations such as American Academy of Audiology (AAA), American Speech-Language-Hearing Association (ASHA), Louisiana Academy of Audiology (LAA), Louisiana Speech-Language-Hearing Association (LSHA), Speech Pathologists and Audiologists in Louisiana Schools (SPALS), Louisiana Society for Hearing Aid Specialists, etc.;

3. activities provided by ASHA-approved continuing education providers or AAA-approved continuing education activities;

4. meetings of related professional organizations (e.g., Council for Exceptional Children, Orton Dyslexia Society);

5. college courses in the area of licensure taken for credit or official audit (3 semester hours or 6 quarter hours=10 hours of continuing education);

6. distance learning (video conferences, telephone seminars and internet courses sponsored by universities, schools, clinics, state agencies, hospitals, professional organizations, or related professional organizations);

7. workshops and in-services that are university, school, clinic, hospital or state agency sponsored (maximum of five hours in a related area);

8. publication of an article in a peer-reviewed journal for the year in which it was published;

9. digital media (e.g. CD, DVD, online webinars, etc.) which is ASHA-approved and AAA-approved continuing education media;

10. the presenting licensee may count 1 1/2 times the value of an activity the first time it is presented to allow for preparation time (example: a 3 hour workshop=4 1/2 hours). The activity will count for the actual hour value for each subsequent presentation of the same activity;

11. teaching at the college level in the area of communication disorders is not acceptable.

K. Pre-Approval Policy

1. Pre-approval is required for continuing education events that do not meet the requirements as listed under §123.I.1-11, and pre-approval of continuing education events is required in those situations where it is unclear whether or not the topic is relevant to the profession or will further a professional's expertise in a particular area.

2. The licensee shall request pre-approval (minimum of 30 days in advance) of self-study activities, or other appropriate activities.

3. Individuals not licensed by LBESPA as well as corporations offering continuing education not addressed under §123.I, must submit a $50 continuing education review fee along with the pre-approval request.

4. Licensees who elect to attend university classes/courses in speech-language pathology and/or audiology without payment of the university fee shall submit a self-study plan for pre-approval from the Louisiana Board of Examiners for Speech-Language Pathology and Audiology to receive continuing education credits.

5. Self-study activities in the area of communication disorders:

a. digital media (maximum of 5 hours);

b. reading of journal articles that contain self-examination questions at the end. Articles shall be submitted for pre-approval (maximum of 5 hours).

6. Publication of diagnostic and/or therapeutic materials (maximum of 5 hours).

L. Recording of Continuing Education Activities

1. Licensees shall record all continuing education activities as prescribed by the board and submitted at the time of renewal.

2. The board may request, through random audit, verification of clock hours submitted, including information regarding content and attendance. A percentage will be audited each year as a means of evaluating compliance with the continuing education requirements.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:351 (May 1996), amended LR 27:199 (February 2001), LR 28:1973 (September 2002), LR 30:2314 (October 2004), LR 33:2196 (October 2007), LR 37:2395 (August 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:

§130. Telepractice

A. Telepractice, regardless of where the service is rendered or delivered, constitutes the practice of audiology or speech-language pathology and shall require Louisiana licensure for in-state practitioners and telehealth registration for out-of-state licensed practitioners.

B. A provider of telehealth services shall be competent in both the type of services provided and the methodology and equipment used to provide the services.

C. A provider of telehealth services must use methods for protecting client information that include authentication and encryption technology.

D. The standard of care shall be the same as if the audiology or speech-language pathology services were delivered face-to-face. It is the responsibility of the provider to determine candidacy and to ensure that the client is comfortable with the technology being utilized.

E. The client shall be notified of telehealth services including but not limited to the right to refuse telehealth services, options for service delivery, and instructions on filing and resolving complaints, in all applicable jurisdictions.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 39:1044 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:

§131. Hearing Aid Dispensing

A. Audiologists who dispense hearing aids shall meet the coursework and practicum requirements for dispensing as specified in R.S. 37:2650 et seq., and shall indicate their intent to do so at the time of each license renewal.

1. - 2. Repealed.

B. - D. …

E. Repealed.

F. Audiologists who dispense hearing aids shall comply with the following.

1. - 1.b.…

c. a basic audiological test battery conducted within the preceding six-month period in a sound-treated environment unless the patient's physical condition prohibits accomplishment of these procedures. The battery shall include:

F.1.c.i. - H.2. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:353 (May 1996), amended LR 27:201 (February 2001), LR 28:1975 (September 2002), LR 30:2317 (October 2004), LR 33:2198 (October 2007), LR 37:2398 (August 2011), repromulgated LR 37:2624 (September 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:

Chapter 5. Procedural Rules

§501. Investigation of Complaints

A. - C. …

D. Once a written complaint is received, the board shall initiate a review of the allegations contained therein. The

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

E. - I. …

J. A complaint may be resolved by:

1. a private letter of concern to the licensee or other appropriate parties.

2. a consent agreement and order approved by the board and entered into by the licensee.

K. - N. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:373 (April 1991), amended LR 22:356 (May 1996), LR 30:2320 (October 2004), LR 33:2200 (October 2007), LR 37:2398 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:

§505. Formal Disciplinary Hearings

A. If, after completion of the investigation, the board determines that the circumstances may warrant the withholding, denial, suspension, or revocation of a license, or other disciplinary action, the board shall initiate a formal disciplinary hearing. The board shall promptly notify the attorney general who is authorized and directed to appear on behalf of the state. The hearing shall convene in the parish in which the board is domiciled. The hearing shall be held before the board only after the involved licensee is given at least 30-days' notice by certified mail, return receipt requested. The notice shall include the following:

A.1. - K.2. …

3. Repealed.

4. issue a public letter of reprimand or concern;

5. require restitution of costs and expenses incurred by the board related to the enforcement of R.S. 37:2650 et seq.;

6. impose probationary conditions;

7. impose a fine for each violation not to exceed $1,000 per violation;

8. suspend a license;

9. revoke a license;

10. restrict the license by limiting or reducing the scope of practice; and/or

11. otherwise discipline a licensee.

L. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:357 (May 1996), LR 30:2321 (October 2004), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of services, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jolie Jones, Executive Director, Louisiana Board of Examiners for Speech-Language Pathology and Audiology, 37283 Swamp Road, Suite 3B, Prairieville, LA 70769. Mrs. Jones is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the day of the hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Saturday, August 27, 2016 at 9 a.m. in the conference room at the board office, 37283 Swamp Road, Suite 3B, Prairieville, LA 70769. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Jolie Jones
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Speech-Pathology and Audiology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated costs to the Louisiana Board of Examiners for Speech-Language Pathology and Audiology (LBESPA) include publishing the Notice of Intent ($1,500) and uploading the new rules to the website ($100). All implementation expenditures will be made in FY 16-17. There are no estimated implementation savings to state or local governmental units through promulgation of the proposed rules changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes are anticipated to result in a net increase of $300 in annual revenue collections for the Board of Examiners for Speech-Language Pathology and Audiology (LBESPA) as a result of the licensure verification fee increase and the elimination of the hearing aid dispensing fee for audiologists with doctoral degrees.

The increased fee of $5 for licensure verifications is anticipated to increase annual revenues by approximately $700 in FY 17 based on 140 licensure verifications.

Audiologists with doctoral degrees have met the required coursework and practicum required to dispense hearing aids and their transcripts do not have to be evaluated as they have in the past. As a result of the proposed elimination of the $25 fee for hearing aid dispensing, the Board of Examiners anticipates an annual decrease in annual revenues of approximately $400 in FY 17 based on 16 applications.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Audiologists and Speech-Language Pathologists will incur an additional cost as a result of the $5 increase to the licensure verification fee. However, audiologists with doctoral degrees will benefit from the Board no longer charging an additional fee of $25 for hearing aid dispensing for applications and renewals.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of this rule change.

Jolie Jones	Evan Brasseaux
Executive Director	Staff Director
1607#040	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Facility Need Review
Hospital Off-Site Campuses
Emergency Services
(LAC 48:I.Chapter 125)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.12501 and 12503 and adopt §12522 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2116. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated a Rule which amended the provisions governing the Facility Need Review (FNR) Program in order to remove outpatient abortion facilities from the FNR process (*Louisiana Register,* Volume 42, Number 1).

The department has now determined that it is necessary to amend the provisions governing the Facility Need Review Program in order to establish an FNR process for off-site campuses of licensed hospitals that provide emergency services.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 5. Health Planning
Chapter 125. Facility Need Review
Subchapter A. General Provisions
§12501. Definitions

A. ...

* * *

Emergency Services—services performed within a hospital licensed by the Department of Health pursuant to R.S. 40:2101 et seq., or at an *off-site campus* as defined in LAC 48:I.9303, and which include, but are not limited to, those services necessary to screen, evaluate and stabilize an emergency medical condition. Emergency services provided at a licensed off-site campus shall be operated and integrated as part of the services of the licensed hospital.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:2611 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:1961 (August 2012), LR 41:135 (January 2015), LR 41:2636 (December 2015), LR 42:61 (January 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

§12503. General Information

A. - B. ...

C. The department will also conduct an FNR for the following provider types to determine if there is a need to license additional units, providers or facilities:

1. - 3. ...
4. hospice providers or inpatient hospice facilities;
5. pediatric day health care facilities; and
6. off-site campuses of a licensed hospital, as defined in LAC 48:I.9303, which provide emergency services.

D. - H.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:2612 (December 2008), amended LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:1593 (July 2012), LR 38:1961 (August 2012), LR 41:136 (January 2015), LR 42:61 (January 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

Subchapter B. Determination of Bed, Unit, Facility or Agency Need
§12522. Hospitals—Licensed Off-Site Campuses Emergency Services

A. No hospital off-site campus providing emergency services shall be licensed to operate unless the FNR Program has granted an approval for the issuance of an off-site campus license to provide emergency services.

1. Once the FNR Program approval is granted, an off-site campus is eligible to be licensed (as part of the hospital) by the department to provide emergency services, subject to meeting all of the requirements for licensure.

B. The service area for a proposed or existing hospital off-site campus providing emergency services shall be within a 35-mile radius from the hospital's main campus location.

C. The hospital off-site campus providing emergency services shall not have a greater number of emergency department (ED) beds than the number of licensed inpatient beds at the hospital's main campus facility.

D. If the hospital's main campus facility has more than one off-site campus that provides emergency services, the total number of (ED) beds at all off-site campuses providing emergency services shall not be greater than the number of licensed inpatient beds at the hospital's main campus facility.

E. Determination of Need/Approval

1. The department will review the application to determine if there is a need for an additional off-site campus providing emergency services in the hospital's main campus' 35-mile radius service area.

2. The department shall grant FNR approval only if the FNR application, the data contained in the application, and other evidence effectively establishes the probability of serious, adverse consequences to individuals' ability to access emergency services if the off-site campus providing emergency services is not allowed to be licensed.

3. In reviewing the application, the department may consider, but is not limited to, evidence showing:

a. the number of other licensed facilities providing emergency services in the main campus' service area; and

b. individuals' inability to access emergency services.

4. The burden is on the applicant to provide data and evidence to effectively establish the probability of serious, adverse consequences to individuals' ability to access emergency services if the facility is not allowed to be licensed. The department shall not grant any FNR approvals if the applicant fails to provide such data and evidence.

F. Applications for approvals of off-site campuses providing emergency services submitted under these provisions are bound to the description in the application with regard to the type of services proposed, as well as to the site and location as defined in the application. FNR approval of facilities shall expire if these aspects of the application are altered or changed.

G. FNR approvals for licensed providers are non-transferrable and are limited to the location and the name of the original licensee.

1. An off-site campus providing emergency services undergoing a change of location in the hospital's main campus' service area shall submit a written attestation of the change of location and the department shall re-issue the FNR approval with the name and new location.

2. An off-site campus providing emergency services undergoing a change of location outside of the hospital's main campus service area shall submit a new FNR application and fee, and undergo the FNR approval process.

3. An off-site campus providing emergency services undergoing a change of ownership shall submit a new application to the department's FNR Program. FNR approval for the new owner shall be granted upon submission of the new application and proof of the change of ownership, which must show the seller's or transferor's intent to relinquish the FNR approval.

4. FNR approval of an off-site campus providing emergency services shall automatically expire if the facility is moved or transferred to another party, entity or location without application to and approval by the FNR program.

H. Off-site campuses providing emergency services shall have 12 months from the date of FNR approval to obtain final architectural plan approval and shall have 24 months from the date of FNR approval within which to become licensed.

1. A one-time 90-day extension may be granted, at the discretion of the department, when delays are caused by circumstances beyond the control of the applicant.

a. Inappropriate zoning is not a basis for extension.

2. Failure to meet the timeframes in this Subsection H shall result in an automatic expiration of the FNR approval.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for August 25, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that

time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Facility Need Review
Hospital Off-Site Campuses
Emergency Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17 since workload associated with any new reviews are anticipated to be absorbed with existing staff and resources. It is anticipated that $972 (SGF) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the Facility Need Review (FNR) Program in order to establish an FNR process for off-site campuses of licensed hospitals that provide emergency services. It is anticipated that implementation of this proposed rule will have no economic costs or benefits to hospitals for FY 16-17, FY 17-18 and FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Health Standards Section Director
1607#048

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Hospital Licensing Standards
Free-Standing Emergency Facilities
Emergency Services
(LAC 48:I.9327)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.9327 as authorized by R.S. 40:2100-2115. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the licensing of hospitals in order to address changes that occurred within the hospital industry (*Louisiana Register*, Volume 29, Number 11). The department now proposes to amend the licensing standards governing hospitals in order to amend the provisions governing emergency services provided by free-standing emergency care facilities.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 93. Hospitals
Subchapter B. Hospital Organization and Services
§9327. Emergency Services

A. - G. ...

H. A free-standing emergency medical care facility that provides emergency services, and which is not a department of a licensed hospital, shall be prohibited from operating.

1. *Emergency Medical Services*—those medical services necessary to screen, evaluate and stabilize an emergency medical condition.

2. Emergency medical services provided at a licensed off-site location shall be operated and integrated as part of the services of the licensed hospital.

I. A licensed hospital shall not have a greater number of emergency department (ED) beds than the licensed inpatient bed capacity.

J. Any licensed hospital seeking to add an off-site location for an ED shall be required to apply for and obtain approval through the facility need review (FNR) process.

K. The hospital off-site campus providing emergency services shall not have a greater number of ED beds than the number of licensed inpatient beds at the hospital's main campus facility.

L. If the hospital's main campus facility has more than one off-site campus that provides emergency services, the total number of ED beds at all off-site campuses providing emergency services shall not be greater than the number of licensed inpatient beds at the hospital's main campus facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2407 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring the safe operation of hospitals that provide emergency services to families.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has

been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and will not increase direct or indirect cost to the provider to provide the same level of service. This proposed Rule will not impact the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, August 25, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Hospital Licensing Standards
Free-Standing Emergency Facilities
Emergency Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. It is anticipated that $432 (SGF) will be expended in FY 16-17 for the state's administrative expense for the promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect revenue collections since free-standing emergency care facilities will not be permitted to operate separately and independently from a licensed hospital. Their services must be integrated within the services of an already licensed hospital which would not generate any new licensing revenue.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the licensing standards governing hospitals in order to amend the provisions governing emergency services provided by free-standing emergency facilities. It is anticipated that the implementation of this proposed rule will have no economic costs or benefits to hospitals in FY 16-17, FY 17-18 and FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Section Director
1607#049

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Medicaid Eligibility
New Adult Eligibility Group
(LAC 50:III.2317)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:III.2317 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing amended the provisions governing Medicaid eligibility to adopt provisions in the Medicaid Program to expand coverage to the new adult group (*Louisiana Register*, Volume 42, Number 5). The department now proposes to amend the provisions governing the new adult eligibility group in order to clarify the provisions of the May 20, 2016 Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 3. Eligibility Groups and Factors
Chapter 23. Eligibility Groups and Medicaid Programs
§2317. New Adult Eligibility Group

A. - C.2. ...

3. not entitled to, or enrolled in Medicare Part A or Medicare Part B;

4. not otherwise eligible for and enrolled in mandatory coverage under the Medicaid State Plan;

a. Parents, children or disabled persons receiving Supplemental Security Income (SSI) benefits are excluded from enrollment as a new adult; and

5. parents or other caretaker relatives living with a dependent child(ren) under age 19 who are receiving benefits under Medicaid, the Children's Health Insurance Program, or otherwise enrolled in minimum essential coverage as defined in 42 CFR 435.4.

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:755 (May 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, August 25, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Medicaid Eligibility
New Adult Eligibility Group

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. It is anticipated that $324 ($162 SGF and $162 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 16-17. It is anticipated that $162 will be collected in FY 16-17 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the new adult eligibility group in order to clarify the provisions of the May 20, 2016 Rule. It is anticipated that implementation of this proposed rule will not have economic costs or benefits for FY 16-17, FY 17-18 and FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele	Gregory V. Albercht
Medicaid Director	Chief Economist
1607#050	Legislative Fiscal Office

NOTICE OF INTENT

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

Personal Care Services—Long-Term
Non-Medical Transportation Services
(LAC 50:XV.12903)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XV.12903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing long-term personal care services (LT-PCS) in order to 1) terminate the Louisiana Personal Options Program (La POP); 2) revise the eligibility requirements for shared LT-PCS; and 3) clarify the provisions governing the activities of daily living (*Louisiana Register*, Volume 42, Number 6). The amendment erroneously continued provisions that addressed non-medical transportation which should have been repealed. The department now proposes to amend the provisions governing LT-PCS to remove the non-medical transportation services provisions erroneously continued in the June 20, 2016 Rule in order to ensure that the provisions are promulgated accurately in the *Louisiana Administrative Code*.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 9. Personal Care Services
Chapter 129. Long Term Care
§12903. Covered Services

A. - C. ...

1. Repealed.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2507 (September 2013), LR 42:902 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 42:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for August 25, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Personal Care Services—Long-Term Non-Medical Transportation Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. It is anticipated that $432 ($216 SGF and $216 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 16-17. It is anticipated that $216 will be collected in FY 16-17 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing Long-Term Personal Care Services (LT-PCS) to make technical changes to remove the non-medical transportation services provisions erroneously continued in the June 20, 2016 Rule in order to ensure that the provisions are promulgated accurately in the Louisiana Administrative Code. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to LT-PCS providers for FY 16-17, FY 17-18, and FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele	Gregory V. Albrecht
Medicaid Director	Chief Economist
1607#051	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Office of Aging and Adult Services

Spinal Cord Injury (LAC 48:I.1905)

The Louisiana Department of Health, Office of Aging and Adult Services proposes to amend the language included in the definition of *spinal cord injury* to comply with the definition as set forth in R.S. 46:2632. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:450 et seq.

The Louisiana Department of Health, Office of Aging and Adult Services, assumed the Traumatic Head and Spinal Cord Injury Trust Fund and its functions as promulgated in LR 40:84.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 1. General
Chapter 19. Traumatic Head and Spinal Cord Injury
§1905. Definitions
[Formerly LAC 67:VII.1905]

* * *

Spinal Cord Injury—an insult to the spinal cord, not of a degenerative or congenital nature but caused by an external physical force resulting in paraplegia or quadriplegia.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1253 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:84 (January 2014), amended by the Department of Health, Office of Aging and Adult Services, LR 42:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have neutral impact on family formation, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Melanie Richard, Louisiana Department of Health, Office of Aging and Adult Services, P.O. Box 2031 (Bin 14), Baton Rouge, LA 70821 or by email to Melanie.Richard@la.gov. Ms. Richard is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Monday, August 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Spinal Cord Injury

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Louisiana Administrative Code (LAC) Title 48, Part I, Chapter 19—Traumatic Head and Spinal Cord Injury, in order to remedy a disparity between the definition of Spinal Cord Injury found in the existing LAC 48:1905 and R.S. 46:2632. The definition of *Spinal Cord Injury* in LAC 48:1905 is being amended so that it corresponds with the definition as written in R.S 46:2632 by specifying "paraplegia" in lieu of "paraparesis/plegia" and "quadriplegia" in lieu of "quadraparesis/plegia".

The proposed rule will have no programmatic fiscal impact to the Louisiana Department of Health other than the cost of rule promulgation for FY 17. The cost of rulemaking is anticipated to be $426 in State General Fund for promulgation of both the proposed rule and the final rule. The cost of rulemaking is routinely included in the agency's annual operating budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect revenue collections for FY 17.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that implementation of this proposed rule will have no economic cost or benefits to directly affected persons or non-governmental groups for FY 17, FY 18, and FY 19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule has no known effect on competition and employment.

Tara LeBlanc	John D. Carpenter
Assistant Secretary	Legislative Fiscal Officer
1607#055	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission

Permit Fees (LAC 55:IX.107)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, in accordance with R.S. 40:1846 and with the Administrative Procedure Act., R.S. 49:950 et seq., hereby gives notice of its intent to amend §107 with regard to general requirements of permit holders to include a change to permit fees.

Title 55
PUBLIC SAFETY
Part IX. Liquefied Petroleum Gas
Chapter 1. General Requirements
Subchapter A. New Dealers
§107. Requirements

A. - A.5.c. …

6. Applicants shall have paid a permit fee in the amount of $150, except for class VII-E, which shall be $100, and R-1, R-2 registrations, which shall be $37.50 and class VI-X shall be in the amount of $150 for each location. For

fiscal year 2014-2015, and for each subsequent fiscal year, the permit fee shall be 0.1369 of 1 percent of annual gross sales of liquefied petroleum gas with a minimum of $150 for each location. For classes not selling liquefied petroleum gases in succeeding years the permit fee shall be $150, except registrations shall be $37.50 per year.

a. Each class I and class IV dealer shall prepare and submit reports to the commission of each three month period within their annual permit fee calculation period, by the end of the month following each three-month period, in a form acceptable to the commission, the previous three month's purchases and sales. An additional five calendar days shall be granted for mail delays before a violation is issued.

6.b. - 15. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001), LR 28:2553 (December 2002), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:1140 (June 2007), effective July 1, 2007, LR 35:2201 (October 2009), LR 35:2465 (November 2009), LR 38:1256 (May 2012), LR 41:395 (February 2015), LR 42:427 (March 2016), LR 42:

Family Impact Statement

1. The effect of this Rule on the stability of the family. This Rule should not have any effect on the stability of the family.

2. The effect of this Rule on the authority and rights of parents regarding the education and supervision of their children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of this Rule on the functioning of the family. This Rule should not have any effect on the functioning of the family.

4. The effect of this Rule on family earnings and family budget. This Rule should not have any effect on family earnings and family budget.

5. The effect of this Rule on the behavior and personal responsibility of children. This Rule should not have any effect on the behavior and personal responsibility of children.

6. The effect of this Rule on the ability of the family or local government to perform the function as contained in the proposed Rule. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

1. The impact of the proposed rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

2. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Small Business Analysis

1. The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

2. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule does not impact or affect a "provider." "Provider" means an organization that provides services for individuals with developmental disabilities as defined in HCR 170 of the 2014 Regular Session of the Legislature. In particular, the proposed Rule has no effect or impact on a "provider" in regard to:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the provider to provide the same level of service;

3. the ability of the provider to provide the same level of service.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than August 11, 2016 at 4:30 p.m. to Melinda L. Long, 7979 Independence Boulevard, Suite 307, Baton Rouge, LA 70806. A public hearing will be scheduled pursuant to R.S. 49:953(A)(1)(a) if necessary.

John W. Alario
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Permit Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated implementation costs or material savings to state or local governmental units as a result of the proposed rule changes. The proposed rule changes reflect a new fee structure adopted by the LP Gas Commission that increases permit fees for certain propane dealers in Louisiana, as well as create a quarterly reporting requirement of purchases and sales for Class VI dealers. Provisions in the proposed rule changes requiring Class VI permit dealers to submit quarterly purchasing and sales reports represent an extension of the LP Gas Commission's current duties, and the Commission intends to fund any associated expenditures utilizing existing resources and budget authority.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will increase revenues for the statutorily dedicated Liquefied Petroleum Gas Commission Rainy Day Fund by an indeterminable amount in FY 17 and subsequent fiscal years. The proposed rule change states that with the exception of Class VII-E, R-1 and R-2 registrations,

all permit applicants shall pay a permit fee in the amount of $150, an increase of $75 from the current permit fee of $75. The proposed rule also states that an applicant shall pay an additional assessment of 0.1369 of 1 percent of gross annual sales with a minimum assessment of $150 for each additional location, an increase of $75 from the present additional location fee minimum of $75 on the same assessment.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will impact the propane industry by increasing the cost of permit fees. The proposed rule changes increase permit fees for propane dealers by $75, from the current amount of $75 to $150. Furthermore, the proposed rule changes increase the minimum assessment fee for each dealer location to $150 per location, an increase of $75 from the previous minimum of $75 per location. The current rule states that an applicant shall pay an assessment of 0.1369 of 1 percent of gross annual sales for each location with a minimum charge of $75, except in the case of Class VI – X permits, in which case the assessment is $75 for the first location, $50 for each additional 2 to 11 locations and $25 for each location thereafter. The proposed rule change states the permit fee amount shall total 0.1369 of 1 percent for each location with a minimum fee of $150 per location, regardless of the permit class. The LP Gas Commission anticipates the $150 minimum fee to supersede the gross sales assessment for a majority of locations.

The proposed rule changes also require Class VI permit holders to prepare quarterly reports during their annual permitting period outlining purchases and sales. Previously the LP Gas Commission required only Class I and Class IV permit holders to submit quarterly purchasing and sales reports.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment as a result of the proposed rule changes.

Major Jason Starnes	Gregory V. Albrecht
Undersecretary	Chief Economist
1607#070	Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development
Office of Management and Finance

Department Relocation of Publicly Owned or Non-Profit Utilities (LAC 70:II.305)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 48:381(C), that the Department of Transportation and Development, Office of Management and Finance proposes to enact new rules and regulations pertaining to any future relocation of publicly owned or non-profit utility installations by the Department of Transportation and Development pursuant to R.S. 48:381(C)(2) and amend existing Chapter and Section headings to reflect the substance of the new content included in the Chapter. The newly enacted rules and regulations set forth the conditions by which the department may contract itself for utility relocations necessary to accommodate a highway project and the procedure by which a utility may qualify for such assistance.

Title70
TRANSPORTATION
Part II. Utilities
Chapter 3. Department Relocation of Publicly Owned or Non-Profit Utilities
§305. Department Relocation of Publicly Owned or Non-Profit Utilities

A. This Section will apply to any and all qualifying utility relocations resulting from projects that receive federal or other required authorization after the effective date of this Section. The rules and regulations set forth in §301 and §303 of this Chapter will continue to apply to any and all qualifying relocations resulting from projects that have received federal or other required authorization prior to the effective date of this Section. This Section is effective as of the date of this publication as a final Rule in the *Louisiana Register*.

B. When a publicly owned or non-profit utility is not able to bear its share of the cost for adjusting its facilities to accommodate a highway project, the department may enter into a contract for the proposed utility relocation work, either as part of the highway project or through a separate public works contract, if all of the following conditions are met:

1. the utility installation is located on a state-owned right-of-way;

2. the utility installation is owned by a public municipality, parish, or special district created by or pursuant to law or a nonprofit water corporation or nonprofit gas district;

3. it is necessary to remove or relocate such installation for the construction, repair, widening, relocation, or improvement of a state or an interstate highway;

4. the utility is financially unable to bear its share of the adjustment expense, as determined pursuant to the provisions of R.S. 48:381(C)(2)(a) and this Section;

5. the owner of the utility installation agrees in writing, prior to the relocation of the utility installation, to allow the department, its contractor, or employees or agents thereof to modify the utility installation as part of the department's construction project; and

6. the owner of the utility installation agrees in writing, prior to the relocation of the utility installation, to accept ownership and maintenance of any utility installations newly constructed or modified as part of the department's construction project, upon final acceptance of such construction project by the department.

C. Procedure

1. The publicly owned or non-profit utility informs the appropriate district utility specialist, in writing, that it is requesting assistance pursuant to this Section.

2. The utility must provide the following information to the department to begin the certification process:

a. a copy of the utility owner's most recently completed audit report, or evidence that an audit has been initiated if no audit has been performed;

b. a copy of the utility owner's unaudited financial statements covering the period of the date of the last audited financial statements to the current date;

c. a copy of the utility owner's budget, including any amendments, for the current fiscal year;

d. a listing of encumbrances that are payable from the utility owner's current year earnings, meaning those items for which the utility owner has incurred an obligation to expend current year earnings, plus ten percent of the current year's revenue as a reserve; and

e. a signed representation letter prepared on the utility owner's letterhead stating that:

i. the utility owner is familiar with the provisions of R.S. 48:381 and this Section;

ii. the utility owner certifies that the financial statements and other information provided are complete and accurate; and

iii. the utility owner certifies that the financial information is taken from verifiable records and the budget information is based on estimates derived from the financial statements.

3. The appropriate district utility specialist requests that DOTD headquarters personnel, as designated by the secretary, examines the utility's records to determine the utility's eligibility for assistance.

4. The appropriate DOTD headquarters personnel examine the utility's records and inform the appropriate district utility specialist of the utility's eligibility for assistance.

5. If the utility is eligible for assistance, agreements are executed between the owner of the utility and the department as necessary to comply with the terms of this Section and facilitate the utility relocation.

6. If federal aid is anticipated for the project, the Federal Highway Administration is advised that the utility is approved for assistance pursuant to this Section.

7. If the utility owner does not qualify for assistance pursuant to this section, the utility owner may request a second certification review. The department, at its sole discretion, will determine if a second certification review will be granted. The request for the second review should be addressed to the appropriate district utility specialist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Management and Finance, LR 42:

Family Impact Statement

Implementation of this proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability, and autonomy. Specifically:

1. The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed Rule will have no known or foreseeable effect on the family earnings and family budget.

5. The implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or local government to perform this function.

Poverty Impact Statement

The implementation of this proposed Rule should not have any known or foreseeable impact on child, individual, or family poverty in relation to individual or community asset development as defined by R.S. 49:973. Specifically:

1. the implementation of this proposed Rule will have no known or foreseeable effect on household income, assets, and financial security;

2. the implementation of this proposed Rule will have no known or foreseeable effect on early childhood development and preschool through postsecondary education development;

3. the implementation of this proposed Rule will have no known or foreseeable effect on employment and workforce development;

4. the implementation of this proposed Rule will have no known or foreseeable effect on taxes and tax credits;

5. the implementation of this proposed Rule will have no known or foreseeable effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

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

Provider Impact Statement

The implementation of this proposed Rule change does not have any known or foreseeable impact on a provider as defined by House Concurrent Resolution No. 170 of the 2014 Regular Session of the Louisiana State Legislature. Specifically:

1. The implementation of this proposed Rule change does not have any known or foreseeable impact on the staffing level requirements or qualifications required to provide the same level of service.

2. The implementation of this proposed Rule change does not have any known or foreseeable impact on the total direct and indirect effect on the cost to a provider to provide the same levels of service.

3. The implementation of this proposed Rule change does not have any known or foreseeable impact on the overall effect on the ability of a provider to provide the same level of service.

Public Comments

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30

days from the date of publication of this Notice of Intent to Barry D. Keeling, Undersecretary, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245, telephone (225) 379-1270.

Shawn Wilson, Ph.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Department Relocation of Publicly Owned or Non-Profit Utilities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Current regulations allow publicly owned or non-profit utilities located within state highway right-of-way that are unable to bear the cost of removing or relocating their facility to permit the widening, relocation or other improvement of the highway to apply for Utility Relocation Assistance Funding (URAF). The publicly owned or non-profit utility owner, usually a municipality, parish, or special district, must then enter into an agreement with the Department of Transportation and Development (DOTD) promising repayment and carry out the necessary relocation work itself. DOTD's subsequent collection efforts related to this funding usually are not fruitful.

The proposed rule changes shift policy away from the existing URAF program to a relocation procedure in which DOTD may enter into a direct contract for the proposed utility relocation work. This procedure will better comport with the plain language of La. R.S. 48:381(C)(2). DOTD will benefit by adding the work to each underlying highway construction contract, which will shift responsibility for timely relocation of these utilities to the highway contractor and relieve DOTD of any liability to its contractors for delays resulting from the relocation of these utilities as further described herein on page 4.

There is no anticipated cost to implement the proposed rule changes. The department has adequate personnel and resources in the Road Design Section to handle the administration of the new relocation procedure.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is an anticipated reduction in revenue in the form of URAF repayments by the utility owners to DOTD. Because this revenue was derived exclusively from publicly-owned utilities, it is anticipated that there will be an equivalent reduction in expenses of local government units. Further, the majority of URAF recipients were unable to reimburse the department following the removal or relocation of their utilities and the total dollar amount received per fiscal year was negligible, as described herein on page 5, resulting in substantial outstanding and frequently uncollectible debts. Moreover, DOTD anticipates project cost savings that will offset or partially offset the reduction in revenue, as further described herein on page 4.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

As these rules directly apply to DOTD and municipalities, parishes, or special districts, there are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of this new rule.

Barry D. Keeling
Undersecretary
1607#033

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Blue Crab Harvest (LAC 76:VII.346)

Notice is hereby given in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), that the Wildlife and Fisheries Commission proposes to prohibit the commercial harvest of blue crabs and the use of all crab traps during a 30-day period for the years 2017, 2018, and 2019 and restrict the commercial harvest of immature female blue crabs for the years 2017, 2018 and 2019.

All crab traps remaining in state waters during the closure period shall be presumed to be engaged in active fishing and thus considered illegal.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§346. Blue Crab Seasonal Closure and Restriction of Immature Female Harvest

A. The commercial harvest of blue crabs and the use of all crab traps are prohibited for a 30-day period beginning on the third Monday in February for the years 2017, 2018, and 2019. All crab traps remaining in state waters during the closure period shall be presumed to be engaged in active fishing and thus considered illegal.

B. There shall be no commercial harvest of immature female blue crabs for the years 2017, 2018 and 2019 except:

1. when an immature female is in the premolt stage and is being held for processing as soft crabs; or
2. sold to a processor for the making of soft crabs.

C. Obvious signs such crabs are in premolt stage shall include they are no further from molting than having a white line on the back paddle fin, which is recognized by the crab industry as a premolt stage.

D. However, a legally licensed commercial crab fisherman may have in his possession an incidental take of immature female crabs in an amount not to exceed 2 percent of the total number of crabs in his possession.

1. To determine whether the total number of crabs in possession violates this Subsection, the enforcement agent shall take:
   a. a random sample of 50 crabs from each crate; or
   b. group of crabs equivalent to one crate.
2. If more than 2 percent of the crabs in that 50-crab random sample are immature female crabs, the entire

number of crabs in that crate or group of crabs equivalent to one crate shall be considered to be in violation.

E. Crabs in a work box, defined as a standard crab crate as used by a commercial crab fisherman aboard the vessel to sort or cull undersized crabs and/or immature female crabs from the harvest in order to obtain a legal catch, shall not be subject to the immature female restriction while held aboard the vessel and the fisherman is actively fishing.

1. Commercial crab fishermen shall be allowed to have in possession aboard the vessel either:

a. one work box, if not using a grader; or

b. two work boxes under the grader, if using a grader.

F. An immature female crab, also known as a "maiden" or "V-bottom" crab, can be identified as having a triangular shaped apron on her abdomen. A mature female crab can be identified as having a dome shaped apron on her abdomen.

G. Violation of any provision of this Section constitutes a class two violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:8, 56:32, 56:56(A)(5), 56:320(B)(3), 56:326(A)(2), 56:315, 56:332(E)(1) and 56:355.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 42:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S.49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Written comments may be addressed to Jeff Marx, Marine Fisheries Biologist, 2415 Darnall Rd., New Iberia, LA 70560, or email jmarx@wlf.la.gov prior to September 1, 2016.

Bart R. Yakupzack
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Blue Crab Harvest

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not expected to impact costs for state or local government units.

The proposed rule change prohibits the commercial harvest of blue crabs for a 30-day period beginning on the third Monday of February for the years 2017, 2018, and 2019.

The proposed rule change prohibits the placement of all commercial and recreational crab traps in Louisiana waters for a 30-day period beginning on the third Monday of February for the years 2017, 2018, and 2019. All traps remaining in the water during this period will be presumed to be engaged in active fishing and thus considered illegal.

The proposed rule change prohibits the commercial harvest of immature female blue crabs for the years 2017, 2018, and 2019 except for crabs held for processing as soft crabs or sold to a processor for the making of soft crabs.

The proposed rule includes a description of means to identify immature female blue crabs.

The proposed rule includes a description of means to identify signs that the crabs are in a pre-molt stage.

The proposed rule change allows commercial fishermen to have in their possession an incidental take of immature female crabs in an amount equal to or less than two percent of the total number of crabs in their possession. The proposed rule describes the procedure by which enforcement agents shall take a sample of the crabs in a commercial fisherman's possession to determine compliance within the two-percent possession allowance.

The proposed rule change defines violations of any provision of this section as a class two violation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is not expected to impact revenue collections of state governmental units. Fines for violations of the proposed rules would be collected by local court systems.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule is expected to result in an estimated maximum short-term reduction in blue crab landings by 3.3 million pounds and $4.8 million per year in 2017, 2018, and 2019.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The 30-day blue crab fishery closure under the proposed rule change may create minor short-term disruptions in employment in firms engaged in purchasing, packaging, or processing blue crabs.

Bryan McClinton	John D. Carpenter
Undersecretary	Legislative Fiscal Officer
1607#057	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fishereies Commission

Cervid Carcass Importation (LAC 76:V.119)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby give notice of its intent to establish rules and regulations in relation to the importation of cervid carcasses.

Title 76
WILDLIFE AND FISHERIES
Part V. Wild Quadrupeds and Wild Birds
Chapter 1. Wild Quadrupeds
§119. Cervid Carcass Importation

A. Definitions

Cervid—any animal of the family *Cervidae* including, but not limited to, white-tailed deer, mule deer, elk, moose,

caribou, fallow deer, axis deer, sika deer, red deer, and reindeer.

B. No person shall import, transport or possess any cervid carcass or part of a cervid carcass originating outside of Louisiana, except: deboned meat, antlers, clean skull plates with antlers, cleaned skulls without tissue attached, capes, tanned hides, finished taxidermy mounts and cleaned cervid teeth. Approved parts or deboned meat transported from other states must be legally possessed from the state it was taken. Approved parts and deboned meat from other states must contain a possession tag with the hunter's name, out-of-state license number (if required), address, species, date and location (county and state) of harvest. All cervids transported into or through this state in violation of the provisions of this ban shall be seized and disposed of in accordance with Wildlife and Fisheries Commission and Department of Wildlife and Fisheries rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6(10), (13) and (15), R.S. 56:20, R.S. 56:112, R.S. 56:116.1 and R.S. 56:171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 42:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act #1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Interested persons may send comments until 4:30 p.m., Monday, August 22, 2016 to Johnathan Bordelon, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA, 70898-9000 or jbordelon@wlf.la.gov.

Bart Yakupzack
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Cervid Carcass Importation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not expected to impact costs for state or local governmental units.

The proposed rule change prohibits the importation into the state of Louisiana of carcasses or certain parts of carcasses of animals of the Cervidae family, including, but not limited to, white-tailed deer, mule deer, elk, moose, caribou, fallow deer, axis deer, sika deer, red deer, and reindeer.

The proposed rule change would make unlawful the importation, transportation, or possession of any cervid carcass or part of a cervid carcass originating outside Louisiana, except deboned meat, antlers, cleaned teeth, cleaned skull plates with or without antlers, cleaned skulls without tissue attached, capes, and tanned hides and finished taxidermy products.

The proposed rule requires all approved parts and deboned meat taken from cervids originating outside Louisiana to bear tags containing the hunter's name, address, species, date of harvest, and the location of harvest (county and state).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is not expected to effect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is intended to prevent the spread of chronic wasting disease (C.W.D.) into Louisiana deer herds. The proposed rule change will benefit hunters and businesses that provide hunting-related goods and services to the extent that the prohibition arrests the transmission of the disease into Louisiana.

The proposed rule change imposes tighter regulations on individual Louisiana hunters who hunt deer in other states. Under the proposed rule change these hunters would be responsible for removing the bone, organs, and neural tissue of deer harvested in other states before they could be transported into Louisiana.

The proposed rule change may be expected to result in a decrease in revenues of up to $1.2 million to taxidermists and meat processors in Louisiana who handle deer carcasses originating outside Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have no effect on competition. The proposed rule change may negatively impact employment among taxidermists and meat processors in Louisiana who handle deer carcasses originating from out of state.

Bryan McClinton
Undersecretary
1607#058

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Outlaw Quadruped, Nutria and
Beaver Night Take Permits (LAC 76:V.126)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby advertise their intent to promulgate rules and regulations governing the take of outlaw quadrupeds, nutria and beaver during the nighttime hours from September 1 of each year through the last day of February of the next year.

Title 76
WILDLIFE AND FISHERIES
Part V. Wild Quadrupeds and Wild Birds
Chapter 1. Wild Quadrupeds
§126. Outlaw Quadruped, Nutria and Beaver Night Take Permits

A. Purpose—to establish rules and regulations for the take of outlaw quadrupeds, nutria and beaver during the nighttime hours (one-half hour after official sunset to one-half hour before official sunrise) from September 1 of each year, through the last day of February of the next year.

B. Permits

1. On private property, the landowner, or his lessee or agent with written permission from the landowner may obtain a permit authorizing the take of outlaw quadrupeds, nutria, or beaver during nighttime hours from September 1 through the last day of February of the next year.

2. Permit applications shall be completed on forms provided by the department, with all required information including but not limited to: applicants name, date of birth, contact information, date of application, parish information for applicant, landowner, and location of property subject to the permit, map, acreage, legal description, landowner's expressed authorization to allow night take for these species and any other information required by the department for the proper administration of the permit issuance. Any change of information requires the submission of a new permit application. Applications must be submitted to the regional enforcement office in which the property is located or to the wildlife permits coordinator at the Baton Rouge headquarters.

3. Permits may be issued during business hours by the wildlife enforcement captain located in the applicable regional enforcement office, or by electronic means at the discretion of the department.

4. Permits shall be valid for a period of one year beginning July 1 and terminating on June 30 of the following year. Permits may be renewed annually without additional application upon submission of the annual report and affirmation of the permittee's desire to renew, so long as the permittee has adhered to the rules of the permit and all information contained in the application remains accurate. The permit may be terminated by the permittee, landowner, or lessee at any time. The department may terminate any permit at any time for a violation of any regulation associated with the permit or for any violation of law committed during the participation by any person during the permitted activity. The department may also terminate permits for biological issues or specific enforcement concerns that may arise.

5. Permits are not transferrable and are only valid for the property for which they were issued.

6. No person shall be issued or obtain a permit if they have been convicted of class 3 or greater wildlife violation within a five-year period or have been prohibited in any way from legally participating in a hunting activity.

C. General Rules

1. Permit holders may take or authorize the take of outlaw quadrupeds, nutria or beaver during nighttime hours on private property for which the permit was issued from (one-half hour after official sunset to one-half hour before official sunrise) during the dates of September 1 through the last day of February of the next year.

2. Permittees are responsible for all participants and actions of such which take place as authorized by this permit.

3. Permittees and any participant shall not trespass or commit any other violations of law while conducting activities authorized by the permit.

4. No person shall be allowed to participate or be present during activities authorized by the permit if convicted of a class 3 or greater wildlife violation within the previous five years or if they have any other prohibition which would prevent the legal use of a firearm or participation in a hunting activity. Such participation will be considered a violation of the permit regulations.

5. Outlaw quadrupeds, nutria and beaver may be taken by any means of take authorized by R.S. 56.

6. The original permit or copy thereof issued by the department shall be with any permittee participating in activities under the authority of the permit.

7. Permittees shall notify the department's law enforcement 24-hour dispatch at (800) 442-2511 prior to engaging in activities authorized under the permit and identify each individual who will be participating in any way with activities authorized by the permit and permit number. Upon notification, the permittee shall be issued a confirmation number for the notification.

8. A report of activities which took place under this permit shall be required to be submitted to the department by June 30 of each year on official forms provided or as otherwise approved for this purpose by LDWF, and consist of:

a. name, permit number, and signature of permit holder;

b. number of outlaw quadrupeds (coyotes, armadillos, feral hogs), nutria and beavers killed under the permit during year.

9. Permittees hereby indemnify and hold harmless the state, department, and other applicable public agencies and employees and accept full responsibility and liability for any damages or injuries that occur during or as a result of activities related to the permit issued herein.

D. Penalties for Violation

1. If any person is found to be in violation of any provision of this Section, except for the reporting requirements as prescribed by Paragraph C.8 of this Section, or any other law during activities authorized by the permit issued pursuant to this Section, the permit shall immediately be voided and such permit shall not be reissued and shall remain void unless there is an acquittal for the offense committed.

2. Persons found in violation of rules and regulations contained herein or any other laws shall be subject to the same penalties as authorized by law as if no permit was issued, in addition, violation of these regulations will be a class 2 violation as defined in R.S. 56:32.

3. Persons failing to provide the annual report shall not be subject to the penalty and provisions herein. Any such person failing to comply with the annual report as prescribed

by Paragraph C.8 of this Section shall not be reissued a permit until the reporting requirement under Paragraph C.8 of this Section is submitted to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:112; 56:115; 56:116.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 42:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 9:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons may submit comments relative to the proposed Rule to Melissa Collins, Post Office Box 98000, Baton Rouge, LA 70898-9000 or mcollins@wlf.la.gov prior to September 4, 2016.

Bart R. Yakupzack
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Outlaw Quadruped, Nutria and Beaver Night Take Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no significant impact on costs for state or local governmental units.

The proposed rule change establishes rules and regulations for taking outlaw quadrupeds (armadillos, coyotes, and feral hogs), nutria, and beavers at night from September 1 through the end of February the following year.

The proposed rule change creates a permit to take outlaw quadrupeds, nutria, and beavers at night and outlines the application process. The permit shall be valid during one license year.

The proposed rule change specifies that the Louisiana Department of Wildlife and Fisheries may terminate or suspend permits for biological issues or law enforcement concerns.

The proposed rule change requires the harvester to notify the Louisiana Department of Wildlife and Fisheries Law Enforcement Division of their intention to take animals at night prior to their nocturnal harvesting activities.

The proposed rule change requires harvesters who take animals at night on private property to obtain written permission from the landowner.

The proposed rule change requires permit holders to complete an annual report that identifies the number of outlaw quadrupeds, nutria, and beavers killed under the permit during the year. Persons failing to submit the required permit by June 30 shall not be reissued a permit until the report is submitted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is anticipated to have no effect on revenue collections of state or local governmental units. No fee will be charged for the permit. The Louisiana Department of Wildlife and Fisheries (LDWF) expects to issue 90 to 100 nighttime hunting permits per year.

The proposed rule change sets penalties for violations. Fines collected for violations of this rule would be collected by local court systems. The number of violations of and citations for hunting for outlaw quadrupeds, nutria, and beavers at night without a permit are expected to be relatively low. The proposed rule change creates a systematic policy for the issuance of permits for nighttime hunting of outlaw quadrupeds, nutria, and beavers in place of the current case-by-case system. Observed compliance with the existing regulations appears to be high.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will result in no significant change in costs or benefits to any persons or non-governmental groups.

The proposed rule change will benefit landowners by enhancing the removal of armadillos, coyotes, feral hogs, nutria, and beavers whose activities often damage property and resources.

The proposed rule change will benefit harvesters by offering additional opportunities to take these animals.

The proposed rule change may also support ecosystem benefits by increasing the removal of certain species, particularly invasive nutria and feral hogs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have no effect on competition and employment.

Bryan McClinton	John D. Carpenter
Undersecretary	Legislative Fiscal Officer
1607#059	Legislative Fiscal Office

NOTICE OF INTENT

Workforce Commission
Office of Workers' Compensation Administration

Medical Treatment Guidelines
Maximum Reimbursement Allowances
(LAC 40:I.5157)

The Louisiana Workforce Commission does hereby give notice of its intent to amend certain portions of the medical guidelines contained in the *Louisiana Administrative Code*, Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 51, regarding medical reimbursement. This Rule is promulgated by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1291 and 23:1310.1(C).

Title 40
LABOR AND EMPLOYMENT
Part I. Workers' Compensation Administration
Subpart 2. Medical Guidelines
Chapter 51. Medical Reimbursement Schedule

Editor's Note: The following Sections of this Chapter are applicable and shall be used for the Chapters in this Part governing reimbursement. These specific Chapters are: Chapter 25, Hospital Reimbursement; Chapter 29, Pharmacy; Chapter 31, Vision Care Services; Chapter 33, Hearing Aid Equipment and Services; Chapter 35, Nursing/Attendant Care and Home Health Services; Chapter 37, Home and Vehicle Modification; Chapter 39, Medical Transportation; Chapter 41, Durable Medical Equipment and Supplies; Chapter 43, Prosthetic and Orthopedic Equipment; Chapter 45, Respiratory Services; Chapter 47, Miscellaneous Claimant Expenses; Chapter 49, Vocational Rehabilitation Consultant; Chapter 51, Medical Reimbursement Schedule; and Chapter 53, Dental Care Services.

§5157. Maximum Reimbursement Allowances

A. Table 1

* * *

B. Table 2

Maximum Fee Allowance Schedule Office of Workers' Compensation						
CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
* * *						
71010		Chest x-ray 1 view frontal		$45		
71010	TC	Chest x-ray 1 view frontal		$26		
71010	26	Chest x-ray 1 view frontal		$19		
71015		Chest x-ray stereo frontal		$56		
71015	TC	Chest x-ray stereo frontal		$34		
71015	26	Chest x-ray stereo frontal		$22		
71020		Chest x-ray 2vw frontal&latl		$56		
71020	TC	Chest x-ray 2vw frontal&latl		$34		
71020	26	Chest x-ray 2vw frontal&latl		$22		
71021		Chest x-ray frnt lat lordotc		$68		
71021	TC	Chest x-ray frnt lat lordotc		$40		
71021	26	Chest x-ray frnt lat lordotc		$28		
71022		Chest x-ray frnt lat oblique		$84		
71022	TC	Chest x-ray frnt lat oblique		$50		
71022	26	Chest x-ray frnt lat oblique		$34		
71023		Chest x-ray and fluoroscopy		$127		
71023	TC	Chest x-ray and fluoroscopy		$89		
71023	26	Chest x-ray and fluoroscopy		$39		
71030		Chest x-ray 4/> views		$84		
71030	TC	Chest x-ray 4/> views		$51		
71030	26	Chest x-ray 4/> views		$32		
71034		Chest x-ray&fluoro 4/> views		$167		
71034	TC	Chest x-ray&fluoro 4/> views		$119		
71034	26	Chest x-ray&fluoro 4/> views		$48		
71035		Chest x-ray special views		$66		
71035	TC	Chest x-ray special views		$47		
71035	26	Chest x-ray special views		$19		
71100		X-ray exam ribs uni 2 views		$66		
71100	TC	X-ray exam ribs uni 2 views		$43		
71100	26	X-ray exam ribs uni 2 views		$23		
71101		X-ray exam unilat ribs/chest		$73		
71101	TC	X-ray exam unilat ribs/chest		$45		
71101	26	X-ray exam unilat ribs/chest		$28		
71110		X-ray exam ribs bil 3 views		$75		
71110	TC	X-ray exam ribs bil 3 views		$47		
71110	26	X-ray exam ribs bil 3 views		$28		
71111		X-ray exam ribs/chest4/> vws		$96		
71111	TC	X-ray exam ribs/chest4/> vws		$62		
71111	26	X-ray exam ribs/chest4/> vws		$34		
71120		X-ray exam breastbone 2/>vws		$59		
71120	TC	X-ray exam breastbone 2/>vws		$39		
71120	26	X-ray exam breastbone 2/>vws		$21		
71130		X-ray strenoclavic jt 3/>vws		$72		
71130	TC	X-ray strenoclavic jt 3/>vws		$49		
71130	26	X-ray strenoclavic jt 3/>vws		$23		
71250		Ct thorax w/o dye		$363		
71250	TC	Ct thorax w/o dye		$259		
71250	26	Ct thorax w/o dye		$104		
71260		Ct thorax w/dye		$461		

Maximum Fee Allowance Schedule Office of Workers' Compensation						
CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
71260	TC	Ct thorax w/dye		$334		
71260	26	Ct thorax w/dye		$127		
71270		Ct thorax w/o & w/dye		$553		
71270	TC	Ct thorax w/o & w/dye		$413		
71270	26	Ct thorax w/o & w/dye		$141		
* * *						
72020		X-ray exam of spine 1 view		$44		
72020	TC	X-ray exam of spine 1 view		$29		
72020	26	X-ray exam of spine 1 view		$16		
72040		X-ray exam neck spine 2-3 vw		$66		
72040	TC	X-ray exam neck spine 2-3 vw		$44		
72040	26	X-ray exam neck spine 2-3 vw		$23		
72050		X-ray exam neck spine 4/5vws		$90		
72050	TC	X-ray exam neck spine 4/5vws		$58		
72050	26	X-ray exam neck spine 4/5vws		$32		
72052		X-ray exam neck spine 6/>vws		$113		
72052	TC	X-ray exam neck spine 6/>vws		$76		
72052	26	X-ray exam neck spine 6/>vws		$37		
72070		X-ray exam thorac spine 2vws		$68		
72070	TC	X-ray exam thorac spine 2vws		$45		
72070	26	X-ray exam thorac spine 2vws		$23		
72072		X-ray exam thorac spine 3vws		$69		
72072	TC	X-ray exam thorac spine 3vws		$47		
72072	26	X-ray exam thorac spine 3vws		$22		
72074		X-ray exam thorac spine4/>vw		$79		
72074	TC	X-ray exam thorac spine4/>vw		$56		
72074	26	X-ray exam thorac spine4/>vw		$22		
72080		X-ray exam thoracolmb 2/> vw		$61		
72080	TC	X-ray exam trunk spine 2 vws		$39		
72080	26	X-ray exam trunk spine 2 vws		$22		
72081		X-ray exam entire spi 1 vw		$78		
72081	TC	X-ray exam entire spi 1 vw		$51		
72081	26	X-ray exam entire spi 1 vw		$27		
72082		X-ray exam entire spi 2/3 vw		$125		
72082	TC	X-ray exam entire spi 2/3 vw		$92		
72082	26	X-ray exam entire spi 2/3 vw		$33		
72083		X-ray exam entire spi 4/5 vw		$136		
72083	TC	X-ray exam entire spi 4/5 vw		$100		
72083	26	X-ray exam entire spi 4/5 vw		$36		
72084		X-ray exam entire spi 6/> vw		$162		
72084	TC	X-ray exam entire spi 6/> vw		$121		
72084	26	X-ray exam entire spi 6/> vw		$41		
72100		X-ray exam l-s spine 2/3 vws		$70		
72100	TC	X-ray exam l-s spine 2/3 vws		$47		
72100	26	X-ray exam l-s spine 2/3 vws		$23		
72110		X-ray exam l-2 spine 4/>vws		$98		
72110	TC	X-ray exam l-2 spine 4/>vws		$66		
72110	26	X-ray exam l-2 spine 4/>vws		$32		
72114		X-ray exam l-s spine bending		$125		
72114	TC	X-ray exam l-s spine bending		$92		
72114	26	X-ray exam l-s spine bending		$34		
72120		X-ray bend only l-s spine		$81		
72120	TC	X-ray bend only l-s spine		$58		
72120	26	X-ray bend only l-s spine		$23		
72125		Ct neck spine w/o dye		$371		
72125	TC	Ct neck spine w/o dye		$262		
72125	26	Ct neck spine w/o dye		$109		
72126		Ct neck spine w/dye		$460		
72126	TC	Ct neck spine w/dye		$336		

Maximum Fee Allowance Schedule Office of Workers' Compensation						
CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
72126	26	Ct neck spine w/dye		$124		
72127		Ct neck spine w/o & w/dye		$545		
72127	TC	Ct neck spine w/o & w/dye		$415		
72127	26	Ct neck spine w/o & w/dye		$129		
72128		Ct chest spine w/o dye		$363		
72128	TC	Ct chest spine w/o dye		$260		
72128	26	Ct chest spine w/o dye		$102		
72129		Ct chest spine w/dye		$461		
72129	TC	Ct chest spine w/dye		$337		
72129	26	Ct chest spine w/dye		$124		
72130		Ct chest spine w/o & w/dye		$548		
72130	TC	Ct chest spine w/o & w/dye		$419		
72130	26	Ct chest spine w/o & w/dye		$129		
72131		Ct lumbar spine w/o dye		$361		
72131	TC	Ct lumbar spine w/o dye		$259		
72131	26	Ct lumbar spine w/o dye		$102		
72132		Ct lumbar spine w/dye		$460		
72132	TC	Ct lumbar spine w/dye		$335		
72132	26	Ct lumbar spine w/dye		$124		
72133		Ct lumbar spine w/o & w/dye		$544		
72133	TC	Ct lumbar spine w/o & w/dye		$415		
72133	26	Ct lumbar spine w/o & w/dye		$129		
72141		Mri neck spine w/o dye		$450		
72141	TC	Mri neck spine w/o dye		$299		
72141	26	Mri neck spine w/o dye		$152		
72142		Mri neck spine w/dye		$654		
72142	TC	Mri neck spine w/dye		$470		
72142	26	Mri neck spine w/dye		$183		
72146		Mri chest spine w/o dye		$450		
72146	TC	Mri chest spine w/o dye		$299		
72146	26	Mri chest spine w/o dye		$152		
72147		Mri chest spine w/dye		$646		
72147	TC	Mri chest spine w/dye		$465		
72147	26	Mri chest spine w/dye		$182		
72148		Mri lumbar spine w/o dye		$448		
72148	TC	Mri lumbar spine w/o dye		$297		
72148	26	Mri lumbar spine w/o dye		$152		
72149		Mri lumbar spine w/dye		$646		
72149	TC	Mri lumbar spine w/dye		$463		
72156		Mri neck spine w/o & w/dye		$763		
72156	TC	Mri neck spine w/o & w/dye		$529		
72156	26	Mri neck spine w/o & w/dye		$234		
72157		Mri chest spine w/o & w/dye		$764		
72157	TC	Mri chest spine w/o & w/dye		$531		
72157	26	Mri chest spine w/o & w/dye		$234		
72158		Mri lumbar spine w/o & w/dye		$761		
72158	TC	Mri lumbar spine w/o & w/dye		$528		
72158	26	Mri lumbar spine w/o & w/dye		$234		
72159		MR angio spine w/o&w/dye		$838		
72159	TC	MR angio spine w/o&w/dye		$654		
72159	26	MR angio spine w/o&w/dye		$184		
72170		X-ray exam of pelvis		$64		
72190		X-ray exam of pelvis		$77		
72190	TC	X-ray exam of pelvis		$54		
72190	26	X-ray exam of pelvis		$22		
* * *						

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), LR 27:314 (March 2001), amended by the Workforce Commission, Office of Workers' Compensation, LR 39:1854 (July 2013), LR 40:379 (February 2014), LR 42:

Family Impact Statement

This amendment to Title 40 should have no impact on families.

Poverty Impact Statement

This amendment to Title 40 should have no impact on poverty or family income.

Provider Impact Statement

1. This Rule should have no impact on the staffing level of the Office of Workers' Compensation as adequate staff already exists to handle the procedural changes.
2. This Rule should create no additional cost to providers or payers.
3. This Rule should have no impact on ability of the provider to provide the same level of service that it currently provides.

Public Comments

All interested persons are invited to submit written comments on the proposed Rule. Such comments should be sent to Sheral Kellar, OWC-Administration, 1001 North Twenty-Third Street, Baton Rouge, LA 70802. Such comments should be received on August 10, 2016 by close of business.

Public Hearing

A public hearing will be held on August 29, 2016, at 2 p.m. at the Office of Workers' Compensation located at 1001 North Twenty-Third Street at the main campus of the Workforce Commission in Baton Rouge, LA. The public is invited to attend.

Ava Dejoie
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Medical Treatment Guidelines Maximum Reimbursement Allowances

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 51, to provide for CPT codes inadvertently omitted from the medical reimbursement scheduled submitted in Title 40, Chapter 51, Section 5157(B) Table 2 in February 2014.

Besides the cost to publish in the *Louisiana Register*, the proposed rules will not require any additional expenditure by the Office of Workers' Compensation (OWCA) nor will the proposed rules result in any savings to OWCA. Likewise, it is not anticipated that the proposed rules will result in any costs or savings to other state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of this proposed rule will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

OWCA does not anticipate that the proposed rule will produce a direct economic benefit to any person. It is anticipated that the proposed rule will provide an indirect benefit to all stakeholders within the workers' compensation community by maintaining consistent reimbursement procedures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated direct effect on competition and employment.

Sheral Kellar
Director
1607#066

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: January-June 2016

LAC Title	Part #.Section #	Action	Location: Month	LR 42 Page#
4	V.Chapter 53	Adopted	Jan.	2
	V.Chapter 55	Adopted	Jan.	3
7	V.919	Amended	Feb.	219
	V.Chapter 29	Adopted	Mar.	393
	V.Chapter 29	Repromulgated	April	540
	XIII.121,123,519,749,763	Amended	Feb.	211
	XV.127	Amended	May	730
	XXI.1301,1312	Adopted	Mar.	391
	XXI.1311,1321	Amended	Mar.	391
	XXIII.103,307,1101,1103	Amended	May	730
	XXIII.309	Adopted	May	730
	XXIII.727	Repealed	May	730
	XXV.Chapter 1	Amended	Feb.	212
	XXXV.125	Amended	Feb.	218
	XXXIX.1307,1501,1503	Amended	May	733
13	I.Chapter 7	Amended	June	867
	I.Chapter 9	Amended	Feb.	223
	I.Chapter 11	Amended	June	865
	I.1133	Adopted	June	865
	I.2715	Amended	Feb.	224
	I.2719	Adopted	Feb.	224
	I.2904,2905	Amended	Jan.	41
	I.2915	Repealed	Jan.	41
	I.3307	Amended	Jan.	35
	I.3309	Adopted	Jan.	35
	I.3903,3923	Amended	Feb.	222
	I.3999	Adopted	Feb.	222
19	V.100,500,700,900and1100	Adopted	June	905
	V.701,703	Adopted	Jan.	69
22	I.337	Amended	Mar.	424
	III.4703	Amended	Feb.	274
	III.4761	Adopted	Feb.	274
	XIII.103,303,503	Amended	April	569
	XIII.303,503	Amended	May	743
25	V.505	Amended	Jan.	35
28	I.503	Amended	April	563
	IV.705,803,805	Amended	Jan.	47
	IV.2005,2007	Amended	Jan.	46
	IV.2009	Repealed	Jan.	46
	V.221,233	Amended	Jan.	46
	XXXIII.Chapters 1-21	Repealed	April	558
	XLIII.133,905	Amended	Feb.	234
	LXXXIII.405,409,705,707	Amended	April	548
	LXXXIII.1107	Adopted	April	548
	CI.305,307,511,711,713,717,719,1509	Amended	Mar.	399
	CXI.321	Adopted	May	734
	CXI.1113,1115,1701,1705,1707,1125-1149	Amended	Feb.	224
	CXI.,1335-1343,1349-1357,1703	Repealed	Feb.	224
	CXI.1709-1729,1805-1810,1815,1817,1907	Repealed	Feb.	224
	CXI.1909,1915-1925,2305,2313-2323	Repealed	Feb.	224
	CXI.2401-2415	Repealed	Feb.	224
	CXIII.501,903,907,1301,1303	Amended	Feb.	230
	CXV.901	Amended	April	557
	CXV.1703	Amended	April	556
	CXV.1707	Repealed	April	556
	CXV.Chapter 23	Amended	Feb.	232
	CXXXI.243	Amended	Feb.	232
	CXXXIX.2301,2713,2801	Amended	April	549
	CXLV.505,1103,1105	Amended	April	551
	CLIII.1305	Amended	April	553
	CLV.103,303	Amended	April	553
	CLXI.709,905,1303,1307,1713,1719,1721	Amended	April	554
	CLXI.1901,2103	Amended	April	554
	CLXV.103,501,505,513,515,517,521,903	Amended	Jan.	42
	CLXV.503,507,509,511,519	Adopted	Jan.	42
32	I.317	Amended	Jan.	51
33	I.Chapter 8	Amended	Feb.	235
	III.502,509	Amended	April	563
	III.504	Amended	Mar.	401
	III.509	Amended	Mar.	402
	V.109,1107,1301,1307,1516	Amended	April	565
33	V.10303	Amended	Feb.	280
	VII.10505-10513,10516,10517,10519	Amended	Feb.	244
	VII.10514,10515,10518,10524,10531	Adopted	Feb.	244
	VII.10521,10523,10525-10529,10534	Amended	Feb.	244
	VII.10532,10533,11101	Adopted	Feb.	244
	VII.10535-10543,11103	Amended	Feb.	244
	VII.10536	Repealed	Feb.	244
	IX.107,1105,1113,1117,1123	Amended	May	736
	IX.2701	Amended	May	735
34	I.5521,5523,5525	Adopted	June	869
	V.Chapter 5	Amended	Jan.	51
37	XIII.Chapter 27	Repealed	Jan.	65
	XIII.Chapter 29	Repealed	Jan.	66
40	I.2519,2701,2705,2707,5101,5113,5315	Amended	Feb.	283
	I.5399	Amended	Feb.	283
	I.6605	Amended	May	763
	XXI.101	Adopted	Mar.	445
42	III.120	Amended	April	575
	XI.2405	Amended	April	574
43	XVII.Chapter 3	Amended	Mar.	418
	XVII.Chapter 33	Amended	Mar.	413
46	XXI.1303	Amended	June	868
	XXIX.1515,1517	Adopted	Jan.	52
	XXXIII.304,313	Amended	Jan.	59
	XXXIII.301,801	Amended	June	872
	XXXIII.710,712	Amended	Jan.	58
	XXXIII.714	Repealed	Jan.	58
	XXXIII.Chapter 8	Adopted	Jan.	56
	XXXIII.903	Amended	Jan.	56
	XXXIII.Chapter 11	Repealed	Jan.	56
	XXXIII.1502-1511	Adopted	Jan.	53
	XXXIII.1503-1513	Repealed	Jan.	53
	XXXVII.707,901,903,905,907,909,1107	Amended	Mar.	404
	XXXVII.709	Repealed	Mar.	404
	XXXVII.2001	Amended	Mar.	404
	XLI.742	Adopted	May	744
	XLV.3519	Amended	May	752
	XLV.8315	Adopted	April	570
	XLV.Chapter 97	Amended	April	570
	XLVII.1703	Amended	Feb.	274
	XLVII.3324	Adopted	May	753
	XLVII.Chapter 35	Amended	June	875
	XLVII.3534,3536,3542,4509	Repealed	June	875
	XLVII.3547	Adopted	June	875
	XLVII.3703	Amended	June	873
	XLVII.3709	Adopted	June	873
	XLVII.4507	Amended	Mar.	405
	XLVII.4513	Amended	April	571
	LIII.2535	Amended	June	891
	LV.101,301,303,304,305,306,307,310,312	Amended	April	575
	LV.313,1005	Amended	April	575
	LXI.1509,2701	Amended	Mar.	443
	LXVII.2901	Amended	Jan.	53
	LXVII.10308,10309,10313	Amended	June	870
	LXVII.10317	Repealed	June	870
	LXVII.10319	Adopted	June	870
	LXVII.30701,30901,31101	Amended	June	871
	LXVII.31103	Adopted	June	871
48	I.3901	Adopted	Jan.	64
	I.Chapter 90	Amended	Feb.	219
	I.Chapter 92	Amended	June	893
	I.9287,9293	Repealed	June	893
	I.12501,12503	Amended	Jan.	61
	I.12524	Repealed	Jan.	61
	I.19121	Adopted	June	904
50	I.105	Amended	June	892
	I.3103,3105,3301,3507,3509	Amended	May	754
	I.3511	Amended	Feb.	276
	I.Chapters 101-103	Adopted	May	756
	II.20029	Adopted	Jan.	63
	III.101	Adopted	June	901
50	III.301	Adopted	June	901
	III.2317	Adopted	May	755

LAC Title	Part #.Section #	Action	Location: Month	LR 42 Page#
	V.965	Amended	Mar.	406
	V.967	Amended	Feb.	274
	V.1701	Adopted	Mar.	406
	V.1703	Adopted	April	573
	V.6701	Adopted	Mar.	407
	V.6703	Adopted	April	573
	VII.32915	Adopted	Feb.	275
	XV.8717,8719	Amended	April	572
	XV.Chapter 129	Amended	June	902
	XV.12902,12910,12912	Repealed	June	902
	XXI.701	Amended	June	898
	XXI.703	Adopted	June	898
	XXI.6101	Amended	June	900
	XXI.9501	Amended	June	897
	XXI.12101	Amended	June	896
	XXI.14301	Amended	June	898
	XXI.16107,16701,16901	Amended	Jan.	62
	XXI.16343	Adopted	Jan.	62
	XXI.16901,16903	Amended	June	900
	XXII.Chapters 61-69	Repealed	May	753
	XXVII.353	Amended	Feb.	277
	XXXIII.Chapters 61-67	Amended	Jan.	59
51	XII.311,355,357,363,367,903,1105,1113	Amended	Mar.	408
	XII.358,361,1102	Adopted	Mar.	408
	XII.1117,1119,1125,1133,1135,1139,1503	Amended	Mar.	408
	XII.1903,1907	Amended	Mar.	408
55	III.Chapter 7,8	Amended	Mar.	428
	V.1701	Amended	Feb.	279
	V.1703	Repealed	Feb.	279
	VII.317	Amended	Jan.	66
	IX.107,133,143,183	Amended	Mar.	427
	IX.155	Repealed	Mar.	427
56	V.1103	Amended	Mar.	403
58	I.2513	Repealed	Jan.	69
	XVIII.105	Adopted	Jan.	70
61	I.1607	Amended	Jan.	39
	I.1615-1629	Repealed	Jan.	39
	I.1633-1637	Amended	Jan.	37
	I.1641	Adopted	Jan.	37
	I.1667	Amended	Jan.	36
	I.1693	Amended	Jan.	40
	I.1695	Repromulgated	Jan.	40
	I.1701,1703	Adopted	Jan.	40
	I.4919	Adopted	Feb.	281
	I.5302	Amended	Feb.	282
	III.1701	Adopted	Feb.	280
	V.101,303,304,703,907,1103,1307,1503	Amended	May	744
	V.2501,2503,2713,2717,3101,3103	Amended	May	744
67	I.Chapter 3	Amended	June	860
	I.311	Adopted	June	860
	III.1942	Repealed	Feb.	222
	III.5577	Adopted	June	864
	III.Chapter 73	Repealed	April	542
	V.1103	Amended	June	862
	V.6703,6708,7105,7111,7305,7311,7313	Amended	Feb.	219
	V.Chapter 75	Amended	Mar.	395
70	IX.Chapters 1-3	Amended	May	757
76	I.339	Adopted	Mar.	444
	V.701	Amended	June	909
	VII.335	Amended	June	908
	VII.367	Amended	Jan.	70
	XV.101	Amended	May	762

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Department of Economic Development
Office of Business Development
Office of Entertainment Industry Development

Public Hearing—Substantive Changes to Proposed Rule
Entertainment Industry Tax Credit Programs
Motion Picture Investor Tax Credit Program
(LAC 61:I.Chapter 16)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development published a Notice of Intent in the November 20, 2015 edition of the *Louisiana Register* on pages 2405-2408. This proposed to add four new Sections: §1615, Louisiana Copyright, §1617, Louisiana Music; §1619, Louisiana Promotional Graphic; §1621, Louisiana Filmmaker Credit; and to amend §1605 Definitions.

The department conducted a public hearing on this Notice of Intent on December 30, 2015 to solicit comments and testimony on the proposed Rule. As a result of the comments received, the department proposes two courses of action: 1) to make no substantive changes to §1617, Louisiana Music and §1619, Louisiana Promotional Graphic, proposing to proceed with promulgation of these Sections with no changes; and 2) to take additional time to consider substantive changes to §1615, Louisiana Copyright, §1621, Louisiana Filmmaker Credit, and §1605, Definitions, with such Sections to be revised and republished as a new Notice of Intent in September, 2016. No increased fiscal or economic impact will result from the amendments proposed in this notice.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 16. Louisiana Entertainment Industry Tax Credit Programs
Subchapter A. Motion Picture Investor Tax Credit Program

§1617. Louisiana Music

A. For state certified productions initially certified on or after July 1, 2015, with expenditures occurring on or after July 1, 2015, to be eligible for an additional 15 percent tax credit for music expenditures, an applicant company must meet the following criteria:

1. services performed in Louisiana—music expenditures were for services performed in Louisiana, with job titles such as composer, songwriter, performer, musician, sound designer, arranger, producer. The purchase of a pre-existing musical work from a procurement company will not qualify; and

2. Louisiana copyright ownership—must be able to prove that the sound recording copyright or musical copyright is either:

a. owned in whole or in no part less than 25 percent by a Louisiana resident or residents; or

b. owned by a company headquartered in the state, with a majority ownership (51 percent+) of Louisiana residents;

c. the purchase of a copyright from a procurement company will not qualify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:

§1619. Louisiana Promotional Graphic

A. For state certified productions initially certified on or after August 1, 2015, to be eligible for the entire 30 base investment tax credit, motion picture production applicants with base investments in excess of $300,000 must be able to demonstrate, at time of request for final certification, that either that they have complied with the Louisiana promotional graphic requirements set forth below, or that an alternative marketing opportunity has been approved in writing by LED.

1. Approved Louisiana promotional graphic requirements:

a. a five second long static or animated graphical brand or logo promoting Louisiana, that has been approved in writing by LED;

b. for feature films, or other production types with a customary end credit crawl, the approved logo is to be placed in the end credits, before the below-the line crawl for the life of the production;

i. LED shall deem "life of the production" to mean that the approved logo is permanently embedded within the subject of the state certified production; and

c. the production company includes an approved Louisiana promotional link or prominent credit to Louisiana on its own website, or that of an approved affiliated company.

2.a. Alternative marketing opportunities shall be proposed to LED at the time of application for initial certification, setting forth the details and estimated value of the proposed opportunity or justification of value taking into consideration the additional five percent credit being sought. LED shall either approve or deny such options in writing at time of initial certification.

b. Acceptable examples of alternative marketing opportunities may include, but not be limited to a combination of the following:

i. a produced in Louisiana card featuring an approved version of the logo during the opening credits of a Feature Film;

ii. an approved promotional featurette highlighting Louisiana as a tourist destination included on the DVD release of the production;

iii. an approved version of the logo placed in the opening title sequence or as a bumper into or out of commercial breaks for television productions;

iv. significant community service projects in Louisiana;

v. red carpet screening event in Louisiana;

vi. sponsorship of a film festival or other approved event in Louisiana;

vii. an official advertising poster for the state-certified production and a still frame from the production, or, at the discretion of LED, a significant set piece, prop, or costume from the production may be donated on the condition that they may be used for unlimited marketing purposes by the state;

viii. access to a standard or electronic press kit, clip from the motion picture or special interview with the principles involved in the production (actors, directors, producers, etc) promoting Louisiana as a business destination for unlimited use for marketing purposes by LED;

ix. other alternatives as proposed by production companies and approved by LED.

B. Failure to demonstrate such compliance at time of final certification shall result in a reduced base investment credit amount of 25 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:

Public Comments

Interested persons should submit written comments on the proposed Rules to Stephen Hamner through the close of business on Monday, August 22, 2016 at Department of Economic Development, 1051 N. Third St., Baton Rouge, LA 70802 or via email to stephen.hamner@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 11 a.m. on Tuesday, August 23, 2016 at the Department of Economic Development, 1051 N. Third St., Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

1607#072

POTPOURRI

Department of Environmental Quality
Office of Environmental Services
Air Permits Division

Contiguous or Adjacent Properties in
the Oil and Natural Gas Sector

LAC 33:III.502.A defines a *major source* as "any stationary source or any group of stationary sources that are located on one or more contiguous or adjacent properties, that are under common control of the same person (or persons under common control)," and that emits or has the potential to emit regulated air pollutants above certain thresholds. (1607Pot2)

LAC 33:III.504.K (nonattainment new source review) and LAC 33:III.509.B (prevention of significant deterioration) define *building, structure, facility, or installation* in similar fashion, as "all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control)."

The terms *contiguous* and *adjacent* are not defined in the Louisiana air quality regulations. The Louisiana Department of Environmental Quality (LDEQ) currently determines if stationary sources in the oil and natural gas sector (i.e., standard industrial classification (SIC) major group 13) are "contiguous or adjacent" on a case-by-case basis as described on the LDEQ Air Permits Division's webpage entitled "Interpretation of Contiguous for Oil and Gas Production Facilities" (http://www.deq.louisiana.gov/portal/tabid/2347/Default.aspx).

On June 3, 2016, the U.S. Environmental Protection Agency (EPA) promulgated a rule entitled "Source Determination for Certain Emission Units in the Oil and Natural Gas Sector" (81 FR 35622). According to this rule, pollutant emitting activities shall be considered adjacent if:

> they are located on the same surface site; or if they are located on surface sites that are located within 1/4 mile of one another (measured from the center of the equipment on the surface site) and they share equipment. Shared equipment includes, but is not limited to, produced fluids storage tanks, phase separators, natural gas dehydrators or emissions control devices. Surface site, as used in the introductory text of this definition, has the same meaning as in 40 CFR 63.761.

However, EPA did not adopt a provision requiring surface sites to be "daisy chained" for purposes of defining a single stationary source. EPA describes a series of surface sites (under common control) as being daisy chained when an individual surface site is located within 1/4 mile of another surface site, but where the last surface site in the grouping is separated from the first by a much larger distance (i.e., greater than 1/4 mile).

The final rule specifies that permitting authorities with EPA-approved programs, like Louisiana, are not required to adopt this definition. Nevertheless, for stationary sources in the oil and natural gas sector, LDEQ will now interpret the term *adjacent* consistent with the definitions of *major source* under 40 CFR 70.2 and *building, structure, facility, or installation* under 40 CFR 51.165(a)(1)(ii) and 40 CFR 51.166(b)(6) in order to be consistent with federal regulations. The LDEQ Air Permits Division webpage will be revised accordingly.

Questions regarding this notice may be directed to Bryan D. Johnston of the LDEQ, Air Permits Division at (225) 219-3450.

Herman Robinson
General Counsel

1607#038

POTPOURRI

Department of Environmental Quality
Office of Environmental Services
Air Permits Division

State Implementation Plan (SIP) Proposed Revisions

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Services, Air Permits

Division will submit to the U.S. Environmental Protection Agency (EPA) corrective SIP revisions in response to a SIP call. (1607Pot1)

On June 12, 2015, EPA promulgated a rule entitled "State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction" (80 FR 33840). This action concluded that several Louisiana air quality regulations are "substantially inadequate to meet [Clean Air Act] requirements" because they provide "automatic exemptions" or "impermissible discretionary exemptions" from "otherwise applicable SIP emission limitations." Consequently, EPA directed the state to submit corrective SIP revisions by November 22, 2016.

In response to the SIP call, the Louisiana Department of Environmental Quality (LDEQ) has proposed to repeal the exemptions provided by LAC 33:III.1507.A and B, LAC 33:III.1107.A, LAC 33:III.2153.B.1.i, and LAC 33:III.2307.C. In addition, LDEQ has proposed to repeal the exemption set forth in LAC 33:III.2201.C.8 and amend LAC 33:III.Chapter 22 to allow the owner/operator of an affected point source to comply with either the emission factors imposed by LAC 33:III.2201.D at all times (including periods of start-up and shutdown), or newly-established work practice standards designed to minimize NO_x emissions during periods of start-up and shutdown. These proposals are addressed in the following regulatory actions:

Rule	Title	Proposed
AQ360	Repeal of LAC 33:III.1507.A and B	June 20, 2016
AQ361	Repeal of LAC 33:III.1107.A	April 20, 2016
AQ362	Repeal of LAC 33:III.2153.B.1.i	April 20, 2016
AQ363	Repeal of LAC 33:III.2307.C	June 20, 2016
AQ364	Work Practice Standards During Start-up and Shutdown	June 20, 2016

Public Comments

LDEQ is also accepting written comments on the proposed SIP revisions. Written comments should be addressed to Bryan D. Johnston and mailed to LDEQ, P.O. Box 4313, Baton Rouge, LA 70821-4313; faxed to (225) 219-3309; or e-mailed to bryan.johnston@la.gov. Comments must be received no later than 4:30 p.m., Thursday, August 25, 2016 (the day of the public hearing).

Public Hearing

A public hearing on the proposed SIP revisions will be held on Thursday, August 25, 2016, at 1:30 p.m. in the Galvez Building, Oliver Pollock Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend in order to provide oral comments. Should individuals with a disability need an accommodation in order to participate, please contact Deidra Johnson at (225) 219-3985. Two hours of free parking is allowed in the Galvez Garage with a validated parking ticket.

Copies of the proposed regulatory actions described above are available on LDEQ's Monthly Regulations Changes webpage: http://www.deq.louisiana.gov/portal/DIVISIONS/LegalAffairs/RulesandRegulations/MonthlyRegulationChanges.aspx.

A copy of the narrative portion of LDEQ's proposed SIP submission, which includes a description of each impacted rule, the basis for the proposed rule amendments, and an analysis demonstrating how such amendments comply with sections 110(l) and 193 of the Clean Air Act, as applicable, may be viewed on LDEQ's Louisiana SIP Revisions webpage: http://www.deq.louisiana.gov/portal/Default.aspx?tabid=2381. These documents may also be accessed at any of LDEQ's public records centers.

Questions regarding this notice may be directed to Bryan D. Johnston of the Air Permits Division at (225) 219-3450.

Herman Robinson
General Counsel

1607#037

POTPOURRI

Department of Health
Board of Veterinary Medicine

Fall/Winter Examination Dates

The Louisiana Board of Veterinary Medicine will administer the state board examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

The board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board of Veterinary Medical Examiners (NBVME), formerly the National Board Examination Committee (NBEC), as follows:

Test Window Date	Deadline to Apply
November 14-December 10, 2016	August 1, 2016
April 10-April 22, 2017	February 1, 2017

The board will also accept applications to take the veterinary technician national examination (VTNE) which will be administered through American Association of Veterinary State Boards (AAVSB), for state registration of veterinary technicians as follows:

Test Date	Deadline to Apply
July 15-August 15, 2016	June 15, 2016
November 15-December 15, 2016	October 15, 2016
March 15-April 15, 2017	February 15, 2017
July 15-August 15, 2017	June 15, 2017

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 301 Main Street, Suite 1050, Baton Rouge, LA 70801 and by request via telephone at (225) 342-2176 or by e-mail at admin@lsbvm.org; application forms and information are also available on the website at www.lsbvm.org.

Wendy D. Parrish
Executive Director

1607#011

POTPOURRI

Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	District	Well Name	Well Number	Serial Number
M. B. Chastain & Paul Cooper	Caddo Pine Island	S	Stiles	011	32763
Crestmont Operating LLC	University	L	9200 SUD;Helis K U3	001	36558
Ashland Oil & Refining Co.	Big Creek, South	M	Butler	002	32650(30)
Denovo Oil & Gas, Inc.	Hopedale Lagoon	L	Cib 16 Ra SUA;Terre Aux Boeuf	003	145182
Bob L. Herd	Shiloh	M	VUA;B L St John Jr	001	164476(29)
H.L.Hawkins & H.LHawkins, Jr.	Lake Arthur, South	L	SL 2438	002	54686(30)
T. West Bullock, Sr.	Bee Brake	M	Fred K Conn B	001	52202
Bird Explore Company	Red River-Bull Bayou	S	Waller	001	18902
Larry A. Jones	Monroe	M	Carbons Consolidated Fee	002	10677
Larry A. Jones	Monroe	M	Carbons Consolidated Fee	003	12786
Larry A. Jones	Monroe	M	Carbons Consolidated Fee	005	14835
Robco Investments, Inc.	Caddo Pine Island	S	Burton B	A1	21656
Robco Investments, Inc.	Caddo Pine Island	S	Burton B	A2	21916
Robco Investments, Inc.	Caddo Pine Island	S	Burton B	003	22827
Robco Investments, Inc.	Caddo Pine Island	S	Burton B	A4	23961
Robco Investments, Inc.	Caddo Pine Island	S	Burton B	007	35917
Robco Investments, Inc.	Caddo Pine Island	S	Burton B	009	36021
Robco Investments, Inc.	Caddo Pine Island	S	Burton B	024	36587
Robco Investments, Inc.	Caddo Pine Island	S	Burton B	027	36771
Robco Investments, Inc.	Caddo Pine Island	S	Burton B	030	38284
Robco Investments, Inc.	Caddo Pine Island	S	Burton B	A7	43313
Robco Investments, Inc.	Caddo Pine Island	S	Burton B	008	46138
Robco Investments, Inc.	Caddo Pine Island	S	Burton B	034	54145
Robco Investments, Inc.	Caddo Pine Island	S	Burton B	039	57725
Robco Investments, Inc.	Caddo Pine Island	S	Richardson	001	990386
Robco Investments, Inc.	Caddo Pine Island	S	Richardson	003	990388
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	VUA;SL 1337 Bateman ISL U	001	39608
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	10400 Rsw1b Sul;SL 1337 Wx U1	001	43741
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	VUA;SL 1337 Wax U1	002	45474
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	9700 Rsw2b SUA;SL 1337	004	47749
Louisiana Energy & Environmental, Inc.	Sweet Bay Lake	L	SL 1337	008	52749

Operator	Field	District	Well Name	Well Number	Serial Number
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	SL 1337	009	53162
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	SL 1337	010	53823
Louisiana Energy & Environmental, Inc.	Sweet Bay Lake	L	SL 1337	011	54466
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	VUA;SL 1337 Wax U1	004	57488
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	VUA;SL 1337 Bateman ISL U	013	57626
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	SL 1337	015	58640
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	VUA;SL 1337 Bateman ISL U	013D	58670
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	SL 1337	017	59444
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	SL 1337	018	60457
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	SL 1337	019	60651
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	SL 1337	017D	60964
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	10900 R SWLC SUA;SL 1337 Wax	006-ALT	61078
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	SL 1337 Wax U1	006-D	61807
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	SL 1337	019-D	62476

Operator	Field	District	Well Name	Well Number	Serial Number
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	10900 Rsw1c SUA;SL 1337 Wax U1	007	62602
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	SL 1337	021	62603
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	SL 1337 Wax U1	007-D	63577
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	9700 Rsw1b SUA;SL 1337 Wax U1	008	65272
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	VUA;SL 1337 Bateman ISL U	022	84957
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	SL 1337 Bateman Isl U	022D	86733
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	SL 1337	015D	88242
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	Up A-1 Ra VUA;Wax A	032	100875
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	10400 RSW1b Suk;SL 1337 Wax U1	009	111867
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	SL 1337 Wax U1	009D	113214
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	VUA;SL 1337 Bateman ISL U	001D	123236
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	2300 STR RSWIB SUA;SL 1337w	010	136662
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	SL 1337	018D	139319
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	SL 1337	009D	148006

Operator	Field	District	Well Name	Well Number	Serial Number
Louisiana Energy & Environmental, Inc.	Sweet Bay Lake	L	SL 1337	008D	148050
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	Bal X Ra Su;SL 1337	026	151821
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	SL1337 Wax U1	008-D	152488
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	10500 Rsw1b SUA;SL 1337 Wax U1	011	158446
Louisiana Energy & Environmental, Inc.	Bateman Lake	L	VUA;SL 1337 Wax U1	013	173965
JLM Sartor Inc	JLM Sartor Inc	S	T J Taylor	001	57758
JLM Sartor Inc	JLM Sartor Inc	S	T J Taylor	002	59612
JLM Sartor Inc	JLM Sartor Inc	S	Fred Wappler P	001	65407
JLM Sartor Inc	JLM Sartor Inc	S	Fred Wappler P	005	65884
JLM Sartor Inc	JLM Sartor Inc	S	Fred Wappler P	003	66145
JLM Sartor Inc	JLM Sartor Inc	S	Fred Wappler P	004	66146
JLM Sartor Inc	JLM Sartor Inc	S	Fred Wappler P	006	67996
JLM Sartor Inc	JLM Sartor Inc	S	Fred Wappler P	008	68839
JLM Sartor Inc	JLM Sartor Inc	S	Fred Wappler P	011	71102
JLM Sartor Inc	JLM Sartor Inc	S	Fred Wappler P	013	72444
JLM Sartor Inc	JLM Sartor Inc	S	Fred Wappler P	012	72445
JLM Sartor Inc	JLM Sartor Inc	S	North Light	016	162383
JLM Sartor Inc	JLM Sartor Inc	S	North Light SWD	018	163624
JLM Sartor Inc	JLM Sartor Inc	S	Tokio Ra Su101; Deloach C	002	168093
JLM Sartor Inc	JLM Sartor Inc	S	Tok S1 Ra Su102;Deloach C	001	168180

Operator	Field	District	Well Name	Well Number	Serial Number
JLM Sartor Inc	JLM Sartor Inc	S	Cv Rb Su10; Rinsland Estate	001	169520
JLM Sartor Inc	JLM Sartor Inc	S	Tokio Ra Su91;W F Bond A	TK-3	169543
JLM Sartor Inc	JLM Sartor Inc	S	Tokio Ra Su103;W E Deloach	TK-2	170570
JLM Sartor Inc	JLM Sartor Inc	S	Tokio Ra Su89;J L Bond B	TK-2	170784
JLM Sartor Inc	JLM Sartor Inc	S	Tok S2 Ra Su89;J L Bond B	TU-1	174249
JLM Sartor Inc	JLM Sartor Inc	S	Tokio Ra Su90;J L Bond B	TK-3	174250
JLM Sartor Inc	JLM Sartor Inc	S	W F Bond A	TK-2	174251
JLM Sartor Inc	JLM Sartor Inc	S	T J Taylor	003	177135
JLM Sartor Inc	JLM Sartor Inc	S	Tok S1 Ra Su101; Deloach C	005	177847
JLM Sartor Inc	JLM Sartor Inc	S	Tok S1 Ra Su89;J L Bond B	TU-3	178104
JLM Sartor Inc	JLM Sartor Inc	S	Tokio Ra Su102; Deloach C	006	181621
JLM Sartor Inc	JLM Sartor Inc	S	Paul Slack	001	184783
JLM Sartor Inc	JLM Sartor Inc	S	Perkins	001	192865
JLM Sartor Inc	JLM Sartor Inc	S	Mrs Bobby Slack	001	193219
JLM Sartor Inc	JLM Sartor Inc	S	Mrs Bobby Slack	002	193220
JLM Sartor Inc	JLM Sartor Inc	S	Perkins SWD	003	193359
JLM Sartor Inc	JLM Sartor Inc	S	Fred Wappler P	A-1	199876
JLM Sartor Inc	JLM Sartor Inc	S	Fred Wappler P	015	208636
JLM Sartor Inc	JLM Sartor Inc	S	Fred Wappler P	014	208637
JLM Sartor Inc	JLM Sartor Inc	S	Fred Wappler P	016	208882
JLM Sartor Inc	JLM Sartor Inc	S	Fred Wappler P	017	208917

Operator	Field	District	Well Name	Well Number	Serial Number
JLM Sartor Inc	JLM Sartor Inc	S	Stinson	001	227363
JLM Sartor Inc	JLM Sartor Inc	S	Stinson	002	227364
JLM Sartor Inc	JLM Sartor Inc	S	Stinson	003	227837
JLM Sartor Inc	JLM Sartor Inc	S	Stinson	004	228360
JLM Sartor Inc	JLM Sartor Inc	S	Stinson	005	228361
JLM Sartor Inc	JLM Sartor Inc	S	Stinson	006	228362
JLM Sartor Inc	JLM Sartor Inc	S	Stinson	007	228363
JLM Sartor Inc	JLM Sartor Inc	S	Stinson	008	228805
JLM Sartor Inc	JLM Sartor Inc	S	Stinson	009	229390
JLM Sartor Inc	JLM Sartor Inc	S	Stinson	010	229391
JLM Sartor Inc	JLM Sartor Inc	S	Hunter-Mannies	001	229917
JLM Sartor Inc	JLM Sartor Inc	S	North Light	013	230679
JLM Sartor Inc	JLM Sartor Inc	S	North Light	014	230680
JLM Sartor Inc	JLM Sartor Inc	S	North Light	015	230681
JLM Sartor Inc	JLM Sartor Inc	S	North Light	001	231008
JLM Sartor Inc	JLM Sartor Inc	S	North Light	002	231009
JLM Sartor Inc	JLM Sartor Inc	S	North Light	003	231010
JLM Sartor Inc	JLM Sartor Inc	S	North Light	004	231011
JLM Sartor Inc	JLM Sartor Inc	S	North Light	005	231012
JLM Sartor Inc	JLM Sartor Inc	S	North Light	006	231013
JLM Sartor Inc	JLM Sartor Inc	S	North Light	007	231014
JLM Sartor Inc	JLM Sartor Inc	S	North Light	008	231015
JLM Sartor Inc	JLM Sartor Inc	S	North Light	009	231016
JLM Sartor Inc	JLM Sartor Inc	S	North Light	010	231017
JLM Sartor Inc	JLM Sartor Inc	S	North Light	011	231018
JLM Sartor Inc	JLM Sartor Inc	S	North Light	012	231019
JLM Sartor Inc	JLM Sartor Inc	S	Mills	010	231030
JLM Sartor Inc	JLM Sartor Inc	S	Mills	011	231031
JLM Sartor Inc	JLM Sartor Inc	S	Mills	012	231032
JLM Sartor Inc	JLM Sartor Inc	S	Hunter-Mannies	002	231176
JLM Sartor Inc	JLM Sartor Inc	S	Hunter-Mannies	003	231522
JLM Sartor Inc	JLM Sartor Inc	S	South Light	001	231619
JLM Sartor Inc	JLM Sartor Inc	S	South Light	002	231620
JLM Sartor Inc	JLM Sartor Inc	S	South Light	003	231621
JLM Sartor Inc	JLM Sartor Inc	S	South Light	004	231622
JLM Sartor Inc	JLM Sartor Inc	S	South Light	005	231623
JLM Sartor Inc	JLM Sartor Inc	S	South Light	006	231624
JLM Sartor Inc	JLM Sartor Inc	S	South Light	007	231625
JLM Sartor Inc	JLM Sartor Inc	S	South Light	008	231626
JLM Sartor Inc	JLM Sartor Inc	S	South Light	009	231627
JLM Sartor Inc	JLM Sartor Inc	S	South Light	011	231629
JLM Sartor Inc	JLM Sartor Inc	S	South Light	012	231630
JLM Sartor Inc	JLM Sartor Inc	S	South Light	013	231631
JLM Sartor Inc	JLM Sartor Inc	S	South Light	017	231635
JLM Sartor Inc	JLM Sartor Inc	S	VUA;Hunter-Mannies	004	231870
JLM Sartor Inc	JLM Sartor Inc	S	Fortune Family 3	001	232031
JLM Sartor Inc	JLM Sartor Inc	S	North Light	017	232211
JLM Sartor Inc	JLM Sartor Inc	S	Hunter-Mannies	005	232250

Operator	Field	District	Well Name	Well Number	Serial Number
JLM Sartor Inc	JLM Sartor Inc	S	Hunter-Mannies	006	232251
JLM Sartor Inc	JLM Sartor Inc	S	Beverly Cook et al	001	232333
JLM Sartor Inc	JLM Sartor Inc	S	Beverly Cook et al	004	232336
JLM Sartor Inc	JLM Sartor Inc	S	Beverly Cook et al	006	232338
JLM Sartor Inc	JLM Sartor Inc	S	Beverly Cook et al	007	232339
JLM Sartor Inc	JLM Sartor Inc	S	Beverly Cook et al	008	232340
JLM Sartor Inc	JLM Sartor Inc	S	Beverly Cook et al	009	232341
JLM Sartor Inc	JLM Sartor Inc	S	Beverly Cook et al	010	232342
JLM Sartor Inc	JLM Sartor Inc	S	Beverly Cook et al	011	232343
JLM Sartor Inc	JLM Sartor Inc	S	Beverly Cook et al	012	232344
JLM Sartor Inc	JLM Sartor Inc	S	Beverly Cook et al	013	232345
JLM Sartor Inc	JLM Sartor Inc	S	Stinson	013	232347
JLM Sartor Inc	JLM Sartor Inc	S	South Light	020	232604
JLM Sartor Inc	JLM Sartor Inc	S	South Light	015	232640
JLM Sartor Inc	JLM Sartor Inc	S	South Light	016	232641
JLM Sartor Inc	JLM Sartor Inc	S	South Light	018	232642
JLM Sartor Inc	JLM Sartor Inc	S	South Light	019	232643
JLM Sartor Inc	JLM Sartor Inc	S	Hunter-Mannies	007	233121
JLM Sartor Inc	JLM Sartor Inc	S	Hunter-Mannies SWD	008	233717
JLM Sartor Inc	JLM Sartor Inc	S	Stinson	011	233745
JLM Sartor Inc	JLM Sartor Inc	S	Laborde	001	233814
JLM Sartor Inc	JLM Sartor Inc	S	Mills	005	235695
JLM Sartor Inc	JLM Sartor Inc	S	Mills	006	235696
JLM Sartor Inc	JLM Sartor Inc	S	Hunter-Mannies	009	239212
JLM Sartor Inc	JLM Sartor Inc	S	Stinson	014	244159
JLM Sartor Inc	JLM Sartor Inc	S	Deloach C SWD	004	970693
JLM Sartor Inc	JLM Sartor Inc	S	Deloach C SWD	003	972715

Richard P. Ieyoub
Commissioner

1607#034

POTPOURRI

Department of Public Safety and Corrections
Office of the State Fire Marshal

Public Hearing—Substantive Changes to Proposed Rules
(LAC 17:I.107 and 111)

Editor's Note: The referenced text of this Notice of Intent is printed in its entirety on pages 826-859 of the June 2016 *Louisiana Register*.

The Department of Public Safety and Corrections, Office of the State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) published an Emergency Rule and Notice of Intent to amend its rules in the May 20, 2016 edition of the *Louisiana Register*.

The LSUCCC proposes the following amendments to §§107 and 111.

Title 17
CONSTRUCTION
Part I. Uniform Construction Code
Chapter 1. Uniform Construction Code
§107. *International Residential Code*
(Formerly LAC 55:VI.301.A.3.a)

A.1. - A.8.d. …

i. The potable water supply to lawn irrigation systems shall be protected against backflow by an atmospheric vacuum breaker, a pressure vacuum breaker assembly or a reduced pressure principle backflow prevention assembly. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker. When an irrigation/lawn sprinkler system is provided with separate zones, the potable water supply shall be protected by a pressure vacuum breaker or reduced pressure principal backflow prevention assembly. Atmospheric vacuum breakers shall be installed at least 6 inches (152 mm) above the highest point of usage [i.e., 6 inches (152 mm) above all downstream piping and highest sprinkler head]. Pressure type vacuum breakers shall be installed at least 12 inches (305 mm) above the highest point of usage (i.e., 12 inches (305 mm) above all downstream piping and the highest sprinkler head). Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow prevention assembly.

8.e - 9.r. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2383 (November 2015), amended LR 42: 05 (May 2016), LR 42:

§111. The International Plumbing Code (Formerly LAC 55:VI.301.A.5)

A. - G.10. …

a. Horizontal drains within buildings shall be provided with cleanouts as follows:

G.10.a.i. - O.3.a.i.(a). …

(i). Temporary (6 months) travel trailers residing in mobile home parks and or where more than one travel trailer resides for the purpose of employment and or hardships, may be exempted by the local jurisdiction building official from 1602.1.

3.b. - 5.c.i. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1) and Act 836 of the 2014 of the Regular Louisiana Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2386 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42: 05 (May 2016), LR 42:

Public Hearing

In accordance with R.S. 49:968(H)(2), a public hearing will be held on August 23, 2016 at 10 a.m. at the Office of the State Fire Marshal, 8181 Independence Blvd, Baton Rouge, LA 70806.

Jason Starnes
Interim Undersecretary

1607#069

POTPOURRI

Workforce Commission
Office of Workers' Compensation Administration

Weekly Compensation Benefits Limits

Pursuant to R.S. 23:1202, and based on the statewide average weekly wage as determined by the Louisiana Workforce Commission, the following limits shall apply to weekly compensation benefits for claimants injured during the period September 1, 2016 through August 31, 2017.

Average Weekly Wage	Maximum Compensation	Minimum Compensation	Mileage Reimbursement
$876.00	$657.00	$175.00	* .51 cents per mile
*Effective July 1, 2016 the mileage reimbursement is $0.51 per mile pursuant to R.S. 23:1203(D).			

This information updates R.S. 23:1202 of the Louisiana Workers Compensation Act.

	Average Weekly Wage	Maximum Comp	Minimum Comp
Sept 1, 1999-Aug 31, 2000	512.47	384.00	102.00
Sept 1, 2000-Aug 31, 2001	517.93	388.00	104.00
Sept 1, 2001-Aug 31, 2002	530.43	398.00	106.00
Sept 1, 2002-Aug 31, 2003	554.31	416.00	111.00
Sept 1, 2003-Aug 31, 2004	572.53	429.00	114.00
Sept 1, 2004-Aug 31, 2005	584.40	438.00	117.00
Sept 1, 2005-Aug 31, 2006	605.46	454.00	121.00
Sept 1, 2006-Aug 31, 2007	637.19	478.00	127.00
Sept.1, 2007-Aug 31, 2008	696.00	522.00	139.00
Sept. 1, 2008-Aug. 31, 2009	728.10	546.00	146.00
Sept. 1, 2009-Aug. 31, 2010	768.83	577.00	154.00
Sept. 1, 2010-Aug. 31, 2011	772.18	579.00	154.00
Sept. 1, 2011-Aug. 31, 2012	789.00	592.00	158.00
Sept. 1, 2012-Aug. 31, 2013	807.07	605.00	161.00
Sept. 1, 2013-Aug. 31, 2014	825.54	619.00	165.00
Sept. 1, 2014-Aug. 31, 2015	839.76	630.00	168.00
Sept. 1, 2015-Aug. 31, 2016	865.31	649.00	173.00
***Sept. 1, 2016-Aug. 31, 2017**	**876.00**	**657.00**	**175.00**

Actual wages are to be paid if the wages are less than the minimum.

Approved mileage rate as of July 1, 2016 is $0.51 per mile.

Sheral Kellar
Director

1607#073

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Executive Orders

EXECUTIVE ORDER JBE 16-16

Flags at Half-Staff to Honor Robert L. "Bobby" Freeman

WHEREAS, Robert L. "Bobby" Freeman died on May 16, 2016, at the age of 82;

WHEREAS, while perhaps most well-known as a former Lieutenant Governor, he represented the State of Louisiana in all three branches of government;

WHEREAS, elected in 1968, he served three consecutive terms in the House of Representatives representing District 60, which includes parts of Iberville, Pointe Coupee, and West Baton Rouge parishes, serving as Chair of the House Labor and Industrial Relations committee from 1972 until 1974;

WHEREAS, in 1980, he was elected to serve as Lieutenant Governor for the State of Louisiana, an office he held until 1988, during such time he was instrumental in building and strengthening the tourism industry in Louisiana;

WHEREAS, from 1990 until 1996, he served as a city judge in Plaquemine;

WHEREAS, his background includes three years of service in the United States Army;

WHEREAS, he won the state championship in 1951 for boxing at Plaquemine High School and also was a two-time NCAA runner-up in his weight class as a member of the LSU Boxing team, and was later inducted into the LSU Athletic Hall of Fame;

WHEREAS, his commitment to improving Louisiana is evidenced through his successful efforts to centralize and coordinate promotion of many unique aspects of Louisiana culture and life;

WHEREAS, he was inducted into the Louisiana Political Museum and Hall of Fame in Winnfield in 2008; and

WHEREAS, the State of Louisiana is a better place because of Lieutenant Governor Freeman's work and his legacy will live on for generations.

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

SECTION 1: As an expression of respect for Robert L. "Bobby" Freeman, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all public buildings and institutions of the State of Louisiana until sunset on Thursday, May 19, 2016.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Thursday, May 19, 2016.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 18th day of May, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1606#008

EXECUTIVE ORDER JBE 16-17

Governor's Advisory Council on the
Every Student Succeeds Act

WHEREAS, a strong public education system is essential to the well-being of Louisiana children and communities;

WHEREAS, all students deserve equitable access to a quality public education that prepares them for college, career and citizenship;

WHEREAS, on December 10, 2015, the Every Student Succeeds Act (ESSA), a bipartisan and bicameral bill to reauthorize the federal education law known as the Elementary and Secondary Education Act, was signed into law;

WHEREAS, the ESSA aspires to give parents, local educators and communities a voice in making decisions affecting education;

WHEREAS, the ESSA seeks to empower state and local decision-makers to develop and strengthen their own systems for school improvement based upon evidence;

WHEREAS, the ESSA reduces testing requirements, allowing more instruction time while still maintaining measures to make sure our children are learning;

WHEREAS, the ESSA strives to provide every student with high quality educational opportunities, regardless of his or her zip code.

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

SECTION 1: The Governor's Advisory Council on the Every Student Succeeds Act (hereafter Council) is hereby established and created within the executive department, Office of the Governor.

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

A. Conduct an extensive review of the ESSA; and

B. Make recommendations on specific actions necessary for implementation of the ESSA in Louisiana.

SECTION 3: The Council shall submit to the Governor an initial report on or before December 31, 2016 and a final report on or before March 1, 2017, outlining the requirements and recommendations for implementation of the ESSA in Louisiana.

SECTION 4: The Council shall be composed of fifteen (15) at-large members designated by the Governor and who shall serve at the pleasure of the Governor.

SECTION 5: The chair of the Council shall be designated by the Governor from the membership of the Council. All other officers, if any, shall be elected by and from the membership of the Council.

SECTION 6: Council members shall not receive additional compensation or a *per diem* from the Office of the Governor for serving on the Council.

Council members who are an employee or an elected public official of the State of Louisiana or a political subdivision of the State of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

Council members who are also a member of the Louisiana Legislature may seek a *per diem* from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 7: Support staff, facilities and resources for the Council shall be provided by the Office of the Governor.

SECTION 8: All departments, commissions, boards, offices, entities, agencies, and officers of the state of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the Council in implementing the provisions of this Order.

SECTION 9: This Order is effective upon signature and shall continue in effect until May 31, 2017, unless amended, modified, terminated or rescinded by the Governor.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 26th day of May, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1606#012

EXECUTIVE ORDER JBE 16-18

Flags at Half-Staff to Honor Mary Frey Eaton

WHEREAS, Mary Frey Eaton died on May 24, 2016, at the age of 91;

WHEREAS, she dedicated her life to the belief that we all have a responsibility of service to our community and that every child should have the opportunity to become the finest they are capable of being;

WHEREAS, from 1988 to 2000, she served on the East Baton Rouge Parish Metro Council, which included being elected mayor pro-tem in 1996;

WHEREAS, she was known for her patience and persistence in researching and fully understanding an issue, making informed decisions, and respectfully negotiating compromises between parties with differing views;

WHEREAS, her public service encompassed many areas, her persuasive demeanor an especially effective tool in advancing the arts;

WHEREAS, she helped found the Community Fund for the Arts and Keep Baton Rouge Beautiful, Inc., and also helped establish Family Service of Greater Baton Rouge;

WHEREAS, she gave generously of her time and energy through multiple civic organizations, including, but not limited to, the Louisiana Preservation Alliance, the Louisiana Art and Science Museum, the YMCA, the Baton Rouge Symphony, the Baton Rouge Area Foundation, the Arts Council of Greater Baton Rouge, the LSU Museum of Art Advisory Board, the Baton Rouge AIDS Task Force Advisory Committee, the Development Council for the Woman's Hospital Foundation, and the Frank Hayden Memorial Committee;

WHEREAS, she was chair of Keep America Beautiful in Baton Rouge, and also served on the Louisiana Educational Television Authority, the Downtown Development District, the Greater Baton Rouge Chamber of Commerce, the Public Affairs Research Council, Council for a Better Louisiana, and the Louisiana Association of Business and Industry;

WHEREAS, she received multiple awards honoring her work in the community, including the Golden Deeds Award in 1984 and the Junior League of Baton Rouge's Sustainer of the Year Award 1989;

WHEREAS, she was inducted into the LSU Hall of Distinction in 1991 and was one of six women of achievement honored by the YWCA in 1994;

WHEREAS, she was an inspiration to many people in Louisiana by exemplifying the impact one person can have on a community, and her passion and unwavering commitment to improving the State of Louisiana will long be remembered.

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

SECTION 1: As an expression of respect for Mary Frey Eaton, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all public buildings and institutions of the State of Louisiana until sunset on Friday, May 27, 2016.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Friday, May 27, 2016.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 26th day of May, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1606#013

EXECUTIVE ORDER JBE 16-19

Establishment of Unified Command Group and Subcommittees

WHEREAS, Louisiana Revised Statute 29:725.6 establishes the state Unified Command Group (UCG) as the strategic decision making body for emergencies in the state and provides that the membership shall be established by executive order;

WHEREAS, the statute further requires that three (3) permanent subcommittees shall be established, namely:

1. An Interoperability Subcommittee;
2. A First Responders Subcommittee; and
3. A Regional Parish OEP Parish Directors Subcommittee;

WHEREAS, Louisiana Revised Statute 29:739(D) establishes an Intrastate Mutual Aid Subcommittee; and

WHEREAS, the director of the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) is appropriate to serve as the Deputy Incident Commander.

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

SECTION 1: The Unified Command Group (UCG) is hereby established by this Executive Order and shall be composed of seventeen (17) members:

A. The director of the Governor's Office of Homeland Security and Emergency Preparedness, or the director's designee, who shall serve as the Chair/Deputy Incident Commander;

B. The secretary of the Department of Transportation and Development, or the secretary's designee;

C. The superintendent of State Police, or the superintendent's designee;

D. The adjutant general, or the general's designee;

E. The commissioner of the Department of Agriculture and Forestry, or the commissioner's designee;

F. The secretary of the Department of Children and Family Services, or the secretary's designee;

G. The secretary of the Department of Public Safety, or the secretary's designee;

H. The commissioner of the Division of Administration, or the commissioner's designee;

I. The secretary of the Department of Health and Hospitals, or the secretary's designee;

J. The secretary of the Department of Wildlife and Fisheries, or the secretary's designee;

K. The secretary of the Department of Environmental Quality, or the secretary's designee;

L. The secretary of the Department of Natural Resources, or the secretary's designee;

M. The attorney general, or the attorney general's designee;

N. The secretary of the Louisiana Workforce Commission, or the secretary's designee;

O. The executive secretary of the Public Service Commission, or the secretary's designee;

P. The secretary of the Department of Economic Development, or the secretary's designee; and

Q. The chairman of the Louisiana Coastal Protection and Restoration Authority, or the chairman's designee.

SECTION 2: There shall be three (3) permanent subcommittees of the UCG, whose membership is set forth by R.S. 29:725.6, namely:

1. The Interoperability Subcommittee;
2. The First Responders Subcommittee; and
3. The Regional Parish OEP Parish Directors Subcommittee.

SECTION 3: There shall be an Intrastate Mutual Aid Subcommittee, whose membership is set forth by La. R.S. 29:739.

SECTION 4: Additionally, UCG may establish such other subcommittees as it deems advisable and feasible under the authority granted in La. R.S. 29:725.6.

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

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 1st day of June, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1606#023

EXECUTIVE ORDER JBE 16-20

Emergency Operations Plan

WHEREAS, the State of Louisiana must be prepared to respond and recover in a coordinated, effective and efficient manner to all the emergencies and disasters to which it is subjected;

WHEREAS, the State of Louisiana must be organized in such a way as to effectively bring available State, Federal and private resources together to support the response and recovery efforts of our local communities;

WHEREAS, it is the policy of the State of Louisiana for all homeland security and emergency preparedness functions to follow the principles outlined in the National Incident Management System, or its successor, and La. R.S. 29:722(C); and

WHEREAS, the State of Louisiana will best achieve effective coordinated emergency planning by updating the state's current emergency operations order through the replacement of Executive Order BJ 2014-09, issued on August 6, 2014, and by the Governor's Office of Homeland Security and Emergency Preparedness updating its emergency operations plan to address the Recovery Support Functions of the National Disaster Recovery Framework.

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

SECTION 1:

A. The director of the Governor's Office of Homeland Security and Emergency Preparedness, State of Louisiana, (hereafter "director"), shall direct the State of Louisiana's emergency and/or disaster operations.

B. The director, or the director's designee, shall also coordinate the activities of all non-state agencies, departments, and/or organizations involved in emergency management within the state of Louisiana.

SECTION 2:

A. This Executive Order shall constitute the Louisiana Emergency Operations Plan ("Plan"), which shall be binding on all departments, commissions, boards, agencies, organizations and employees of the State of Louisiana, and on all local governments or political subdivisions of the State authorized or directed to conduct homeland security and emergency management operations.

B. The director shall supplement the provisions of the Plan by prescribing rules, regulations, and procedures. Once adopted, the supplement shall also be binding on all departments, commissions, boards, agencies, organizations and employees of the state of Louisiana, and on all local governments or political subdivisions of the state authorized or directed to conduct homeland security and emergency management operations.

C. Any supplement or subsequent changes to the plan shall continue to follow the principles outlined in the National Incident Management System, or its successor, and also provide for the emergency operations that may be implemented should an emergency and/or disaster strike the state of Louisiana or an area within the state of Louisiana;

SECTION 3:

A. The director shall control the activation and/or implementation of the Plan and the conclusion and/or deactivation of the Plan.

B. The director shall also control the activation and deactivation of the state Emergency Operations Center (hereafter "Center").

SECTION 4: The departments, offices, agencies, and organizations of the state of Louisiana have primary and support responsibilities for the following Emergency Support Functions (ESF) and Recovery Support Functions (RSF):

ESF	Annex	Department/Agency	Primary/ Support
ESF 1	Transportation	Department of Transportation and Development	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Education	S
		Department of Health and Hospitals	S
		Louisiana State Police	S
		Department of Wildlife and Fisheries	S
		Department of Children and Family Services	S
		Non-Governmental Organizations (NGO)	S
ESF 2	Communications	Governor's Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	P
		Division of Administration	P
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		Louisiana State Police	S
		Office of Elderly Affairs	S

ESF	Annex	Department/Agency	Primary/ Support
		Louisiana Oil Spill Coordinator's Office	S
		Louisiana State University System	S
		Department of Health and Hospitals	S
		Department of Justice	S
		Louisiana Workforce Commission	S
		Louisiana Public Service Commission	S
		Louisiana Board of Regents	S
		Department of Revenue	S
		Department of Children and Family Services	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Non-Governmental Organizations (NGO)	S
ESF 3	Public Works and Engineering	Department of Transportation and Development	P
		Louisiana Coastal Protection and Restoration Authority	P
		Louisiana National Guard	S
		Division of Administration	S
		Department of Health and Hospitals	S
		Department of Natural Resources	S
		Department of Environmental Quality	S
ESF 4	Firefighting	Department of Agriculture and Forestry	P
		Office of State Fire Marshal	P
		Louisiana National Guard	S
		Department of Environmental Quality	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Non-Governmental Organizations (NGO)	S
ESF 5	Emergency Management	Governor's Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		Division of Administration	S
		Office of Disability Affairs	S
		Office of Elderly Affairs	S
		Office of Indian Affairs	S
		Louisiana Oil Spill Coordinator's Office	S
		Louisiana State University System	S
		Department of Health and Hospitals	S
		Department of Justice	S
		Louisiana Workforce Commission	S
		Department of Natural Resources	S
		Louisiana Public Service Commission	S
		Louisiana Board of Regents	S
		Department of Revenue	S
		Secretary of State	S
		Department of Children and Family Services	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Department of the Treasury	S
		Department of Wildlife and Fisheries	S
		Coastal Protection and Restoration Authority	S
		Louisiana Oil Spill Coordinator's Office	S
		Office of State Fire Marshal	S

ESF	Annex	Department/Agency	Primary/ Support
		Non-Governmental Organizations (NGO)	S
ESF 6	Mass Care, Housing and Human Services	Department of Children and Family Services	P
		Louisiana Workforce Commission	P
		Department of Corrections	S
		Governor's Office of Homeland Security and Emergency Preparedness	S
		Louisiana Housing Corporation	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Culture, Recreation and Tourism	S
		Department of Education	S
		Office of State Fire Marshal	S
		Office of Disability Affairs	S
		Office of Elderly Affairs	S
		Department of Health and Hospitals	S
		Louisiana State University System and Ag Center	S
		Department of Insurance	S
		Department of Natural Resources	S
		Louisiana Board of Regents	S
		Department of Veterans Affairs	S
		Department of Revenue	S
		Department of Transportation and Development	S
		Louisiana State Police	S
		Southern University and Ag Center	S
		Non-Governmental Organizations (NGO)	S
ESF 7	Resources Support	Governor's Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	P
		Department of Agriculture and Forestry	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Environmental Quality	S
		Division of Administration	S
		Louisiana State University System	S
		Department of Health and Hospitals	S
		Louisiana Workforce Commission	S
		Department of Natural Resources	S
		Louisiana Board of Regents	S
		Department of Children and Family Services	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Department of the Treasury	S
		Non-Governmental Organizations (NGO)	S
ESF 8	Public Health and Medical Services	Department of Health and Hospitals	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Environmental Quality	S
		Louisiana State University System	S
		Louisiana Board of Regents	S
		Office of State Fire Marshal	S
		Louisiana Workforce Commission	S
		Department of Transportation and Development	S
		Department of Veterans Affairs	S
		Non-Governmental Organizations (NGO)	S

ESF	Annex	Department/Agency	Primary/ Support
ESF 9	Search and Rescue	Department of Wildlife and Fisheries	P
		State Fire Marshal	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Health and Hospitals	S
		Department of Corrections	S
		Department of Culture, Recreation, and Tourism	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Louisiana State University Fire and Emergency Training Institute	S
		Department of Revenue-Office of Alcohol and Tobacco Control	S
		Non-Governmental Organizations (NGO)	S
ESF 10	Oil Spill, Hazardous Materials and Radiological	Louisiana Oil Spill Coordinator's Office	P
		Louisiana State Police	P
		Department of Environmental Quality	P
		Governor's Office of Homeland Security and Emergency Preparedness	S
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Office of State Fire Marshal	S
		Louisiana State University System	S
		Department of Health and Hospitals	S
		Department of Natural Resources	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Louisiana Coastal Protection and Restoration Authority	S
		Non-Governmental Organizations (NGO)	S
ESF 11	Agriculture	Department of Agriculture and Forestry	P
		Louisiana National Guard	S
		Department of Corrections	S
		Department of Environmental Quality	S
		Department of Health and Hospitals	S
		Louisiana Board of Regents	S
		Louisiana State University System	S
		Department of Wildlife and Fisheries	S
		Governor's Office of Homeland Security and Emergency Preparedness	S
		Department of Children and Family Services	S
		Southern University and Ag Center	S
		Non-Governmental Organizations (NGO)	S
ESF 12	Energy and Utilities	Department of Natural Resources / Intrastate Natural Gas	P
		Louisiana Public Service Commission / Power	P
		Louisiana Department of Health and Hospitals (Water/Wastewater Utilities)	P
		Louisiana Department of Environmental Quality (Wastewater Utilities)	S
		Department of Agriculture and Forestry	S
		Non-Governmental Organizations (NGO)	S
		Louisiana National Guard	S
ESF 13	Public Safety and Security	Louisiana State Police	P
		Department of Justice	P
		Louisiana National Guard	S
		Department of Agriculture and Forestry	S
		Department of Corrections	S
		Department of Culture, Recreation and	S

ESF	Annex	Department/Agency	Primary/ Support
		Tourism	
		Department of Revenue - Office of Alcohol and Tobacco Control	S
		Department of Transportation and Development	S
		Department of Wildlife and Fisheries	S
		Office of Juvenile Justice	S
ESF 14	Community Recovery, Mitigation and Economic Stabilization	Governor's Office of Homeland Security and Emergency Preparedness	P
RSF 1	Community Planning and Capacity Building	Department of Economic Development	P
		Governor's Office of Homeland Security and Emergency Preparedness	S
		Louisiana Workforce Commission	S
		Department of Revenue	S
		University of Louisiana at Lafayette / NIMSAT	S
		Louisiana State University / SDMI	S
		Office of Financial Institutions	S
		Department of Insurance	S
RSF-2	Economic	Department of Economic Development	P
		Louisiana Workforce Commission	S
		Department of Revenue	S
		University of Louisiana at Lafayette / NIMSAT	S
		Louisiana State University / SDMI	S
		Office of Financial Institutions	S
		Department of Insurance	S
RSF-3	Health and Social Services	Department of Health and Hospitals	P
		Department of Children and Family Services	S
		Department of Education	S
		Louisiana State University System	S
		Louisiana Board of Regents	S
RSF-4	Housing	Louisiana Housing Corporation	P
		Office of Community Development	S
		Department of Children and Family Services	S
RSF-5	Infrastructure Systems	Department of Transportation and Development	P
		Governor's Office of Homeland Security and Emergency Preparedness	S
		Office of Financial Institutions	S
		Department of Agriculture and Forestry	S
		Department of Insurance	S
		Louisiana Public Service Commission	S
		Louisiana Economic Development	S
		Department of Environmental Quality	S
		Department of Natural Resources	S
		Department of Corrections	S
		Louisiana Oil Spill Coordinator's Office	S
		Office of State Fire Marshal	S
RSF-6	Natural and Cultural Resources	Department of Wildlife and Fisheries	P
		Coastal Protection and Restoration Authority	P
		Department of Natural Resources	S
		Department of Environmental Quality	S
		Department of Culture, Recreation and Tourism	S
		Department of Agriculture and Forestry	S
		Secretary of State	S
		Non-Governmental Organizations (NGO)	S
ESF 15	Emergency Public Information	Governor's Office of Homeland Security and Emergency Preparedness	P
		Louisiana National Guard	S
		Senate and House Legislative Liaisons	S
		Department of Agriculture and Forestry	S

ESF	Annex	Department/Agency	Primary/ Support
		Department of Corrections	S
		Department of Culture, Recreation and Tourism	S
		Department of Economic Development	S
		Department of Education	S
		Department of Environmental Quality	S
		Office of State Fire Marshal	S
		Division of Administration	S
		Office of Disability Affairs	S
		Office of Elderly Affairs	S
		Office of Financial Institutions	S
		Office of Indian Affairs	S
		Louisiana Oil Spill Coordinator's Office	S
		Louisiana State University System	S
		Department of Health and Hospitals	S
		Department of Justice	S
		Department of Insurance	S
		Louisiana Workforce Commission	S
		Department of Natural Resources	S
		Louisiana Public Service Commission	S
		Louisiana Board of Regents	S
		Department of Revenue	S
		Department of Children and Family Services	S
		Secretary of State	S
		Louisiana State Police	S
		Department of Transportation and Development	S
		Department of the Treasury	S
		Department of Wildlife and Fisheries	S
		Coastal Protection and Restoration Authority	S
		Non-Governmental Organizations (NGO)	S
ESF 16	Military Support to Civilian Affairs	Louisiana National Guard	P

SECTION 5: The head of each department, office, agency, and organization identified in Section 4 of this Order shall designate both an emergency coordinator and an alternate coordinator to act on the department's behalf during an emergency situation, and furnish the director with their names and all phone numbers. The head shall also designate a Continuity of Operations Plan (COOP) coordinator who will prepare and maintain plans, procedures, arrangements, and agreements to ensure that the organization will continue to carry out its mission in an emergency or disaster.

SECTION 6: The head of each department assigned a primary ESF or RSF responsibility in Section 4 shall submit implementing procedures to the director that set forth the department's procedures for carrying out its assigned emergency and/or recovery support functions. The head of each department shall submit annual updates of their implementing procedures to the director.

SECTION 7: The head of each department assigned emergency support responsibilities in Section 4 of this Order shall assist its primary department in the preparation of their procedures and/or any other documents necessary to support the Plan.

SECTION 8: The head of each department assigned a primary and/or a support responsibility in Section 4 of this Order will:

A. Staff the State Emergency Operations Center or Recovery Operations Center with personnel during training exercises and emergencies as requested by the director;

B. Maintain and operate a 24-hour response capability in the department headquarters, or in the department's designated Emergency Operations Center, when the Plan is implemented;

C. Participate in exercises of the Plan when scheduled by the director;

D. Participate in, and conduct, training essential to implementation of the department's assigned emergency management responsibility.

E. Conduct an annual internal review to update the details of their department's implementing procedures and advise the director of needed modifications of their implementing procedures; and

F. Maintain logs, records, and reporting systems required by all state and federal laws, rules, and regulations.

SECTION 9: All departments, commissions, boards, agencies and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 1st day of June, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1606#024

EXECUTIVE ORDER JBE 16-21

Continuation of the National Incident Management System (NIMS) Designation

WHEREAS, it is necessary and desirable that all federal, state, local, and tribal emergency agencies and personnel coordinate their efforts to effectively and efficiently provide the highest levels of incident management;

WHEREAS, the President in Homeland Security Directive (HSPD)-5, directed the secretary of the Department of Homeland Security to develop and administer a National Incident Management System (hereafter "NIMS"), which would provide a consistent nationwide approach for federal, state, local and tribal governments to work together more effectively and efficiently to prevent, prepare for, respond to and recover from domestic incidents, regardless of cause, size or complexity;

WHEREAS, the collective input and guidance from all federal, state, local and tribal homeland security partners has been, and will continue to be, vital to the development, effective implementation and utilization of a comprehensive NIMS;

WHEREAS, to facilitate the most efficient and effective incident management, it is critical that federal, state, local and tribal organizations utilize standardized terminology, standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning, training and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters;

WHEREAS, the NIMS standardized procedures for managing personnel, communication, facilities and resources will improve the state's ability to utilize federal funding to enhance local and state agency readiness, maintain first responder safety, and streamline incident management process;

WHEREAS, the Incident Command System components of NIMS are already an integral part of various incident management activities throughout the state, including current emergency management training programs;

WHEREAS, the National Commission on Terrorist Attacks (9-11 Commission) has also recommended adoption of a standardized incident command system; and

WHEREAS, the best interests of the citizens of the State of Louisiana are served by the adoption of the standardized incident command system to facilitate the most efficient and effective incident management.

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

SECTION 1: The National Incident Management System (NIMS) shall continue to be the standard of incident management for the State of Louisiana, as established within the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), which continues the standard for incident management created pursuant to Executive Order No. BJ 2008-40.

SECTION 2: As previously mandated by Homeland Security Presidential Directive HSPD-5, commencing in Fiscal Year 2005, adoption of NIMS continues to be a requirement for both GOHSEP and sub-grantees receiving federal funds from the Federal Emergency Management Agency.

SECTION 3: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the implementation of the provisions of this Order.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 1st day of June, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1606#026

EXECUTIVE ORDER JBE 16-22

Governor's Council on Homelessness

WHEREAS, in November 2015, the U.S. Department of Housing and Urban Development issued the 2015 Annual Homeless Assessment Report to Congress;

WHEREAS, this report estimated 564,708 people were homeless in the United States on a given night, and that 127,787 (or roughly one quarter) of those individuals were under the age of eighteen;

WHEREAS, this report also found that, of those 564,708 people, 96,275 were chronically homeless and 47,725 were veterans;

WHEREAS, in the timeframe of 2014-2015, Louisiana reduced the number of homeless people in families with children by approximately twenty-five percent; in the timeframe of 2009-2015, Louisiana experienced a decrease in homelessness among veterans of approximately eighty percent, one of the largest in the nation;

WHEREAS, the State has developed a Ten-Year Plan to End Homelessness;

WHEREAS, effectively addressing homelessness requires collaboration among state agencies, local governments, the private sector, and service provider networks to coordinate program development, deliver essential services, and provide housing; and

WHEREAS, while many state departments and agencies are impacted by and work to address the challenges presented by homelessness, it is necessary to ensure that state government is coordinating its efforts effectively with the efforts of the federal government, local governments, the private sector and service provider networks.

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

SECTION 1: The Governor's Council on Homelessness (hereafter "Council") is created within the executive department, Office of the Governor.

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

A. Advising the Governor on issues of concern to Louisiana citizens concerning homelessness;

B. Reviewing and updating Louisiana's Ten-Year Plan to End Homelessness;

C. Monitoring implementation of Louisiana's Ten-Year Plan to End Homelessness;

D. Serving as a resource for information about access to available services for the homeless population, including housing and transportation options for the homeless;

E. Consulting and coordinating all activities with the Federal Interagency Council for the Homeless, HUD, and all other federal agencies that provide assistance to the homeless;

F. Ensuring the services for all homeless persons of the State of Louisiana are appropriately planned and coordinated, thereby reducing duplication among programs and activities by state agencies and other providers;

F. Recommending improvements to the service delivery system for the homeless; and

G. Conducting other activities as may be appropriate and necessary.

SECTION 3: On or before January 5, the Council shall submit to the Governor annual reports regarding the issues set forth in Section 2 of this Order.

SECTION 4: The Council shall be composed of a maximum of eleven (11) members who, unless otherwise specified, shall be designated by and serve at the pleasure of the Governor:

1. The attorney general, or the attorney general's designee;

2. The executive director of the Louisiana Housing Corporation, or the director's designee;

3. The secretary of the Department of Veterans Affairs, or the secretary's designee;

4. The secretary of the Department of Children and Family Services, or the secretary's designee;

5. The secretary of the Department of Health and Hospitals, or the secretary's designee;

6. The superintendent of the Department of Education, or the superintendent's designee;

7. The secretary of the Department of Transportation and Development, or the secretary's designee; and

8. Four (4) at-large members with qualifications deemed appropriate by the Governor.

SECTION 5: The chair of the Council shall be designated by the Governor from the membership of the Council. All other officers, if any, shall be elected by and from the membership of the Council.

SECTION 6: The Council shall meet at regularly scheduled intervals and at the call of the chair.

SECTION 7: Council members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Council.

Council members who are an employee or an elected public official of the State of Louisiana or a political subdivision of the State of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

Council members who are also a member of the Louisiana Legislature may seek a *per diem* from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 8: Support staff, facilities, and resources for the Council shall be provided by the Office of the Governor.

SECTION 9: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the Council in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 3rd day of June, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1606#027

EXECUTIVE ORDER JBE 16-23

Governor's Task Force on Transportation Infrastructure Investment

WHEREAS, the improved condition and increased capacity of the State of Louisiana's transportation infrastructure are vital for the safety, prosperity, and quality of life of its citizens, for the effective transaction of commerce, and for attracting, retaining, and expanding businesses and growing the economy;

WHEREAS, major metropolitan areas of the State of Louisiana currently rank among the worst in the nation for traffic congestion and road conditions, which annually costs citizens and businesses significant amounts of time through

delay and money through lost productivity and vehicle repair;

WHEREAS, the State of Louisiana has a $12.7 billion backlog in highway and bridge maintenance and construction needs;

WHEREAS, Louisiana's Statewide Transportation Plan additionally identifies $10.5 billion in Priorities A and B of new major transportation improvements or "megaprojects" needed throughout the state;

WHEREAS, in recent years, the cost of construction has constantly increased, while inflation has eroded the value of dollars dedicated to transportation;

WHEREAS, over many years, money from the state's Transportation Trust Fund dedicated to transportation infrastructure has been further reduced by the transfer of these funds for other governmental purposes related to transportation;

WHEREAS, the state has had to rely on competitive funding at the federal level of limited one time funding to invest in infrastructure;

WHEREAS, during his first year in office, the Governor has worked with the legislature through the state operating and capital outlay budgets to take meaningful steps to restore trust in the Transportation Trust Fund, in spite of unprecedented fiscal instability and historic deficits; and

WHEREAS, it is in the best interests of the citizens of the State of Louisiana to see expedited and vastly increased action and resources devoted to maintaining existing transportation infrastructure, specifically bridges, and constructing new projects that reduce congestion, improve safety and quality of life, expand economic opportunity, and provide effective mobility through a variety of multimodal transportation options.

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

SECTION 1: The Governor's Task Force on Transportation Infrastructure Investment (hereafter "Task Force") is established within the executive department, Office of the Governor.

SECTION 2: The duties of the Task Force shall include, but are not limited to, the following:

Research, identify, and make specific actionable recommendations for achieving sufficient increased levels of recurring funding to address the transportation backlog in highway and bridge maintenance needs in Louisiana; and

Research, identify, and make specific actionable recommendations for legislation to be introduced in 2017 to fund a robust, multimodal construction program to address immediate needs to preserve the state's investments in infrastructure and build "megaprojects" included in the Louisiana Statewide Transportation Plan, Priority A and Priority B.

SECTION 3: On or before January 1, 2017, the Task Force shall submit to the Governor a report regarding the issues set forth in Section 2 of this Order.

SECTION 4: The Task Force shall be comprised of a maximum of eighteen (18) members who, unless otherwise specified, shall be designated by and serve at the pleasure of the Governor. Ex officio members shall not be counted for purposes of a quorum.

1. The president of the Louisiana Public Affairs Research Council;
2. A business person designated by Blueprint Louisiana;
3. Three business representatives designated by the state's eight regional economic development organizations;
4. A business person designated by the Louisiana Chemical Association;
5. A transportation industry representative recommended by the Louisiana Association of General Contractors;
6. Two at-large members appointed by the Governor;
7. The executive director of the Louisiana Municipal Association;
8. The executive director of the Police Jury Association of Louisiana;
9. The chairman of the House Committee on Transportation, Highways and Public Works or his designee;
10. The chairman of the Senate Committee on Transportation, Highways and Public Works or his designee;
11. The Speaker of the Louisiana House of Representatives, or his designee;
12. The President of the Louisiana Senate or his designee;
13. The secretary of the Department of Transportation and Development;
14. The commissioner of the Division of Administration, or the commissioner's designee, as an ex officio member;
15. The secretary of the Department of Revenue, or the secretary's designee, as an ex officio member.

SECTION 5: There shall be two co-chairs of the Task Force. One will be the secretary of the Department of Transportation and Development and the other shall be appointed by the Governor. All other officers, if any, shall be elected by the members of the Task Force.

SECTION 6: The Task Force shall meet at regularly scheduled intervals and at the call of the co-chairs. The Task Force is encouraged to conduct outreach regionally and by industry as necessary.

SECTION 7: Task Force members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Task Force.

Task Force members who are an employee or an elected public official of the State of Louisiana or a political subdivision of the State of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

Task Force members who are also a member of the Louisiana Legislature may seek a per diem from the Louisiana State Senate or House of Representatives, as appropriate, for their attendance.

SECTION 8: Support staff, facilities and resources for the Task Force shall be provided by the Office of the Governor and the Department of Transportation and Development.

SECTION 9: All departments, commissions, boards, offices, entities, agencies, and officers of the state of

Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the Task Force in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall continue in effect until the Task Force has completed the tasks identified in Sections 2 and 3 of this Order, unless amended, modified, terminated or rescinded by the Governor.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 7th day of June, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1606#078

Emergency Rules

DECLARATION OF EMERGENCY

Department of Children and Family Services
Division of Programs
Licensing Section

Health Status (LAC 67:V.7313 and 7315)

The Department of Children and Family Services (DCFS) has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to amend LAC 67:V, Subpart 8, Chapter 73, Child Placing Agencies—General Provisions, Sections 7313 and 7315. This declaration is necessary to extend the original Emergency Rule since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. This Emergency Rule extension is effective on June 24, 2016 and will remain in effect until the final Rule becomes effective.

The department considers emergency action necessary due to the increased number of children entering the foster care system and the need for available foster and adoptive homes. The department seeks to expand the number of potential applicants which enables the department to certify additional foster and adoptive parents who will provide a safe and nurturing environment for our most vulnerable citizens.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 8. Residential Licensing
Chapter 73. Child Placing Agencies—General Provisions

§7313. Foster Care Services

A. - B.2.d.iv.(a). ...

v. health;

(a). a statement for each member of the applicant's household signed by a licensed physician or licensed health care professional verifying that the individual:

(i). has no past nor present physical or mental illness or condition that would present a health or safety risk to a child placed in the applicant's home;

(ii). is physically able to provide necessary care for a child; and

(iii). is free of a communicable or infectious disease or if not free of a communicable or infectious disease, there shall be a signed statement by the licensed treating physician or licensed treating health care professional verifying the following:

[a]. the individual is under the care of a licensed physician or licensed health care professional; and

[b]. the present condition does not present a health or safety risk to a child placed in the applicant's home.

B.2.e. - C.5.b.vii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and Act 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:833 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), LR 42:

§7315. Adoption Services

A. - F.2.d.iv.(a). ...

v. health:

(a). a statement for each member of the applicant's household signed by a licensed physician or licensed health care professional verifying that the individual:

(i). has no past nor present physical or mental illness or condition that would present a health or safety risk to a child placed in the applicant's home;

(ii). is physically able to provide necessary care for a child; and

(iii). is free of a communicable or infectious disease or if not free of a communicable or infectious disease, there shall be a signed statement by the licensed treating physician or licensed treating health care professional verifying the following:

[a]. the individual is under the care of a licensed physician or licensed health care professional; and

[b]. the present condition does not present a health or safety risk to a child placed in the applicant's home.

F.2.e. - J.4.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and Act 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:842 (March 2011), amended LR 42:

Marketa Garner Walters
Secretary

1606#018

DECLARATION OF EMERGENCY

Department of Children and Family Services
Economic Stability Section

Community Supervision Program
(LAC 67:III.5573)

The Department of Children and Family Services (DCFS), Economic Stability, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to amend LAC 67:III, Subpart 15, Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55, TANF Initiatives, Section 5573, Community Supervision Program. This Emergency Rule shall be adopted on June 2, 2016 and is effective July 1, 2016. It shall remain in effect for a period of 120 days.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, amendment of Section 5573

is necessary to clarify the program's service period and financial eligibility criteria, which must mirror eligibility rules in effect as of August 21, 1996 under the Louisiana Aid to Families with Dependent Children (AFDC) Emergency Assistance Program.

The department considers emergency action necessary to facilitate the expenditure of TANF funds. The authorization to promulgate emergency rules to facilitate the expenditure of TANF funds is contained in Act 16 of the 2015 Regular Session of the Louisiana Legislature.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives
Chapter 55. TANF Initiatives
§5573. Community Supervision Program

A. The department has an agreement with the Department of Public Safety and Corrections, Office of Juvenile Justice (DPSC-OJJ), to provide services to youth and their families as a result of an adjudication and disposition by a court that orders (DPSC-OJJ) to supervise youth in their communities in an effort to prevent removal from the home.

B. OJJ will complete an intake/assessment and develop a case plan for addressing the needs of the youth. The case plan will contain goals for all need areas and when indicated, include referrals to community programs for both youth and parents. These referrals may include but are not limited to:

1. case management, counseling, and in-home services;
2. parenting education and training, either in-home or out-of-home;
3. diagnostic and evaluation services provided in an attempt to make the most appropriate out-of-home placement;
4. supervision or non-residential programs for youth who remain in the home.

C. TANF eligibility is limited within any 12 month period to a single episode of need with a maximum duration of 12 months. TANF eligibility is also limited to families with income less than twice the state median income (SMI).

D. These services are TANF-eligible based on inclusion in the state's approved AFDC Emergency Assistance Program that was in effect as of August 21, 1996.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 46:231 and R.S. 36:474, and amended Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:2511 (November 2003), amended LR 31:487 (February 2005), LR 34:697 (April 2008), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:

Marketa Garner Walters
Secretary

1606#017

DECLARATION OF EMERGENCY

Department of Health
Board of Examiners of Psychologists

Continuing Education and Licenses
(LAC 46:LXIII.Chapters 8 and 9)

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedures Act, R.S. 49:953(B) to amend LAC 46:LXIII.801, 803, 805, 807, 809, 811, 815, 903; repeal §808; adopt §901; and renumber current §§901, 902, and 903.). This board has an immediate need for such rules as they pertain to licensing of psychologists and are necessary to effectuate renewals and continuing education statutorily required to begin July 1, 2016. The current rules published in 2013 are due to effectuate for this license renewal period and contain errors and contradictions that would hinder effective administration of license renewals for approximately 750 psychologists impacting their insurance credentialing and ability to provide services to the public. This Emergency Rule shall become effective on June 1, 2016, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until a final Rule is promulgated in accordance with law, whichever occurs first. The board intends to continue the rule-making process and promulgate final rules within the requisite time period allowed under the APA.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXIII. Psychologists
Subpart 1. General Provisions
Chapter 8. Continuing Education
§801. Preface

A. Pursuant to R.S. 37:2357(B), each licensed psychologist is required to complete continuing education hours, also referred to as continuing professional development (CPD) within biennial reporting periods. Continuing education is an ongoing process consisting of learning activities that increase professional development. Continuing professional development activities:

1. - 3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:769 (September 1990), amended LR 19:46 (January 1993), LR 32:1228 (July 2006), LR 36:1007 (May 2010), LR 39:2754 (October 2013), LR 42:

§803. Requirements

A. For the reporting periods that begin July 2014 and July 2015, each psychologist is required to complete 30 hours or credits of continuing professional development within the biennial reporting period. The CPD credits must conform to the distribution requirements listed below in Subsection C. For the reporting periods that begin July 2016

and July 2017 and henceforth, 40 credits of continuing professional development will be required in the biennial reporting period and the hours must conform to the distribution listed below in Subsection C.

B. …

C. Within each reporting period, licensees must earn credits in at least two of the subcategories listed under Subsection D of this Section.

D. Licensees can accumulate continuing professional development credits in the categories defined:

1. Professional

a. Peer Consultation—interacting with colleagues in a structured and organized format. Examples include case consultation groups, journal clubs, regional research groups, mentoring, and shadowing a colleague. One hour of peer consultation equals one credit.

i. If requested, documentation required to earn credit shall be a verification form providing evidence that it is a structured program of consultation with regularly scheduled meetings and showing the nature of the consultation. Additionally, the person providing the consultation, or facilitating the case consultation group, must attest, by signature, to the description of the program, number of hours met and that the verification form has been completed.

b. Practice Outcome Monitoring—assessing patient/client outcomes via questionnaire(s) that is appropriate to the practice endeavor. One client equals one credit per reporting period.

i. If requested, documentation required to earn credit shall be a verification form and a de-identified copy of the patient/client questionnaire.

c. Professional Activities—serving on a national, regional, or state psychological association board or committee; or board member of regulatory body related to the field of psychology. Professional activities shall not include lobbying activities. One year equals 10 credits.

i. If requested, documentation required to earn credit shall be a verification form and documentation from the professional organization confirming the service.

d. Conferences/Conventions—attendance at a conference related to the field of psychology or a conference, which aids in the licensee's professional development. One conference day equals one credit.

i. If requested, documentation required to earn credit shall include a copy of registration materials. This credit is separate from traditional continuing education units that may be awarded at said conference.

2. Academic

a. Academic Courses—graduate-level course related to psychologist's discipline and practice taken for credit from a regionally accredited university or one pre-approved by the board. One three-hour course or equivalent equals 20 credits; or, one registered audit, documented by the university, equals five credits.

i. If requested, documentation required to earn credit shall include course transcript.

b. Instruction—preparation and teaching a semester long graduate or undergraduate course, related to psychology, in a regionally accredited institution; or continuing education workshop presentation. Credit can only be received the first time teaching or presenting the material. Credit for preparing and teaching a workshop shall be equal to four times the credit granted attendees divided by the number of presenters; Credit for teaching a university course shall be 10 times the number of credit hours awarded the students.

i. If requested, documentation required to earn credit shall be the course syllabus or brochure.

c. Publications—author of an article for peer-reviewed publications or author, editor or co-editor of a book/book chapter related to the field of psychology. One article equals 10 credits; one book/book chapter equals 10 credits.

i. If requested, documentation required to earn credit shall include a copy of journal abstract or a copy of the publication.

3. Traditional Continuing Education

a. Approved Sponsored CE—workshops from a recognized approved sponsor under Section 805.A of this Chapter. One hour equals one credit.

i. If requested, documentation required to earn credit shall be the certificate or award of completion from sponsor.

b. Self-directed Learning—examples include reading, Internet, videos, and/or other unsponsored activities. All self-directed learning activities shall be limited to 10 credits. One hour equals one credit.

i. If requested, documentation required to earn credit shall include the completion of the continuing professional development verification form provided by the Board.

AUTHORITY NOTE:Promulgated in accordance with R.S. 27:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19:46 (January 1993), LR 32:1228 (July 2006), LR 39:2754 (October 2013), LR 42:

§805. Acceptable Sponsorship, Offerings and Activities

A. The board will recognize the following as acceptable sponsors of the continuing education requirements:

1. accredited institutions of higher education;

2. hospitals which have approved Regional Medical Continuing Education Centers;

3. hospitals which have APA approved doctoral internship training programs;

4. national, regional, or state professional associations, or divisions of such associations, which specifically offer or approve graduate or post doctoral continuing education training;

5. American Psychological Association (APA) approved sponsors and activities offered by APA (including home study courses);

6. activities sponsored by the Board of Examiners of Psychologists; and

7. activities sponsored by the Louisiana Department of Health and Hospitals or its subordinate units and approved by the chief psychologist of the sponsoring state office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19:46 (January 1993), LR 22:1131 (November 1996), LR 25:1098 (June 1999), LR 32:1228 (July 2006), LR 36:1007 (May 2010), LR 42:

§807. Unacceptable Offerings and/or Activities

A. The board will not recognize:

1. activities unrelated to the field of psychology even though such activities may be valuable for other professional purposes;

2. personal psychotherapy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR19:47 (January 1993), LR 25:1098 (June 1999), LR 42:

§808. Calculation of Credits Earned

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists LR 32:1229 (July 2006), repealed LR 42:

§809. Reporting Requirements

A. Each psychologist shall complete, at the end of reporting periods, the continuing professional development report and file accordingly with the board.

B. …

C. Supporting Documentation. Each licensee shall retain corroborative documentation, such as the CPD Verification Form, of his or her continuing professional development for six years. Although this documentation is not routinely required as part of the licensee's submission, the board may, at its discretion, request such documentation. Any misrepresentation of continuing professional development will be cause for disciplinary action by the board.

D. …

E. The board may conduct an annual audit of Continuing Professional Development Reports. Psychologists shall be selected randomly and will be required to produce documentation for each item reported to the board. The number of psychologists selected for audit shall be determined by the board.

AUTHORITY NOTE:Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:47 (January 1993), amended LR 32:1229 (July 2006), LR 39:2755 (October 2013), LR 42:

§811. Extensions/Exemptions

A. Licensees on extended active military service outside the state of Louisiana during the applicable reporting period and who do not engage in delivering psychological services within the state of Louisiana may be granted an extension or an exemption if the board receives a timely confirmation of such status.

B. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:47 (January 1993), amended LR 32:1229 (July 2006), LR 39:2755 (October 2013), LR 42:

§815. Reinstatement

A. - B. …

1. The board may require documentation of continuing professional development prior to reinstating a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:47 (January 1993), LR 39:2756 (October 2013), LR 42:

Chapter 9. Licensees

§901. Reinstatement of Lapsed Licenses

A. If the licensee is not renewed by the end of July, due notice having been given, the license shall be regarded as lapsed for the year beginning with that August. Such lapsed license shall not be listed in the directory.

B. The person shall not practice psychology in Louisiana while the license is lapsed.

C. Within two years of the lapsing of such license, the licensee may submit an application for reinstatement for board review along with the payment of a reinstatement fee equal to the current application fee and the current renewal fee. Applicants who appear for reinstatement after one year of the lapsing of his/her license are required to submit to a criminal background check.

D. After two years of the lapsing of such license, the licensee may submit an application for reinstatement for board review along with the payment of a reinstatement fee equal to the current application fee and the current renewal fee provided that the person is in compliance with R.S. 37:2357.A and the rules and regulations of the board. Applicants for reinstatement received after two years are required to submit to a criminal background check and oral examination.

E. A lapsed license shall be reinstated as of the date all applicable requirements of R.S. 37:2357 have been met. However, the board retains the right to reinstate licenses retroactively in unusual circumstances as specified in the policy and procedures of the LSBEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, LR 42:

§902. Provisional License Renewal [Formerly §901]

A. A psychologist is eligible to renew their provisional license until July 31 of each year upon submission of the required renewal fee, renewal application form and fulfillment of all continuing education requirements as defined in LAC 46:LXIII.Chapter 8.

B. A provisional license may be valid for one year beginning August 1 through July 31 for each renewal period.

C. A person whose provisional license has been suspended is not eligible for renewal. Reinstatement procedures of a suspended provisional license are at the discretion of the board.

D. A person whose provisional license has been revoked is not eligible for renewal.

E. Provisionally licensed psychologists shall be eligible for renewal of provisional licensure no more than three consecutive years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2619 (December 2015), repromulgated LR 42:

§903. Lapsed Provisional License [Formerly §902]

A. If a provisional license is not renewed by July 31, due notice having been given, the license shall be regarded as lapsed for the year beginning with that August. Such license is not eligible for reinstatement unless such requirements are satisfied within six months from the date of lapse.

B. If a provisional license lapses for a period longer than 6 months, one may make a new application to the board. It is at the discretion of the board that any requirements not fulfilled during the year prior to lapse be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2620 (December 2015), repromulgated LR 42:

§904. Contact Information [Formerly §903]

A. A licensed psychologist shall notify the board within 30 days, with documentation, attesting to any change of contact information including mailing address, work address, telephone number and email address. This documentation notice shall include the psychologist's, full name, license number, and the old and new contact information.

B. Should a psychologist be displaced to a temporary location due to an emergency, the psychologist shall notify the board within 30 days, with documentation attesting to the temporary change in contact information. The documented notice shall include the psychologist's full name, license number, old and new temporary contact information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 32:1227 (July 2006), amended LR 39:2754 (October 2013), repromulgated LR 42:

Jaime T. Monic
Executive Director

1606#041

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Louisiana Low-Income Academic Hospitals
(LAC 50:V.2501 and Chapter 31)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.2501 and adopts LAC 50:V. Chapter 31 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated Emergency Rules which amended the provisions governing disproportionate share hospital (DSH) payments to hospitals participating in public-private partnerships in the south and north Louisiana areas (*Louisiana Register*, Volume 39, Numbers 7 and 10). As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the corresponding state plan amendments, the department determined that it was necessary to repeal the provisions of the July 6, 2013 and October 1, 2013 Emergency Rules governing DSH payments to the hospitals participating in the south and north Louisiana area public-private partnerships.

The department promulgated an Emergency Rule which amended the provisions governing DSH payments in order to establish payments to Louisiana low-income academic hospitals (*Louisiana Register,* Volume 40, Number 6). The department subsequently amended the provisions of the May 24, 2014 Emergency Rule to clarify the provisions governing the payment methodology to Louisiana low-income academic hospitals (*Louisiana Register*, Volume 40, Number 9). The department has now determined that it is necessary to amend the provisions of the September 20, 2014 Emergency Rule in order to clarify qualifying criteria for Louisiana Low-Income Academic Hospitals and reimbursement methodology. This Emergency Rule also amends the provisions governing the DSH payment methodology. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective June 20, 2016 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the September 20, 2014 Emergency Rule governing DSH payments to low-income academic hospitals and the DSH payment methodology.

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

§2501. General Provisions

A. - C. ...

D. - E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34;657 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:790 (April 2014), LR: 42:

Chapter 31. Louisiana Low-Income Academic Hospitals

§3101. Qualifying Criteria

A. Hospitals Located Outside of the Baton Rouge and New Orleans Metropolitan Statistical Area

1. Effective for dates of service on or after July 1, 2016, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located outside of the Baton Rouge and New Orleans metropolitan statistical area (MSA) which:

i. entered into a cooperative endeavor agreement with the State of Louisiana to increase its provision of inpatient Medicaid and uninsured services by providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

ii. is formerly a state owned and operated hospital whose ownership change to non-state privately owned and operated prior to July 1, 2014;

b. has Medicaid inpatient days utilization greater than 18.9 percent. Qualification shall be calculated by dividing the Medicaid inpatient days by the total inpatient days reported on the Medicaid as filed cost report ending during state fiscal year 2015 received by April 30, 2016, and shall include traditional, shared, and managed care Medicaid days per the worksheet S-3 part I, lines 1 through 18. Column 7 shall be used to determine allowable Medicaid days and column 8 shall be used to determine total inpatient days; and

c. has a ratio of intern and resident full time equivalent s (FTEs) to total inpatient beds that is greater than .08. Qualification shall be based on the total inpatient beds and intern and resident FTEs reported on the Medicare/Medicaid cost report ending during state fiscal year 2015. The ratio of interns and resident FTEs shall be calculated by dividing the unweighted intern and resident FTEs reported on the Medicare Cost Report Worksheet E-4, line 6 by the total inpatient beds, excluding nursery and Medicare designated distinct part psychiatric unit beds, reported on worksheet S-3, column 2, lines 1 through 18.

B. Hospitals Located In the New Orleans Metropolitan Statistical Area

1. Effective for dates of service on or after July 1, 2016, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located in the New Orleans MSA which

i. entered into a cooperative endeavor agreement with the State of Louisiana to increase its provision of inpatient Medicaid and uninsured services by providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

ii. is formerly a state owned and operated hospital whose ownership changed to non-state privately owned and operated prior to July 1, 2014;

b. has Medicaid inpatient days utilization greater than 45 percent. Qualification shall be calculated by dividing the Medicaid inpatient days by the total inpatient days reported on the Medicaid as filed cost report ending during state fiscal year 2015 received by April 30, 2016, and shall include traditional, shared, and managed care Medicaid days per the worksheet S-3 part I, lines 1 through 18. Column 7 shall be used to determine allowable Medicaid days and column 8 shall be used to determine total inpatient days; and

c. has a ratio of intern and resident FTEs to total inpatient beds that is greater than 1.25. Qualification shall be based on the total inpatient beds and intern and resident FTEs reported on the Medicare/Medicaid cost report ending during state fiscal year 2015. The ratio of interns and resident FTEs shall be calculated by dividing the unweighted intern and resident FTEs reported on the Medicare Cost Report Worksheet E-4, line 6 by the total inpatient beds, excluding nursery and Medicare designated distinct part psychiatric unit beds, reported on worksheet S-3, column 2, lines 1 through 18.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§3103. Payment Methodology

A. Each qualifying hospital shall be paid DSH adjustment payments equal to 100 percent of allowable hospital specific uncompensated care costs.

1. Costs, patient specific data and documentation that qualifying criteria is met shall be submitted in a format specified by the department.

2. Costs and lengths of stay shall be reviewed by the department for reasonableness before payments are made.

B. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

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

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1606#055

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Mental Health Emergency Room Extensions
(LAC 50:V.2711)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals LAC 50:V.2711 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH) payments for mental health emergency room extensions (MHEREs) in order to change the deadline for hospitals that established a MHERE to sign an agreement to participate for

reimbursement of uncompensated care costs for psychiatric services (*Louisiana Register*, Volume 36, Number 8).

As a result of a budgetary shortfall in state fiscal year 2015, the department determined that it was necessary to amend the provisions governing DSH payments to eliminate payments for MHEREs (*Louisiana Register*, Volume 41, Number 3). This Emergency Rule is being promulgated in order to continue the provisions of the March 5, 2015 Emergency Rule. This action is being taken to avoid a budget deficit in the Medical Assistance Program.

Effective July 1, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing repeals the provisions governing disproportionate share hospital payments for mental health emergency room extensions.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2711. Mental Health Emergency Room Extensions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1628 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1781 (August 2010), repealed LR 42:

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1606#056

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment
School-Based Nursing Services
(LAC 50:XV.9501)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.9501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated a Rule which adopted provisions to establish reimbursement and coverage for school-based nursing services rendered to all children enrolled in Louisiana schools (*Louisiana Register*, Volume 39, Number 10).

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) recently issued guidance which removed the requirement that school-based nursing services be included on the individualized education plan (IEP) to be reimbursed by Medicaid. As a result of the CMS guidance, the department promulgated an Emergency Rule which amended the provisions governing school-based nursing services covered in the EPSDT Program to remove the IEP requirement (*Louisiana Register*, Volume 41, Number 6). This Emergency Rule is being promulgated to continue the provisions of the July 1, 2015 Emergency Rule. This action is being taken to avoid CMS sanctions, promote the health and welfare of Medicaid eligible recipients, and to assure a more efficient and effective delivery of health care services.

Effective June 28, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid coverage of school-based nursing services covered under the Early and Periodic Screening, Diagnosis and Treatment Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment

Chapter 95. School-Based Nursing Services

§9501. General Provisions

A. - B. ...

C. School-based nursing services shall be covered for all recipients in the school system.

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:2760 (October 2013), amended LR: 42:

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1606#057

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Nursing Facilities
Reimbursement Methodology
(LAC 50:II.20001)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:II.20001 in the Medical Assistance Program as authorized by R.S. 36:254

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

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement to nursing facilities, through vendor payments, for services rendered to Medicaid eligible individuals who reside in nursing facilities.

For state fiscal year (SFY) 2015-16, the department determined it was necessary to promulgate an Emergency Rule to amend the provisions governing the reimbursement methodology for nursing facilities in order to suspend the provisions of LAC 50:II.Chapter 200, and to impose provisions to ensure that the rates in effect do not increase for the SFY 2016 rating period (*Louisiana Register*, Volume 41, Number 7).

This Emergency Rule is being promulgated in order to continue the provisions of the July 11, 2015 Emergency Rule. This action is being taken to avoid a budget deficit in the Medical Assistance Program.

Effective July 8, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement
Chapter 200. Reimbursement Methodology
§20001. General Provisions

A. Definitions

Administrative and Operating Cost Component—the portion of the Medicaid daily rate that is attributable to the general administration and operation of a nursing facility.

Assessment Reference Date—the date on the minimum data set (MDS) used to determine the due date and delinquency of assessments. This date is used in the case-mix reimbursement system to determine the last assessment for each resident present in the facility and is included in the quarterly case-mix report.

Base Resident-Weighted Median Costs and Prices—the resident-weighted median costs and prices calculated in accordance with §20005 of this Rule during rebase years.

Calendar Quarter—a three-month period beginning January 1, April 1, July 1, or October 1.

Capital Cost Component—the portion of the Medicaid daily rate that is:

a. attributable to depreciation;
b. capital related interest;
c. rent; and/or
d. lease and amortization expenses.

Care Related Cost Component—the portion of the Medicaid daily rate that is attributable to those costs indirectly related to providing clinical resident care services to Medicaid recipients.

Case Mix—a measure of the intensity of care and services used by similar residents in a facility.

Case-Mix Index (CMI)—a numerical value that describes the resident's relative resource use within the groups under the resource utilization group (RUG-III) classification system, or its successor, prescribed by the department based on the resident's MDS assessments. Two average CMIs will be determined for each facility on a quarterly basis, one using all residents (the facility average CMI) and one using only Medicaid residents (the Medicaid average CMI).

Case-Mix MDS Documentation Review (CMDR)—a review of original legal medical record documentation on a randomly selected MDS assessment sample. The original legal medical record documentation supplied by the nursing facility is to support certain reported values that resulted in a specific RUG classification. The review of the documentation provided by the nursing facility will result in the RUG classification being supported or unsupported.

Cost Neutralization—refers to the process of removing cost variations associated with different levels of resident case mix. Neutralized cost is determined by dividing a facility's per diem direct care costs by the facility cost report period case-mix index.

Delinquent MDS Resident Assessment—an MDS assessment that is more than 121 days old, as measured by the assessment reference date (ARD) field on the MDS.

Direct Care Cost Component—the portion of the Medicaid daily rate that is attributable to:

a. registered nurse (RN), licensed practical nurse (LPN) and nurse aide salaries and wages;
b. a proportionate allocation of allowable employee benefits; and
c. the direct allowable cost of acquiring RN, LPN and nurse aide staff from outside staffing companies.

Facility Cost Report Period Case-Mix Index—the average of quarterly facility-wide average case-mix indices, carried to four decimal places. The quarters used in this average will be the quarters that most closely coincide with the facility's cost reporting period that is used to determine the medians. This average includes any revisions made due to an on-site CMDR.

Example: A January 1, 2011-December 31, 2011 cost report period would use the facility-wide average case-mix indices calculated for March 31, 2011, June 30, 2011, September 30, 2011 and December 31, 2011.

Facility-Wide Average Case-Mix Index—the simple average, carried to four decimal places, of all resident case-mix indices based on the last day of each calendar quarter. If a facility does not have any residents as of the last day of a calendar quarter or the average resident case-mix indices appear invalid due to temporary closure or other circumstances, as determined by the department, a statewide average case-mix index using occupied and valid statewide facility case-mix indices may be used.

Final Case-Mix Index Report (FCIR)—the final report that reflects the acuity of the residents in the nursing facility on the last day of the calendar quarter, referred to as the point-in-time.

Index Factor—will be based on the *Skilled Nursing Home without Capital Market Basket Index* published by Data Resources Incorporated (DRI-WEFA), or a comparable index if this index ceases to be published.

Minimum Data Set (MDS)—a core set of screening and assessment data, including common definitions and coding categories that form the foundation of the comprehensive assessment for all residents of long-term care facilities

certified to participate in the Medicaid Program. The items in the MDS standardize communication about resident problems, strengths, and conditions within facilities, between facilities, and between facilities and outside agencies. The Louisiana system will employ the current MDS assessment required and approved by the Centers for Medicare and Medicaid Services (CMS).

MDS Supportive Documentation Guidelines—the department's publication of the minimum medical record documentation guidelines for the MDS items associated with the RUG-III or its successor classification system. These guidelines shall be maintained by the department and updated and published as necessary.

Pass-Through Cost Component—includes the cost of property taxes and property insurance. It also includes the provider fee as established by the Department of Health and Hospitals.

Preliminary Case Mix Index Report (PCIR)—the preliminary report that reflects the acuity of the residents in the nursing facility on the last day of the calendar quarter.

Rate Year—a one-year period from July 1 through June 30 of the next calendar year during which a particular set of rates are in effect. It corresponds to a state fiscal year.

Resident-Day-Weighted Median Cost—a numerical value determined by arraying the per diem costs and total actual resident days of each nursing facility from low to high and identifying the point in the array at which the cumulative total of all resident days first equals or exceeds half the number of the total resident days for all nursing facilities. The per diem cost at this point is the resident-day-weighted median cost.

RUG-III Resident Classification System—the resource utilization group used to classify residents. When a resident classifies into more than one RUG-III, or its successor's group, the RUG-III or its successor's group with the greatest CMI will be utilized to calculate the facility average CMI and Medicaid average CMI.

Summary Review Results Letter—a letter sent to the nursing facility that reports the final results of the case-mix MDS documentation review and concludes the review.

a. The summary review results letter will be sent to the nursing facility within 10 business days after the final exit conference date.

Supervised Automatic Sprinkler System—a system that operates in accordance with the latest adopted edition of the National Fire Protection Association's *Life Safety Code*. It is referred to hereafter as a fire sprinkler system.

Two-Hour Rated Wall—a wall that meets American Society for Testing and Materials International (ASTM) E119 standards for installation and uses two-hour rated sheetrock.

Unsupported MDS Resident Assessment—an assessment where one or more data items that are used to classify a resident pursuant to the RUG-III, 34-group, or its successor's resident classification system is not supported according to the MDS supporting documentation guidelines and a different RUG-III, or its successor, classification would result; therefore, the MDS assessment would be considered "unsupported."

B. Effective for the rate period of July 1, 2015 through June 30, 2016, the department shall suspend the provisions of LAC 50:II.Chapter 200 governing the reimbursement methodology for nursing facilities and imposes the following provisions governing reimbursements for nursing facility services.

1. During this time period, no inflation factor will be applied to the base resident day weighted medians and prices calculated as of July 1, 2014.

2. All costs and cost components that are required by rule to be trended forward will only be trended forward to the midpoint of the 2015 state fiscal year (December 31, 2014).

3. The base capital per square foot value, land value per square foot, and per licensed bed equipment value utilized in the calculation of the fair rental value (FRV) component will be set equal to the value of these items as of July 1, 2014.

4. Base capital values for the Bed Buy-Back program (§20012) purposes will be set equal to the value of these items as of July 1, 2014.

5. Nursing facility providers will not have their weighted age totals for the FRV component calculation purposes increased by one year as of July 1, 2015.

6. As of the July 1, 2016 rate setting, nursing facility provider weighted age totals for the FRV component calculation purposes will be increased by two years to account for the suspended year of aging occurring as of the July 1, 2015 rating period.

7. No other provisions of LAC 50:II.Chapter 200 shall be suspended for this time period.

Base Resident—Repealed.

Calendar Quarter—Repealed.

Capital Cost Component—Repealed.

1. - 4. Repealed.

Care Related Cost Component—Repealed.

Case Mix—Repealed.

Case-Mix Index—Repealed.

Case-Mix MDS Documentation Review (CMDR)—Repealed.

Cost Neutralization—Repealed.

Delinquent MDS Resident Assessment—Repealed.

Direct Care Cost Component—Repealed.

1. - 3. Repealed.

Facility Cost Report Period Case-Mix Index—Repealed.

Example:—Repealed.

Facility-Wide Average Case-Mix Index—Repealed.

Final Case-Mix Index Report (FCIR)—Repealed.

Index Factor—Repealed.

Minimum Data Set (MDS)—Repealed.

MDS Supportive Documentation Guidelines—Repealed.

Pass-Through Cost Component—Repealed.

Preliminary Case Mix Index Report (PCIR)—Repealed.

Rate Year—Repealed.

Resident-Day-Weighted Median Cost—Repealed.

RUG-III Resident Classification System—Repealed.

Summary Review Results Letter—Repealed.

1. Repealed.

Supervised Automatic Sprinkler System—Repealed.

Two-Hour Rated Wall—Repealed.

Unsupported MDS Resident Assessment—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1790 (August 2002), amended LR

28:2537 (December 2002), LR 32:2262 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:825 (March 2012), LR 42:

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1606#058

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Recovery Audit Contractor Program
(LAC 50:I.Chapter 85)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:I.Chapter 85 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Patient Protection and Affordable Care Act (PPACA), U.S. Public Law 111-148, and 111-152 directed states to establish a Recovery Audit Contractor (RAC) program to audit payments to Medicaid providers. Act 568 of the 2014 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals to implement a Recovery Audit Contractor program. In compliance with the Patient Protection and Affordable Care Act (PPACA) and Act 568, the department promulgated an Emergency Rule which adopted provisions to establish the RAC program (*Louisiana Register*, Volume 40, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2014 Emergency Rule. This action is being taken to avoid federal sanctions.

Effective July 17, 2016, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions establishing the Recovery Audit Contractor program.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 9. Recovery
Chapter 85. Recovery Audit Contractor

§8501. General Provisions

A. Pursuant to the provisions of the Patient Protection and Affordable Care Act (PPACA), Public Law 111-148, 111-152, and Act 562 of the Regular Session of the Louisiana Legislature, the Medicaid Program adopts provisions to establish a Recovery Audit Contractor (RAC) program.

B. These provisions do not prohibit or restrict any other audit functions that may be performed by the department or its contractors. This rule shall only apply to Medicaid RACs as they are defined in applicable federal law.

C. This Rule shall apply to RAC audits that begin on or after November 20, 2014, regardless of dates of claims reviewed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§8503. Definitions

Adverse Determination—any decision rendered by the recovery audit contractor that results in a payment to a provider for a claim or service being reduced either partially or completely.

Department—Department of Health and Hospitals (DHH) or any of its sections, bureaus, offices, or its contracted designee.

Provider—any healthcare entity enrolled with the department as a provider in the Medicaid program.

Recovery Audit Contractor (RAC)—a Medicaid recovery audit contractor selected by the department to perform audits for the purpose of ensuring Medicaid program integrity in accordance with the provisions of 42 CFR 455 et seq.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§8505. Contractor Functions

A. Notwithstanding any law to the contrary, the RAC shall perform all of the following functions.

1. The RAC shall ensure it is reviewing claims within three years of the date of its initial payment. For purposes of this requirement, the three year look back period shall commence from the beginning date of the relevant audit.

2. The RAC shall send a determination letter concluding an audit within 60 days of receipt of all requested materials from a provider.

3. For any records which are requested from a provider, the RAC shall ensure proper identification of which records it is seeking. Information shall include, but is not limited to:

a. recipient name;
b. claim number;
c. medical record number (if known); and
d. date(s) of service.

B. Pursuant to applicable statute, the RAC program's scope of review shall exclude the following:

1. all claims processed or paid within 90 days of implementation of any Medicaid managed care program that relates to said claims. This shall not preclude review of claims not related to any Medicaid managed care program implementation;

2. claims processed or paid through a capitated Medicaid managed care program. This scope restriction shall not prohibit any audits of per member per month payments from the department to any capitated Medicaid managed care plan utilizing such claims; and

3. medical necessity reviews in which the provider has obtained prior authorization for the service.

C. The RAC shall refer claims it suspects to be fraudulent directly to the department for investigation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§8507. Reimbursement and Recoupment

A. The department has in place, and shall retain, a process to ensure that providers receive or retain the appropriate reimbursement amount for claims within any look back period in which the RAC determines that services delivered have been improperly billed, but reasonable and necessary. It shall be the provider's responsibility to provide documentation to support and justify any recalculation.

B. The RAC and the department shall not recoup any overpayments identified by the RAC until all informal and formal appeals processes have been completed. For purposes of this Section, a final decision by the Division of Administrative Law shall be the conclusion of all formal appeals processes. This does not prohibit the provider from seeking judicial review and any remedies afforded thereunder.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§8509. Provider Notification

A. The RAC shall provide a detailed explanation in writing to a provider for any adverse determination as defined by state statute. This notification shall include, but not be limited to the following:

1. the reason(s) for the adverse determination;

2. the specific medical criteria on which the determination was based, if applicable;

3. an explanation of any provider appeal rights; and

4. an explanation of the appropriate reimbursement determined in accordance with §8507, if applicable.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§8511. Records Requests

A. The RAC shall limit records requests to not more than 1 percent of the number of claims filed by the provider for the specific service being reviewed in the previous state fiscal year during a 90 day period. The 1 percent shall be further limited to 200 records. For purposes of this Chapter, each specific service identified for review within the requested time period will be considered a separate and distinct audit.

B. The provider shall have 45 calendar days to comply with any records request unless an extension is mutually agreed upon. The 45 days shall begin on the date of receipt of any request.

1. *Date of Receipt*—two business days from the date of the request as confirmed by the post office date stamp.

C. If the RAC demonstrates a significant provider error rate relative to an audit of records, the RAC may make a request to the department to initiate an additional records request relative to the issue being reviewed for the purposes of further review and validation.

1. The provider shall be given an opportunity to provide written objections to the secretary or his/her designee of any subsequent records request. Decisions by the secretary or his/her designee in this area are final and not subject to further appeal or review.

2. This shall not be an adverse determination subject to the Administrative Procedures Act process.

3. A significant provider error rate shall be defined as 25 percent.

4. The RAC shall not make any requests allowed above until the time period for the informal appeals process has expired.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§8513. Audits and Records Submission

A. The RAC shall utilize provider self-audits only if mutually agreed to by the provider and the RAC.

B. If the provider is determined to be a low-risk provider, the RAC shall schedule any on-site audits with advance notice of not less than 10 business days. The RAC shall make a reasonable good-faith effort to establish a mutually agreed upon date and time, and shall document such efforts.

C. In association with an audit, providers shall be allowed to submit records in electronic format for their convenience. If the RAC requires a provider to produce records in any non-electronic format, the RAC shall make reasonable efforts to reimburse the provider for the reasonable cost of medical records reproduction consistent with 42 CFR 476.78.

1. The cost for medical record production shall be at the current federal rate at the time of reimbursement to the provider. This rate may be updated periodically, but in no circumstance shall it exceed the rate applicable under Louisiana statutes for public records requests.

2. Any costs associated with medical record production may be applied by the RAC as a credit against any overpayment or as a reduction against any underpayment. A tender of this amount shall be deemed a reasonable effort.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§8515. Appeals Process

A. A provider shall have a right to an informal and formal appeals process for adverse determinations made by the RAC.

B. The informal appeals process shall be conducted as follows.

1. Beginning on the date of issuance of any initial findings letter by the RAC, there shall be an informal discussion and consultation period. During this period the provider and RAC may communicate regarding any audit determinations.

2. Within 45 calendar days of receipt of written notification of an adverse determination from the RAC, a provider shall have the right to request an informal hearing relative to such determination. The department's Program Integrity Section shall be involved in this hearing. Any such request shall be in writing and the date of receipt shall be deemed to be two days after the date of the adverse determination letter.

3. The informal hearing shall occur within 30 days of receipt of the provider's request.

4. At the informal hearing the provider shall have the right to present information orally and in writing, the right to present documents, and the right to have the department and the RAC address any inquiry the provider may make concerning the reason for the adverse determination. A provider may be represented by an attorney or authorized representative, but any such individual must provide written notice of representation along with the request for informal hearing.

5. The RAC and the Program Integrity Section shall issue a final written decision related to the informal hearing within 15 calendar days of the hearing closure.

C. Within 30 days of issuance of an adverse determination of the RAC, if an informal hearing is not requested or there is a determination pursuant to an informal hearing, a provider may request an administrative appeal of the final decision by requesting a hearing before the Division of Administrative Law. A copy of any request for an administrative appeal shall be filed contemporaneously with the Program Integrity Section. The date of issuance of a final decision or determination pursuant to an informal hearing shall be two days from the date of such decision or determination.

D. The department shall report on its website the number of adverse determinations overturned on informal or formal appeals at the end of the month for the previous month.

E. If the department or the Division of Administrative Law hearing officer finds that the RAC determination was unreasonable, frivolous or without merit, then the RAC shall reimburse the provider for its reasonable costs associated with the appeals process. Reasonable costs include, but are not limited to, cost of reasonable attorney's costs and other reasonable expenses incurred to appeal the RAC's determination. The fact that a decision has been overturned or partially overturned via the appeals process shall not mean the determination was without merit.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

§8517. Penalties and Sanctions

A. If the department determines that the RAC inappropriately denied a claim(s), the department may impose a penalty or sanction. A claim has been inappropriately denied when the:

1. adverse determination is not substantiated by applicable department policy or guidance and the RAC fails to utilize guidance provided by the department; or

2. RAC fails to follow any programmatic or statutory rules.

B. If more than 25 percent of the RAC's adverse determinations are overturned on informal or formal appeal, the department may impose a monetary penalty up to 10 percent of the cost of the claims to be awarded to the providers of the claims inappropriately determined, or a monetary penalty up to 5 percent of the RAC's total collections to the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1606#059

DECLARATION OF EMERGENCY

Department of Health
Office for Citizens with Developmental Disabilities

Certification of Medication Attendants
(LAC 48:IX.915 and 917)

The Office for Citizens with Developmental Disabilities (OCDD) adopts LAC 48:IX.Chapter 9, Guidelines for Certification of Medication Attendants (CMA). R.S. 37:1021-1025 authorizes the establishment of "a medication administration course for the purpose of training and certifying unlicensed personnel to administer certain medication to residents of intermediate care facilities for the developmental delayed (ICFs/DD) and community homes for the developmental delayed either operated by the Office for Citizens with Developmental Disabilities (OCDD) or funded through the Department of Health and Hospitals (DHH); and to individuals in programs/agencies contracting for services with DHH except as prohibited in §911.B.5."

Based on an opinion given by the Louisiana State Board of Medical Examiners, the Department of Health and Hospitals has discontinued the use of physician delegation forms in intermediate care facilities and home and community-based settings. Unlicensed personnel must now complete minimum training requirements in order to administer medication to individuals with intellectual and developmental disabilities. The termination of physician delegation has resulted in a large influx of individuals seeking CMA training and certification. This has created an administrative burden to providers as well as OCDD to timely process a steadily increasing number of certifications. This is also an unfunded training mandate, which incurs significant costs to provider agencies and requires annual continuing education for re-certification. Due to limited funding, provider agencies who cannot afford to maintain the certification will experience a reduction in unlicensed personnel who are qualified to give medication to clients, thus increasing the risk for medication errors, critical incidents, and mortality for medically compromised and vulnerable clients. The Office for Citizens with Developmental Disabilities, seeks to extend the certification period for certified medication attendants to two years effective June 18, 2016. Provider agencies must determine CMA competency annually during the two year period.

Also effective June 18, 2016, OCDD will allow CMAs who have not worked directly with medication administration for 12 months or more to be administered the statewide exam and a competency evaluation rather than requiring that they repeat the training. The opportunity for

this will also decrease administrative burden and allow qualified individuals to more quickly re-enter the work force which will in turn, help assure client health and safety. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Title 48

PUBLIC HEALTH—GENERAL

Part IX. Mental Retardation/Developmental Services

Chapter 9. Guidelines for Certification of Medication Attendants

§915. Certification Requirements and Process

A. CMA certificates issued after rule promulgation will expire two years from the last day of the month that the certificate was printed.

A.1. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:696 (July 1995), amended LR 23:1147 (September 1997), Department of Health, Office for Citizens with Developmental Disabilities, LR 42:

§917. Re-Certification Requirements and Process

A. Bi-Annual Requirements. On a bi-annual basis each CMA must be recertified. The requirements for re-certification are:

1. completion of a total of nine hours of in service training. Two of the nine hours must directly relate to the agency's medication administration policy and procedure. The remaining seven hours of in-service must relate to medication administration. A CMA working in multiple agencies may combine training to meet these requirements with the exception that the two-hour training on agency medication administration policy and procedure is required for each employer. Each agency must have documentation of each CMA's required nine hours of in service training;

2. pass with proficiency, either by physical or verbal demonstration, the 25 skills on the practical checklist on an annual basis. The annual cycle is based on the last day of the month that the certificate was printed. If a CMA changes employers within the certification period and training records are not available for the first year, the new employer must determine competency by assessing the 25 skills upon hire, in addition to meeting these requirements for re-certification.

B. - C. …

D. The re-certification requirements must be met prior to the month of expiration of the CMA's certification.

E. A CMA who has not worked directly with medication administration in a facility, program, or agency for the intellectually/developmentally disabled for 12 months or more must take the OCDD CMA state exam again and pass with proficiency the 25 skills checklist. If the CMA does not pass the state exam, then the CMA must repeat the 60-hour course and pass the exam prior to being recertified. Failure to pass the state exam will result in de-certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:697 (July 1995), amended LR 23:1147 (September 1997), Department of Health, Office for Citizens with Developmental Disabilities, LR 42:

§919. De-Certification of Medication Attendants

A. - A.6. …

B. De-certification may occur under the following conditions.

1. Failure of CMA to obtain re-certification requirements. The CMA may be reinstated if the re-certification requirements are met within six months of expiration of the certificate. During this six-month period the CMA's authorized functions shall be suspended;

B.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:697 (July 1995), Department of Health, Office for Citizens with Developmental Disabilities, LR 42:

§925. Provider Responsibility

A. - A.2. …

3. documentation of annual successful completion of the 25 skills checklist and bi-annual completion of continuing education necessary for re-certification of CMA.

B. The provider is legally responsible for the level of competency of its personnel and for ensuring that unlicensed staff administering medication have successfully completed the medication administration course curriculum. Additionally, the provider is responsible for maintaining re-certification requirements of their CMA's and that their CMA's perform their functions in a safe manner.

C. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:699 (July 1995), Department of Health, Office for Citizens with Developmental Disabilities, LR 42:

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

Public Comments

Interested persons may submit written comments to Mark A. Thomas, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. He is responsible for responding to inquiries regarding this Emergency Rule.

Rebekah E. Gee MD, MPH
Secretary

1606#037

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections
Office of the State Fire Marshal
Uniform Construction Code Council

Uniform Construction Code (LAC 17:I.Chapter 1)

Editors Note: This Emergency Rule, originally printed on pages 720-727 of the May 20, 2016 issue of the *Louisiana Register*, is being reprinted to show all text being saved in the previous version's cited references.

The Department of Public Safety and Corrections, Office of the State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) has exercised the emergency provision in accordance with R.S. 49:953(B), of the Administrative Procedure Act, to amend, supplement and expand portions of and readopt LAC 17:I.Chapter 1 in the state Uniform Construction Code as authorized by R.S. 40:1730.26 and R.S. 40:1730.28. Furthermore, the LSUCCC has found an immediate need to adopt amendments of the current plumbing provisions in the *International Building Code, International Residential Code,* and the *International Plumbing Code* regarding health and safety for the public. This Emergency Rule was adopted and become effective May 10, 2016 and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The LSUCCC is promulgating this Rule adoption and amendments to provide greater health and safety for the public and those providing installation and maintenance on plumbing systems. This rule was first adopted on December 9, 2015 and published in the December 2015 edition of the *Louisiana Register* (Vol.41,No. 12). The rule became effective on January 1, 2016. This Emergency Rule was adopted on May 10, 2016 to continue those provisions.

Act 836 of the 2014 Regular Session of the Louisiana Legislature mandates the adoption of the plumbing provisions in the *International Plumbing Code, International Building Code and* the *International Residential Code.* This Emergency Rule addresses this mandate by providing for necessary amendments to the codes. These amendments address the newly mandated provisions which the Department of Health and Hospitals (DHH) deemed inadequate. These amendments will also allow new technology and methods to be used that were not allowed in the previous *Louisiana State Plumbing Code*.

The public welfare dictates that these changes be implemented immediately through the adoption of this Emergency Rule to promote greater safety to existing plumbing systems and those providing maintenance and installation on plumbing systems thus allowing new and existing facilities to incorporate designs which provided for greater public safety while providing more cost-effective new methods and technology.

The public welfare further dictates that these changes are implemented immediately through the adoption of this Emergency Rule because of the health risks these amendments address. Adoption of this emergency rule will allow owners and developers to immediately use these new standards in expanding existing facilities and/or constructing new facilities.

Adoption of this Emergency Rule will also provide proven methods for plumbing systems and new technology in the plumbing codes which will ensure the health, safety and welfare of not only plumbers, installers and maintenance workers, but for the public as well.

Title 17
CONSTRUCTION
Part I. Uniform Construction Code
Chapter 1. Uniform Construction Code
§101. Louisiana State Uniform Construction Code (Formerly LAC 55:VI.301.A)

A. In accordance with the requirements set forth in R.S. 40:1730.28, effective January 1, 2016 the following is hereby adopted as an amendment to the Louisiana state Uniform Construction Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2380 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:05 (May 2016); repromulgated LR 42:

§103. *International Building Code* (Formerly LAC 55:VI.301.A.1)

A. *International Building Code* (IBC), 2012 Edition, not including Chapter 1, Administration, Chapter 11, Accessibility and Chapter 27, Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. Furthermore, IBC shall be amended as follows and shall only apply to the *International Building Code*.

1. Amend Chapter 2 Definitions and add the following.

Adult Day Care Center—any place or facility, operated by any person for the primary purpose of providing care, supervision and guidance of 10 or more people 18 years and older, not related to the caregiver and unaccompanied by parent or guardian, on a regular basis, for a total of at least 20 hours in a continuous seven day week in a place other than the person's home.

Child Day Care Center—any place or facility, operated by any person for the primary purpose of providing care, supervision and guidance of seven or more children under the age of 18, not related to the care giver and unaccompanied by parent or guardian, on a regular basis, for a total of at least 20 hours in a continuous seven day week in a place other than the children's home. A day care center that remains open for more than 20 hours in a continuous seven day week, and in which no individual child remains for more than 24 hours in one continuous stay shall be known as a full-time day care center.

Day Care Centers—includes adult and child day care centers.

Infant—any child under the age of 12 months.

Preschool—any child less than five years of age.

Residential Facility—any place, facility, or home operated by any person who receives therein four or more people who are not related to such person for supervision, care, lodging and maintenance with or without transfer of custody. This shall include, but not be limited to group homes, community homes, maternity homes, juvenile detention centers, emergency shelters, halfway homes and schools for the mentally retarded.

2. Delete Chapter 4, Section 403.5.5, Luminous Egress Path Markings.

3. Amend Chapter 9 to adopt and amend 2012 *International Building Code*, Section 903.2.1.2, Group A-2 (2.). The fire area has an occupant load of 300 or more.

4. Amend chapter 10, Section 1018.5, Air Movement in corridors. Corridors that require protection under Table 1018.1—Corridor Fire-Resistance Rating, shall not serve as supply, return, exhaust, relief or ventilation air ducts.

5. Amend Chapter 10, Section 1026.5.

a. Exception: exterior stairs or ramps which serve no more than one story above the level of exit discharge and constructed with non-combustible materials or constructed with fire retardant treated lumber, shall be allowed when the fire separation distance is between 5 and 10 feet measured from the exterior edge of the stairway or ramp.

6. Amend Section 1505.1, General. Roof assemblies shall be divided into the classes defined below. Class A, B and C roof assemblies and roof coverings required to be listed by this section shall be tested in accordance with ASTM E 108 or UL 790. In addition, fire-retardant-treated wood roof coverings shall be tested in accordance with ASTM D 2898. The minimum roof coverings installed on buildings shall comply with Table 1505.1 based on the type of construction of the building.

a. Exception: skylights and sloped glazing that comply with Chapter 24 or Section 2610.

7. Table 1505.1a, b.

Minimum Roof Covering Classification for Types of Construction								
IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
B	B	B	C[c]	B	C[c]	B	B	C[c]

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m2

a. Unless otherwise required in accordance with the *International Wildland—Urban Interface Code* or due to the location of the building within a fire district in accordance with Appendix D.

b. Nonclassified roof coverings shall be permitted on buildings of Group R-3 and Group U occupancies, where there is a minimum fire-separation distance of 6 feet measured from the leading edge of the roof.

c. Buildings that are not more than two stories above grade plane and having not more than 6,000 square feet of projected roof area and where there is a minimum 10-foot fire-separation distance from the leading edge of the roof to a lot line on all sides of the building, except for street fronts or public ways, shall be permitted to have roofs of No. 1 cedar or redwood shakes and No. 1 shingles constructed in accordance with Section 1505.7.

8. Amend Section 1509.7, Photovoltaic panels and modules. Rooftop mounted photovoltaic panels and modules shall be designed in accordance with this section.

9. Amend Section 1509.7.1, Wind resistance. Rooftop-mounted photovoltaic panels and modules shall be designed for component and cladding wind loads in accordance with Chapter 16 using an effective wind area based on the dimensions of a single unit frame.

a. Amend Section 1509.7.2, Fire classification. Rooftop-mounted photovoltaic panels and modules shall have the fire classification in accordance with Section 1505.9.

10. Amend Section 1509.7.3, Installation. Rooftop-mounted photovoltaic panels and modules shall be installed in accordance with the manufacturer's instructions.

11. Amend Section 1509.7.4, Photovoltaic panels and modules. Rooftop- mounted photovoltaic panels and modules shall be listed and labeled in accordance with UL 1703 and shall be installed in accordance with the manufacturer's instructions.

12. Add 1509.7.4.1, Building-integrated photovoltaic products. Building-integrated photovoltaic products installed as the roof covering shall be tested, listed and labeled for fire classification in accordance with Section 1505.1.

13. Add Section 1505.9.7.4.2, Photovoltaic panels and modules. Rooftop mounted photovoltaic panel systems shall be tested, listed and identified with a fire classification in accordance with UL 1703. The fire classification shall comply with Table 1505.1 based on the type of construction of the building.

14. Amend Section 1511.1, Photovoltaic panels and modules. Photovoltaic panels and modules installed upon a roof or as an integral part of a roof assembly shall comply with the requirements of this code and the *International Fire Code*.

15. Add Section 1511.2, Solar photovoltaic power systems. Solar photovoltaic power systems shall be installed in accordance with Sections 1511.2 through 1511.1.1., the *International Building Code* or *International Residential Code*, and NFPA 70.

16. Add Section 1511.2.1, Access and pathways. Roof access, pathways, and spacing requirements shall be provided in accordance with Sections 1511.2.1 through 1511.2.1.1.

a. Exceptions:

i. detached, nonhabitable Group U structures including, but not limited to, parking shade structures, carports, solar trellises and similar structures;

ii. roof access, pathways and spacing requirements need not be provided where the fire chief has determined that rooftop operations will not be employed.

17. Add Section 1511.2.1.1, Roof access points. Roof access points shall be located in areas that do not require the placement of ground ladders over openings such as windows or doors, and located at strong points of building construction in locations where the access point does not conflict with overhead obstructions such as tree limbs, wires or signs.

18. Add Section 1511.3, Solar photovoltaic systems for Group R-3 buildings. Solar photovoltaic systems for Group R-3 buildings shall comply with Sections 1511.3 through 1511.3.5.

a. Exception:

i. These requirements shall not apply to structures designed and constructed in accordance with the *International Residential Code.*

19. Add Section 1511.3.1, Size of solar photovoltaic array. Each photovoltaic array shall be limited to 150 feet (45 720 mm) by 150 feet (45 720 mm). Multiple arrays shall be separated by a 3-foot-wide (914 mm) clear access pathway.

20. Add Section 1511.3.2, Hip roof layouts. Panels and modules installed on Group R-3 buildings with hip roof layouts shall be located in a manner that provides a 3-foot-wide (914 mm) clear access pathway from the eave to the ridge on each roof slope where panels and modules are located. The access pathway shall be at a location on the building capable of supporting the fire fighters accessing the roof.

a. Exception:

i. These requirements shall not apply to roofs with slopes of two units vertical in 12 units horizontal (2:12) or less.

21. Add Section 1511.3.3, Single-ridge roofs. Panels and modules installed on Group R-3 buildings with a single ridge shall be located in a manner that provides two, 3-foot-wide (914 mm) access pathways from the eave to the ridge on each roof slope where panels and modules are located.

a. Exception:

i. This requirement shall not apply to roofs with slopes of two units vertical in 12 units horizontal (2:12) or less.

22. Add Section 1511.3.4, Roofs with hips and valleys. Panels and modules installed on Group R-3 buildings with roof hips and valleys shall not be located closer than 18 inches (457 mm) to a hip or a valley where panels/ modules are to be placed on both sides of a hip or valley. Where panels are to be located on only one side of a hip or valley that is of equal length, the panels shall be permitted to be placed directly adjacent to the hip or valley.

a. Exception:

i. These requirements shall not apply to roofs with slopes of two units vertical in 12 units horizontal (2:12) or less.

23. Add Section 1511.3.5, Allowance for smoke ventilation operations. Panels and modules installed on Group R-3 buildings shall be located not less than 3 feet (914 mm) from the ridge in order to allow for fire department smoke ventilation operations.

a. Exception:

i. Panels and modules shall be permitted to be located up to the roof ridge where an alternative ventilation method approved by the fire chief has been provided or where the fire chief has determined vertical ventilation techniques will not be employed.

24. Add Section 1511.4, Other than Group R-3 buildings. Access to systems for buildings, other than those containing Group R-3 occupancies, shall be provided in accordance with Sections 1511.4.1 through 1511.4.2.1.

a. Exception:

i. Where it is determined by the fire code official that the roof configuration is similar to that of a Group R-3 occupancy, the residential access and ventilation requirements in Sections 1511.3.1 through 1511.3.5 shall be permitted to be used.

25. Add Section 1511.4.1, Access. There shall be a minimum 6-foot-wide (1829 mm) clear perimeter around the edges of the roof.

a. Exception:

i. Where either axis of the building is 250 feet (76 200 mm) or less, the clear perimeter around the edges of the roof shall be permitted to be reduced to a minimum 4 foot wide (1290 mm).

26. Add Section 1511.4.2, Pathways. The solar installation shall be designed to provide designated pathways. The pathways shall meet the following requirements.

a. The pathway shall be over areas capable of supporting fire fighters accessing the roof.

b. The centerline axis pathways shall be provided in both axes of the roof. Centerline axis pathways shall run where the roof structure is capable of supporting fire fighters accessing the roof.

c. Pathways shall be a straight line not less than 4 feet (1290 mm) clear to roof standpipes or ventilation hatches.

d. Pathways shall provide not less than 4 feet (1290 mm) clear around roof access hatch with not less than one singular pathway not less than 4 feet (1290 mm) clear to a parapet or roof edge.

27. Add Section 1511.4.2.1, Smoke ventilation. The solar installation shall be designed to meet the following requirements.

a. Arrays shall be not greater than 150 feet (45 720 mm) by 150 feet (45 720 mm) in distance in either axis in order to create opportunities for fire department smoke ventilation operations.

b. Smoke ventilation options between array sections shall be one of the following:

i. a pathway 8 feet (2438 mm) or greater in width;

ii. a 4-foot (1290 mm) or greater in width pathway and bordering roof skylights or gravity-operated dropout smoke and heat vents on not less than one side;

iii. a 4-foot (1290 mm) or greater in width pathway and bordering all sides of nongravity-operated dropout smoke and heat vents;

iv. a 4-foot (1290 mm) or greater in width pathway and bordering 4-foot by 8-foot (1290 mm by 2438 mm) "venting cutouts" every 20 feet (6096 mm) on alternating sides of the pathway.

28. Amend Chapter 16 Section 1603.1, General. Construction documents shall show the size, section and relative locations of structural members with floor levels, column centers and offsets dimensioned. The design loads and other information pertinent to the structural design required by Sections 1603.1.1 through 1603.1.9 shall be indicated on the construction documents.

a. Exception: Construction documents for buildings constructed in accordance with the conventional light-frame construction provisions of Section 2308 shall indicate the following structural design information:

i. floor and roof live loads;

ii. ground snow load, Pg;

iii. basic wind speed (3-second gust), miles per hour (mph) (km/hr) and wind exposure;

iv. seismic design category and site class., unless excepted by Sections 1603.1.5 or 1613.1;

v. flood design data, if located in flood hazard areas established in Section 1612.3;

vi. design load-bearing values of soils.

29. Amend Chapter 16, Section 1603.1.5, Earthquake design data. The following information related to seismic loads shall be shown, regardless of whether seismic loads govern the design of the lateral-force-resisting system of the building:

a. seismic importance factor, I, and occupancy category;

b. mapped spectral response accelerations, SS and S1;

c. site class;

d. spectral response coefficients, SDS and SD1;

e. seismic design category;

f. basic seismic-force-resisting system(s);

g. design base shear;

h. seismic response coefficient(s), CS;

i. response modification factor(s), R;

j. analysis procedure used;

k. exceptions:

i. construction documents that are not required to be prepared by a registered design professional;

ii. construction documents for structures that are assigned to Seismic Design Category A.

30. Amend Chapter, 16 Section 1609.1.2, Protection of Openings. In wind-borne debris regions, glazing in buildings shall be impact resistant or protected with an impact-resistant covering meeting the requirements of an approved impact-resistant standard or ASTM E 1996 and ASTM E 1886 referenced herein as follows.

a. Glazed openings located within 30 feet (9144 mm) of grade shall meet the requirements of the large missile test of ASTM E 1996.

b. Glazed openings located more than 30 feet (9144 mm) above grade shall meet the provisions of the small missile test of ASTM E 1996.

c. Exceptions:

i. Wood structural panels with a minimum thickness of 7/16 inch (11.1 mm) and maximum panel span of 8 feet (2438 mm) shall be permitted for opening protection in one- and two-story buildings classified as Risk Category 2. Panels shall be precut so that they shall be attached to the framing surrounding the opening containing the product with the glazed opening. Panels shall be predrilled as required for the anchorage method and shall be secured with the attachment hardware provided. Attachments shall be designed to resist the components and cladding loads determined in accordance with the provisions of ASCE 7, with corrosion-resistant attachment hardware provided and anchors permanently installed on the building. Attachment in accordance with Table 1609.1.2 with corrosion-resistant attachment hardware provided and anchors permanently installed on the building is permitted for buildings with a mean roof height of 45 feet (13 716 mm) or less where V_{asd} determined in accordance with Section 1609.3.1 does not exceed 140 mph (63 m/s).

ii. Glazing in Risk Category I buildings as defined in Section 1604.5, including greenhouses that are occupied for growing plants on a production or research basis, without public access shall be permitted to be unprotected;

iii. Glazing in Risk Category II, III or IV buildings located over 60 feet (18 288 mm) above the ground and over 30 feet (9144 mm) above aggregate surface roofs located within 1,500 feet (458 m) of the building shall be permitted to be unprotected.

31. Chapter 16, Section 1613.1, Scope. Every structure, and portion thereof, including nonstructural components that are permanently attached to structures and their supports and attachments, shall be designed and constructed to resist the effects of earthquake motions in accordance with ASCE 7, excluding Chapter 14 and Appendix 11A. The seismic design category for a structure is permitted to be determined in accordance with Section 1613 or ASCE 7.

a. Exceptions:

i. detached one- and two-family dwellings, assigned to Seismic Design Category A, B or C, or located where the mapped short-period spectral response acceleration, *SS*, is less than 0.4 g;

ii. the seismic-force-resisting system of wood-frame buildings that conform to the provisions of Section 2308 are not required to be analyzed as specified in this Section;

iii. agricultural storage structures intended only for incidental human occupancy;

iv. structures that require special consideration of their response characteristics and environment that are not addressed by this code or ASCE 7 and for which other regulations provide seismic criteria, such as vehicular bridges, electrical transmission towers, hydraulic structures, buried utility lines and their appurtenances and nuclear reactors;

v. structures that are not required to have a registered design professional in responsible charge;

vi. structures that are assigned to Seismic Design Category A.

b. Amend Chapter 16, Section 1613.1, Scope. Every structure, and portion thereof, including nonstructural components that are permanently attached to structures and their supports and attachments, shall be designed and constructed to resist the effects of earthquake motions in accordance with ASCE 7, excluding Chapter 14 and Appendix 11A. The seismic design category for a structure is permitted to be determined in accordance with Section 1613 or ASCE 7-10. Figure 1613.5(1) shall be replaced with ASCE 7-10 Figure 22-1. Figure 1613.5(2) shall be replaced with ASCE 7-10 Figure 22-2.

32. Amend Chapter 23, Section 2308.2, Exceptions 4. Wind speeds shall not exceed 110 miles per hour (mph)(48.4m/s)(3 second gust) for buildings in exposure category B.

33. Amend Section [P]2901.1, Scope.

a. The provisions of this chapter and the *International Plumbing Code* shall govern the erection, installation, alteration, repairs, relocation, replacement, addition to, use or maintenance of plumbing equipment and systems. Toilet and bathing rooms shall be constructed in

accordance with Section 1210. Plumbing systems and equipment shall be constructed, installed and maintained in accordance with the *International Plumbing Code*. Commercial treatment facilities and individual sewerage systems shall conform to the applicable requirements of LAC 51:XIII (Sewage Disposal).

34. Amend Section [P]2902.3.2, Location of toilet facilities in occupancies other than malls and educational buildings.

a. In occupancies other than covered and open mall buildings, and educational buildings, the required public and employee toilet facilities shall be located not more than one story above or below the space required to be provided with toilet facilities, and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m).

35. Add Section [P] 2902.3.6, Toilet Room Location.

a. Toilet rooms shall not open directly into a room used for the preparation of food for service to the public.

36. Add Section [P] 2902.3.7, Location of toilet facilities in educational buildings.

a. For primary schools, and other special types of institutions with classrooms, for children through 12 years of age, separate boys' and girls' toilet room doors shall not be further than 200 feet from any classroom doors. For secondary schools, and other special types of institutions with classrooms, for persons of secondary school age, separate boys' and girls' toilet room doors shall not be further than 400 feet from any classroom door. In multi-storied buildings, there shall be boys' and girls' toilet rooms on each floor, having the number of plumbing fixtures as specified in Table 2902.1 of this Code for the classroom population of that floor. When new educational buildings are added to an existing campus, the restroom facilities and drinking fountains located in the existing building(s) may be used to serve the occupants of the new educational building(s) only when all of the following provisions are met:

i. covered walkways consisting of a roof designed to protect the students and faculty from precipitation having a minimum width of 6 feet and located above a slip-resistant concrete or other acceptable hard surfaces leading to and from the restrooms shall be provided whenever children or faculty have to walk outside to access the toilet room;

ii. the path of travel from the classroom door to the toilet room doors (boys' or girls') does not exceed the applicable distance specified in this section; and

iii. the number of occupants of the new building does not cause an increase in the school population that would trigger the need for more fixtures per Table 2902.1 (Minimum Number of Required Plumbing Fixtures).

37. Add Section [P]2902.6, Other fixture requirements for licensed pre-schools, day care centers, and residential facilities.

a. Additional plumbing fixtures shall be provided in day care centers and residential facilities as required by this Section.

38. Add Section [P]2902.6.1, Food preparation.

a. The food preparation area in pre-schools, day cares, and residential facilities shall meet the following requirements. The food preparation, storage and handling where six or less individuals are cared for shall provide a two-compartment sink and an approved domestic type dishwasher. Where the number of individuals cared for is between 7 and 15, either a three-compartment sink, or an approved domestic or commercial type dishwashing machine and a two-compartment sink with hot and cold running water shall be provided. Where 16 or more individuals are cared for, a three-compartment sink must be provided. If a dishwasher is also utilized in these instances (16 or more individuals), it must be a commercial type and it shall be in addition to the required three-compartment sink. One laundry tray, service sink, or curbed cleaning facility with floor drain shall also be provided on the premises for cleaning of mops and mop water disposal (for facilities caring for 16 or more individuals).

39. Add Section [P]2902.6.2, Caring for children between 0 and 4 years of age.

a. In child day care facilities, a hand washing sink shall be in or adjacent to each diaper changing area. In addition, one extra laundry tray, service sink, or similar fixture is required to clean and sanitize toilet training potties immediately after each use. Such fixture shall be dedicated solely for this purpose and shall not be in the food preparation/storage, utensil washing, or dining areas. Training potties shall not be counted as toilets in determining the minimum fixture requirements of Table 2902.1. Fixtures shall be size appropriate for the age of the children being cared for (toilets 11 inches maximum height and lavatories 22 inches maximum height), or if standard size fixtures are used, safe, cleanable step aids shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2380 (November 2015), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 42: 05 (May 2016), repromulgated LR 42:

§107. *International Residential Code* (Formerly LAC 55:VI.301.A.3.a)

A.1. *International Residential Code*, 2012 Edition, not including Parts I-Administrative and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The enforcement of such standards shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the *International Residential Code*, and extensive alterations. Appendix G, Swimming Pools, Spas and Hot Tubs is adopted and at the option of a parish, municipality, or regional planning commission, Section AG105 Barrier Requirements may be altered. Appendix J, Existing Buildings and Structures, may be adopted and enforced only at the option of a parish, municipality, or regional planning commission.

a. Add the following Chapter 2 definitions and amend as follows:

Air Break (Drainage System)—a piping arrangement in which a drain from a fixture, appliance or device discharges indirectly into another fixture, or receptacle at a point below the flood level rim and above the trap seal. An unobstructed horizontal distance of free atmosphere between the outside of the indirect waste pipe and the inside of the waster receptor must exist so as to allow a back-flow of sewage to spill over the flood level rim of the receiving sink or other receptor to prevent such back-flow from reaching the fixture, device, appliance or apparatus served by the indirect waste pipe.

Barometric Loop—a fabricated piping arrangement rising at least 35 feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against backsiphonage backflow.

Building Sewer—that part of the drainage system that extends from the end of the building drain and conveys the discharge to community sewerage system, commercial treatment facility, or individual sewerage system or other point of disposal.

By-Pass—any system of piping or other arrangement whereby the water may be diverted around any part or portion of the water supply system including, but not limited to, around an installed backflow preventer.

Containment—a method of backflow prevention which requires a backflow prevention device or method on the water service pipe to isolate the customer from the water main.

Continuous Water Pressure—a condition when a backflow preventer is continuously subjected to the upstream water supply pressure for a period of 12 hours or more.

Degree OF Hazard—an evaluation of the potential risk to public health if the public were to be exposed to contaminated water caused by an unprotected or inadequately protected cross connection.

Domestic Well—a water well used exclusively to supply the household needs of the owner/lessee and his family. Uses may include human consumption, sanitary purposes, lawn and garden watering and caring for pets.

Dual Check Valve—a device having two spring loaded, independently operated check valves without tightly closing shut-off valves and test cocks. Generally employed immediately downstream of the water meter. Not an approved backflow prevention device.

Fixture Isolation—a method of backflow prevention in which a backflow preventer is located to protect the potable water of a water supply system against a cross connection at a fixture located within the structure or premises itself.

Human Consumption—the use of water by humans for drinking, cooking, bathing, showering, hand washing, dishwashing, or maintaining oral hygiene.

Indirect Waste Pipe—a waste pipe that does not connect directly with the drainage system, but that discharges into the drainage system through an air break or air gap into a trap, fixture, or waste receptor.

NOTE: Delete definition Individual water supply--A water supply that serves one or more families, and that is not an approved public water supply.

Lead Free—

(a). in general:

(i). not containing more than 0.2 percent lead when used with respect to solder and flux; and

(ii). not more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures.

(b). calculation:

(i). the weighted average lead content of a pipe, pipe fitting, plumbing fitting, or fixture shall be calculated by using the following formula:

[a]. for each wetted component, the percentage of lead in the component shall be multiplied by the ratio of the wetted surface area of that component to the total wetted surface area of the entire product to arrive at the weighted percentage of lead of the component. The weighted percentage of lead of each wetted component shall be added together, and the sum of these weighted percentages shall constitute the weighted average lead content of the product. The lead content of the material used to produce wetted components shall be used to determine compliance with Division (a)(ii) above. For lead content of materials that are provided as a range, the maximum content of the range shall be used.

Master Meter—a water meter serving multiple residential dwelling units or multiple commercial units. Individual units may or may not be sub-metered.

Multipurpose Piping Fire Sprinkler System—a piping system intended to serve both domestic needs in excess of a single fixture and fire protection needs from one common piping system throughout the dwelling unit(s).

Potable Water—water free from impurities present in amount sufficient to cause disease or harmful physiological effects and conforming to the bacteriological, physical, radiological, and chemical quality requirements of the federal Safe Drinking Water Act or the regulations of the Department of Health and Hospitals, Office of Public Health.

Potable Water Supply—a publicly owned or privately owned water supply system which purveys potable water.

Private Water Supply—a potable water supply that does not meet the criteria for a public water supply including, but not limited to, a domestic well.

NOTE: Delete definition Public Water Main—A water supply pipe for public use controlled by public authority.

Public Water Supply—public water system.

Public Water System—a particular type of water supply system intended to provide potable water to the public having at least fifteen service connections or regularly serving an average of at least twenty-five individuals daily at least sixty days out of the year.

Sanitary Sewage—see "sewage."

Septic Tank—a water-tight receptor that receives the discharge of a building sanitary drainage system and is constructed so as to separate solids from the liquid, digest organic matter through a period of detention, and allow the liquid effluent to discharge into the soil outside of the tank through a system of open joint or perforated piping or is otherwise treated and disposed of utilizing other methods approved by the state health officer.

Sewerage System—any system of piping (excluding the building drain and building sewer) and/or collection and/or transport system and/or pumping facility and/or treatment facility, all for the purpose of collecting, transporting, pumping, treating and/or disposing of sanitary sewage.

Stand-Alone Fire Sprinkler System—a sprinkler system where the aboveground piping serves only fire sprinklers.

Waste Receptor—a plumbing fixture designed specifically to collect and dispose of liquid waste received from an indirect waste pipe which is connected to other plumbing fixtures, plumbing equipment or appliances which are required to discharge to the drainage system through either an air gap (drainage system) or air break (drainage system). The following type fixtures fall within the classification of indirect waste receptors: floor sinks, curbed cleaning facilities with floor drain, and standpipe drains with integral air gaps (drainage system) or air breaks (drainage system), and may include others when approved as such by the code official.

Water Supplier—a person who owns or operates a water supply system including, but not limited to, a person who owns or operates a public water system.

Water Supply System—the water service pipe, water distribution pipes, and the necessary connecting pipes, fittings, control valves and all appurtenances in or adjacent to the structure or premise. This term shall also mean the system of pipes or other constructed conveyances, structures and facilities through which water is obtained, treated to make it potable (if necessary) and then distributed (with or without charge) for human consumption or other use.

b. Adopt and amend 2012 IRC Section R301.2.1., Part IV-Energy Conservation of the latest edition of the *International Residential Code* is hereby amended to require that supply and return ducts be insulated to a minimum of R-6. Furthermore, 2012 IRC R301.2.1.1 (Design Criteria) shall be amended as follows and shall only apply to the *International Residential Code*:

i. Delete Figure R301.2(4)B and replace all references to this figure with Figure R301.2(4)A.

c. Amend 2012 IRC Section R301.2.1.1 (Design Criteria); R301.2.1.1, Wind limitations and wind design required. The wind provisions of this code shall not apply to the design of buildings where the basic wind speed from Figure R301.2(4)A equals or exceeds 110 miles per hour (49 m/s).

i. Exceptions:

(a). For concrete construction, the wind provisions of this Code shall apply in accordance with the limitations of Sections R404 and R611;

(b). For structural insulated panels, the wind provisions of this code shall apply in accordance with the limitations of Section R613.

ii. In regions where the basic wind speed shown on Figure R301.2(4)A equals or exceeds 110 miles per hour (49 m/s), the design of buildings for wind loads shall be in accordance with one or more of the following methods:

(a). AF and PA Wood Frame Construction Manual (WFCM);

(b). ICC Standard for Residential Construction in High-Wind Regions (ICC 600);

(c). ASCE Minimum Design Loads for Buildings and Other Structures (ASCE 7);

(d). AISI Standard for Cold-Formed Steel Framing—Prescriptive Method for One- and Two-Family Dwellings (AISI S230);

(e). International Building Code; or

(f). SSTD 10-99 Hurricane Resistant Construction Standard.

iii. The elements of design not addressed by the methods in Clauses (i) through (vi) shall be in accordance with the provisions of this Code. When ASCE 7 or the *International Building Code* is used for the design of the building, the wind speed map and exposure category requirements as specified in ASCE 7 and the *International Building Code* shall be used.

d. Adopt and amend 2012 IRC Section R301.2.1.2, Protection of Openings. Exterior glazing in buildings located in windborne debris regions shall be protected from windborne debris. Glazed opening protection for windborne debris shall meet the requirements of the Large Missile Test of ASTM E 1996 and ASTM E 1886 referenced therein. The applicable wind zones for establishing missile types in ASTM E 1996 are shown on Figure R301.2(4)F. Garage door glazed opening protection for windborne debris shall meet the requirements of an approved impact-resisting standard or ANSI/DASMA115.

i. Exceptions:

(a). Wood structural panels with a minimum thickness of 7/16 inch (11 mm) and a maximum span of 8 feet (2438 mm) shall be permitted for opening protection in one- and two-story buildings.

(b). Panels shall be precut and attached to the framing surrounding the opening containing the product with the glazed opening.

(c). Panels shall be predrilled as required for the anchorage method and shall be secured with the attachment hardware provided.

(d). Attachments shall be designed to resist the component and cladding loads determined in accordance with either Table R301.2(2) or ASCE 7, with the permanent corrosion-resistant attachment hardware provided and anchors permanently installed on the building.

(e). Attachment in accordance with Table R301.2.1.2 is permitted for buildings with a mean roof height of 33 feet (10 058 mm) or less where wind speeds do not exceed 130 miles per hour (58 m/s).

e. Adopt 2012 IRC Figure R301.2(4)A and delete Figure R301.2(4)B and Figure R301.2(4)C.

f. Adopt 2012 IRC Section R301.2.1.4, Exposure Category.

2. Additionally, Section 302, R302.1, Exterior Walls shall be amended to add the following exception:

a. On lots that are 50 feet or less in width and that contain a one or two family dwelling or townhouse that was in existence prior to October 1, 2005, the following are permitted for rebuilding:

i. a projection 2 feet from the property line with a 1 hour minimum fire-resistance rating on the underside;

ii. a wall 3 feet or more from the property with a 0 hour minimum fire-resistance rating.

3. Amend Section R302.5.1 Opening Protection.

a. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 13/8 inches (35 mm) in thickness, solid or honeycomb-core steel doors not less than 13/8 inches (35 mm) thick, or 20-minute fire-rated doors.

4. Amend Section R303.4 Mechanical Ventilation. When a blower door test is performed, and the air infiltration rate of a dwelling unit is less than 3 air changes per hour when tested in accordance with the 2009 IRC Section N1102.4.2.1, the dwelling unit shall be provided with whole-house mechanical ventilation in accordance with Section M1507.3.

5. Additionally, IRC shall be amended as follows and shall only apply to the *International Residential Code*.

a. Adopt and amend 2012 IRC Section 313.1 Townhouse Automatic Sprinkler System. Per Act No. 685 of the 2010 Regular Session of the Louisiana Legislature, the council shall not adopt or enforce any part of the *International Residential Code* or any other code or regulation that requires a fire protection sprinkler system in one- or two-family dwellings. Further, no municipality or parish shall adopt or enforce an ordinance or other regulation requiring a fire protection sprinkler system in one- or two-family dwellings. Where no sprinkler system is installed a common 2-hour fire-resistance-rated wall is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. Electrical installations shall be installed in accordance with the 2011 NEC. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

i. Exception: If an owner voluntarily chooses to install an automatic residential fire sprinkler system it shall be installed per Section R313.1.1 Design and installation. Automatic residential fire sprinkler systems for *townhouses* shall be designed and installed in accordance with NFPA 13D and Table 302.1 (2) Exterior Walls-Dwellings with Fire sprinklers may be used for separation requirements.

b. Adopt and amend 2012 IRC Section 313.2 One- and Two-Family Dwellings Automatic Fire Systems. Per Act No. 685 of the 2010 Regular Session of the Louisiana Legislature, the Council shall not adopt or enforce any part of the *International Residential Code* or any other code or regulation that requires a fire protection sprinkler system in one- or two-family dwellings. Further, no municipality or parish shall adopt or enforce an ordinance or other regulation requiring a fire protection sprinkler system in one- or two-family dwellings.

i. Exception: if an owner voluntarily choses to install an automatic residential fire sprinkler system it shall be installed per Section R313.2.1 Design and installation. Automatic residential fire sprinkler systems shall be designed and installed in accordance with NFPA 13D and Table 302.1(2) Exterior Walls-Dwellings with Fire sprinklers may be used for separation requirements.

c. Amend Chapter 3, Section R315.2, Where Required in Existing Dwellings. When alterations, repairs or additions occur or where one or more sleeping rooms are added or created in existing dwellings that have attached garages or in existing dwellings within which fuel fired appliances exist, carbon monoxide alarms shall be provided in accordance with Section R315.1.

d. Substitute Chapter 3, Section R317, Dwelling Unit Separation of the 2006 IRC, in lieu of the Section 313, Automatic Fire Sprinkler Systems of the 2009 IRC. In addition, Chapter 3, Section R 302.2, Townhouses of the 2009 IRC, is amended as follows.

i. Exceptions:

(a). a common 2-hour fire-resistance-rated wall is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall;

(b). electrical installations shall be installed in accordance with Chapters 34 through 43. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4;

(c). Chapter 3, Section R302.2.4, Structural Independence of the 2009 IRC, is amended as follows: Exception: Number 5, Townhouses, separated by a common 2-hour fire-resistance-rated wall as provided in Section R302.2.

e. Add 2015 IRC Section 324 to the 2012 IRC.

i. Amend Section R324.7.2 Solar photovoltaic systems. Solar photovoltaic systems shall comply with Sections R324.7.2.1 through R324.7.2.5. Installer shall provide structural analysis, from a design professional, of solar panels, components and there loading on existing and new roofs.

f. Adopt 2012 IRC Table 602.3 (1), Fastening Requirements.

g. Amend 2012 IRC Section R703.8, Flashing. Approved corrosion-resistant flashing shall be applied shingle-fashion in a manner to prevent entry of water into the wall cavity or penetration of water to the building structural framing components. Self-adhered membranes used as flashing shall comply with AAMA 711. The flashing shall extend to the surface of the exterior wall finish. Approved corrosion-resistant flashings shall be installed at all of the following locations:

i. exterior window and door openings. Flashing at exterior window and door openings shall extend to the surface of the exterior wall finish or to the water-resistive barrier for subsequent drainage;

ii. at the intersection of chimneys or other masonry construction with frame or stucco walls, with projecting lips on both sides under stucco copings;

iii. under and at the ends of masonry, wood or metal copings and sills;

iv. continuously above all projecting wood trim;

v. where exterior porches, decks or stairs attach to a wall or floor assembly of wood-frame construction;

vi. at wall and roof intersections;

vii. at built-in gutters.

h. Adopt 2012 IRC Section R802.11, Roof tie-down.

i. Adopt 2012 IRC Table R802.11, Rafters.

j. Amend Section R806.1, Ventilation Required.

i. Enclosed attics and enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters shall have cross ventilation for each separate

space by ventilating openings protected against the entrance of rain or snow. Ventilation openings shall have a least dimension of 1/16 inch (1.6 mm) minimum and 1/4 inch (6.4 mm) maximum. Ventilation openings having a least dimension larger than 1/4 inch (6.4 mm) shall be provided with corrosion-resistant wire cloth screening, hardware cloth, or similar material with openings having a least dimension of 1/16 inch (1.6 mm) minimum and 1/4 inch (6.4 mm) maximum. Openings in roof framing members shall conform to the requirements of Section R802.7. Required ventilation openings shall open directly to the outside air.

k. Amend Section R 1006.1, Exterior Air. Factory-built or masonry fireplaces covered in this chapter shall be equipped with an exterior air supply to assure proper fuel combustion.

6. Substitute Chapter 11, Energy Efficiency of the 2009 IRC, in lieu of Chapter 11 Energy Efficiency of the 2012 IRC.

a. Amend Section N1102.3, Access Hatches and Doors. Access doors from *conditioned spaces* to unconditioned spaces shall be weather-stripped and have a minimum insulation value of an R-4.

b. Amend Section N1102.4.2, Air Sealing and Insulation. The air tightness demonstration method of compliance is to be determined by the contractor, design professional or homeowner.

c. Amend Section N1102.4.2.1, Testing Option. Tested air leakage is less than 7 ACH when tested with a blower door at a pressure of 50 pascals (0.007 psi). Testing shall occur after rough in and after installation of penetrations of the building envelope, including penetrations for utilities, plumbing, electrical, ventilation and combustion appliances. When the contractor, design professional or homeowner chooses the blower door testing option, blower door testing shall be performed by individuals certified to perform blower door tests by a nationally recognized organization that trains and provides certification exams for the proper procedures to perform such tests. The responsible BCEO shall accept written blower door test reports from these certified individuals to verify the minimum requirements of Section N1102.4.2.1 Testing Option are attained.

i. During testing:

(a). exterior windows and doors, fireplace and stove doors shall be closed, but not sealed;

(b). dampers shall be closed, but not sealed; including exhaust, intake, makeup air, back draft, and flue dampers;

(c). interior doors shall be open;

(d). exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;

(e). heating and cooling system(s) shall be turned off;

(f). HVAC ducts shall not be sealed; and

(g). supply and return registers shall not be sealed.

d. Amend Section N1102.4.3, Fireplaces, New wood-burning fireplaces shall have outdoor combustion air.

e. Amend Section N1103.2.2, Sealing, Ducts, air handlers, filter boxes and building cavities used as ducts shall be sealed. Joints and seams shall comply with section M1601.4. Duct leakage testing shall be performed by individuals certified to perform duct leakage tests by a nationally recognized organization that trains and provides certification exams for the proper procedures to perform such tests. The responsible BCEO shall accept written duct leakage test reports from these certified individuals to verify the minimum requirements of Section N1103.2.2 Sealing are attained.

i. Exception: HVAC Contractors. HVAC contractors, who are not certified to perform duct leakage tests, may perform the test with the responsible BCEO visually verifying test procedures and results on site.

ii. Joints and seams shall comply with section M1601.4. Duct tightness shall be verified by either for the following:

(a). Post-Construction Test. Leakage to outdoors shall be less than or equal to 8 cfm (3.78 L/s) per 100 ft^2 (9.29 m^2) of conditioned floor area or a total leakage less than or equal to 12 cfm (5.66 L/s) per 100 ft^2 (9.29 m^2) of conditioned floor area when tested at a pressure differential of 0.1 inch w.g. (25 Pa) across the entire system, including the manufacturer's air handler end closure. All register boots shall be taped or otherwise sealed during the test.

(b). Rough-In Test. Total leakage shall be less than or equal to 6 cfm (2.83 L/s) per 100 ft^2 (9.29 m^2) of conditioned floor area when tested at a pressure differential of 0.1 inch w.g. (25 Pa) across the roughed in system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 4 cfm (1.89 L/s) per 100 ft^2 (9.29 m^2) of conditioned floor area.

iii. Exception: duct tightness test is not required if the air handler and all ducts are located within conditioned space.

f. Amend Section N1103.8.3, Pool Covers. Pool covers shall not be required to meet the energy efficiency requirements of this Section.

g. Amend Section M1307.3.1, Protection from Impact. Appliances shall not be installed in a location subject to automobile or truck damage except where protected by approved barriers

h. Amend Section M1507.3.1, System Design. The whole-house ventilation system shall consist of a combination of supply and exhaust fans, and associated ducts and controls. Local exhaust and supply fans are permitted to serve as such a system. Outdoor air ducts connected to the return side of an air handler shall be considered to provide supply ventilation.

i. Amend Section M1507.3.2, System Controls. The whole-house mechanical ventilation system shall be provided with controls that enable manual override and a method of air-flow adjustment.

j. Amend Section M1507.3.3, Mechanical Ventilation Rate. The whole-house mechanical ventilation system shall be able to provide outdoor air at a continuous rate of at least that determined in accordance with Table M1507.3.3(1).

k. Amend Section M1507.4, Minimum Required Local Exhaust. Local exhaust systems shall be designed to have the capacity to exhaust the minimum air flow rate as follows.

i. Kitchen: 100 cfm intermittent or 25 cfm continuous, a balanced ventilation system is required for continuous exhaust.

ii. Bathrooms: exhaust capacity of 50 cfm intermittent or 20 cfm continuous, a balanced ventilation system is required for continuous exhaust.

7. Amend Chapter 26, General Plumbing Requirements.

a. Amend Section P 2602.1, General.

i. The water-distribution and drainage system of any building or premises where plumbing fixtures are installed shall be connected to a public water supply or community sewerage system, respectively, if available. When either a public water-supply or community sewerage system, or both, are not available, or connection to them is not feasible, a private water supply complying with the applicable requirements of LAC 51:XII (Water Supplies) and LAC 56:I (Water Wells) or individual (private) sewage-disposal system complying with the applicable requirements of LAC 51:XIII (Sewage Disposal), or both, shall be provided.

b. Amend Section P2609.5, Water supply systems.

i. Water service pipes, water distribution pipes and the necessary connecting pipes, fittings, control valves, faucets and appurtenances used to dispense water intended for human consumption shall be evaluated and listed as conforming to the requirements of NSF 61. All potable water pipes, fittings, valves, and fixtures shall be lead free and shall be evaluated and listed as conforming with NSF/ANSI 372. Any solder or flux which is used in the installation or repair of any public water system or any plumbing in a residential or nonresidential facility providing water for human consumption shall be lead free.

(a). Exception: The lead free requirement above shall not apply to:

(i). leaded joints necessary for the repair of existing cast iron pipes;

(ii.). fire hydrants, pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or

(iii.). toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.

8. Amend Chapter 29, Water Supply and Distribution.

a. Amend Section P2902.3.2, Atmospheric-type vacuum breakers.

i. Pipe-applied atmospheric-type vacuum breakers shall conform to ASSE 1001 or CSA B64.1.1. Pipe-applied atmospheric type vacuum breakers shall be installed not less than 6 inches (152 mm) above all downstream piping and not less than 6 inches (152 mm) above the flood-level rim of the fixture receptor or device served. Hose-connection vacuum breakers shall conform to ASSE 1011, ASSE 1019, ASSE 1035, ASSE 1052, CSA B64.2, CSA B64.2.1, CSA B64.2.1.1, CSA B64.2.2 or CSA B64.7. These devices shall operate under normal atmospheric pressure when the critical level is installed at the required height. Atmospheric vacuum breakers including, but not limited to, hose bibb vacuum breakers shall not be subjected to continuous water pressure and shutoff or control valves shall not be installed downstream of these devices.

b. Amend Section P2902.3.4, Pressure vacuum breaker assemblies.

i. Pressure vacuum breaker assemblies shall conform to ASSE 1020 or CSA B64.1.2. Spill-resistant vacuum breaker assemblies shall comply with ASSE 1056. These assemblies shall be installed not less than 12 inches (305 mm) above all downstream piping and not less than 12 inches (305 mm) above the flood-level rim of the fixture receptor or device served. Pressure vacuum breaker assemblies shall not be installed in locations where spillage could cause damage to the structure.

c. Amend Section P2902.4.3, Hose connection.

i. Sillcocks, hose bibbs, wall hydrants and other openings with a hose connection shall be protected against backflow by an atmospheric-type or pressure-type vacuum breaker installed in accordance with Section 608.15.4, or by a permanently attached hose connection vacuum breaker in which the highest point of usage is less than 10 feet above the hose connection vacuum breaker. Hose bib vacuum breakers shall not be subjected to continuous water pressure.

d. Amend Section P2902.5.3, Lawn Irrigation Systems.

i. The potable water supply to lawn irrigation systems shall be protected against backflow by an atmospheric vacuum breaker, a pressure vacuum breaker assembly or a reduced pressure principle backflow prevention assembly. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker. When an irrigation/lawn sprinkler system is provided with separate zones, the potable water supply shall be protected by a pressure vacuum breaker or reduced pressure principal backflow prevention assembly. Atmospheric vacuum breakers shall be installed at least 6 inches (152 mm) above the highest point of usage (i.e., 6 inches (152 mm) above all downstream piping or highest sprinkler head). Pressure type vacuum breakers shall be installed at least 12 inches (305 mm) above the highest point of usage (i.e., 12 inches (305 mm) above all downstream piping and the highest sprinkler head). Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow prevention assembly.

e. Add Section P2902.5.6, Connections to swimming pools.

i. The potable water supply to swimming pools shall be protected against backflow by an air gap or reduced pressure principal backflow prevention assembly.

f. Add Section P2902.5.7, Connections to animal watering troughs, ornamental fountains, or other similar equipment.

i. The potable water supply to animal watering troughs, ornamental fountains, or other similar fixtures shall be protected against backflow by an air gap.

g. Amend Section P2902.6, Location of backflow preventers.

i. Access shall be provided to backflow preventers as specified by the manufacturer's installation instructions for the required testing, maintenance and repair. A minimum of 1-foot of clearance shall be provided between the lowest portion of the assembly and grade or platform.

Elevated installations exceeding 5-feet above grade (g) shall be provided with a suitably located permanent platform capable of supporting the installer, tester, or repairer. Reduced pressure zone (RPZ) type backflow preventers, and other types of backflow preventers with atmospheric ports and/or test cocks (e.g., atmospheric type vacuum breakers, double check valve assemblies, pressure type vacuum breaker assemblies, etc.), shall not be installed below grade (in vaults or pits) where the potential for a relief valve, an atmospheric port, or a test cock being submerged exists.

h. Amend Section P2902.6.2, Protection of backflow preventers.

i. Backflow preventers subjected to freezing temperatures shall be protected by heat, insulation or both; or as otherwise recommended by the manufacturer.

i. Add Section P2902.8, Inspection and testing of backflow prevention assemblies, barometric loops and air gaps.

i. Inspection and testing shall comply with Sections P2902.8.1 through P2902.8.3.

j. Add Section P2902.8.1, Inspections.

i. Annual inspections shall be made of all backflow prevention assemblies and air gaps to determine whether they are operable, properly installed and maintained, and meet testing/code requirements. Inspections of backflow prevention devices including air gaps used to protect high degree of hazard cross connections shall be documented in writing and the report provided to the owner of the backflow prevention device.

k. Add Section P2902.8.2, Testing.

i. Reduced pressure principle, double check, pressure vacuum breaker, reduced pressure detector fire protection, double check detector fire protection, and spill-resistant vacuum breaker backflow preventer assemblies shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The testing procedure shall be performed in accordance with one of the following standards: ASSE 5013, ASSE 5015, ASSE 5020, ASSE 5047, ASSE 5048, ASSE 5052, ASSE 5056, CSA B64.10.1, USC's FCCC & HR's "Manual of Cross-Connection Control", or UFL's TREEO's "Backflow Prevention—Theory and Practice". Any backflow preventer which is found to be defective shall be repaired.

l. Add Section P2902.8.3, Owner Responsibilities.

i. The owner of the backflow prevention assemblies shall comply with the following.

(a). It shall be the duty of the owner of the backflow prevention assembly to see that these tests are made in a timely manner in accord with the frequency of field testing specified in P2902.8.2 of this code.

(b). The owner shall notify the building official, and/or water supplier (for those devices associated with containment) in advance when the tests are to be undertaken so that the building official and/or water supplier may witness the tests if so desired.

(c). Upon completion, the owner shall provide records of such tests, repairs, overhauls, or replacements to the building official or water supplier (for those devices associated with containment). In addition, all records shall be kept by the owner of the backflow prevention device or method for at least 5 years and, upon specific request, shall be made available to the building official or water supplier.

(d). All tests, repairs, overhauls or replacements shall be at the expense of the owner of the backflow preventer.

m. Amend Section P2903.4.2, Backflow prevention device or check valve.

i. Where a backflow prevention device, check valve or other device is installed on a water supply system utilizing storage water heating equipment, a device for controlling pressure shall be installed at an accessible location between the checking device and the water heating equipment to limit thermal expansion of the water being heated to not more than 80 psi (552 kPa) static pressure at any fixture on the system. A potable water expansion tank or auxiliary relief valve set at 80 psi (552 kPa) shall be acceptable. The auxiliary relief valve shall be in addition to the water heater safety relief valve. This thermal expansion control device shall be designed and trimmed for repeated operation. The valve shall be a minimum 1/2-inch pipe size, shall be adjustable and calibrated, and shall include a tag describing its function.

n. Amend Section P2905.2, Lead content.

i. Water Piping Quality. All potable water pipes, fittings, valves, and fixtures shall be lead free and shall be evaluated and listed as conforming with NSF/ANSI 372. Any solder or flux which is used in the installation or repair of any public water system or any plumbing in a residential or nonresidential facility providing water for human consumption shall be lead free.

(a). Exception: The lead free requirement above shall not apply to:

(i). leaded joints necessary for the repair of existing cast iron pipes;

(ii). fire hydrants, pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or

(iii.) toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.

o. Amend Table P2905.4, Water Service Pipe.

i. Table P2905.4—Water Service Pipe

Material	Standard
Acrylonitrile butadiene styrene (ABS) plastic pipe	ASTM D 1527; ASTM D 2282
Brass pipe	ASTM B 43
Chlorinated polyvinyl chloride (CPVC) plastic pipe	ASTM D 2846; ASTM F 441; ASTM F 442; CSA B137.6
Copper or copper-alloy pipe	ASTM B 42; ASTM B 302
Copper or copper-alloy tubing (Type K, WK, L, or WL, only. *i.e.*, Type M copper is prohibited	ASTM B 75; ASTM B 88; ASTM B 251; ASTM B 447
Cross-linked polyethylene/ aluminum/cross-linked polyethylene (PEX-AL-PEX) pipe	ASTM F 1281; ASTM F 2262; CSA B137.10M
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Cross-linked polyethylene (PEX) plastic tubing	ASTM F 876; ASTM F 877; CSA B137.5
Ductile iron water pipe	AWWA C151; AWWA C115

Material	Standard
Galvanized steel pipe (above ground use only)	ASTM A 53
Polyethylene/aluminum/polyethylene (PE-AL-PE) pipe	ASTM F 1282; CSA B137.9
Polyethylene (PE) plastic pipe	ASTM D 2104; ASTM D 2239; AWWA C901; CSA B137.1
Polyethylene (PE) plastic tubing	ASTM D 2737; AWWA C901; CSA B137.1
Polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 2769
Polyvinyl chloride (PVC) plastic pipe	ASTM D 1785; ASTM D 2241; ASTM D 2672; CSA B137.3
Stainless steel (Type 304/304L) pipe	ASTM A 312; ASTM A 778
Stainless steel (Type 316/316L) pipe	ASTM A 312; ASTM A 778

p. Amend Table P2905.5,Water Distribution Pipe.

i. Table P2905.5—Water Distribution Pipe

Material	Standard
Brass pipe	ASTM B 43
Chlorinated polyvinyl chloride (CPVC) plastic pipe and tubing	ASTM D 2846; ASTM F 441; ASTM F 442; CSA B137.6
Copper or copper-alloy pipe	ASTM B 42; ASTM B 302
Copper or copper-alloy tubing (Type K, WK, L, or WL, only. *i.e.*, Type M copper is prohibited	ASTM B 75; ASTM B 88; ASTM B 251; ASTM B 447
Cross-linked polyethylene (PEX) plastic tubing	ASTM F 876; ASTM F 877; CSA B137.5
Cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX) pipe	ASTM F 1281; ASTM F 2262; CSA B137.10M
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Galvanized steel pipe	ASTM A 53
Polyethylene/aluminum/polyethylene (PE-AL-PE) composite pipe	ASTM F 1282
Polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 2769
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11
Stainless steel (Type 304/304L) pipe	ASTM A 312; ASTM A 778

q. Amend Section P2905.6, Fittings.

i. Pipe fittings shall be approved for installation with the piping material installed and shall comply with the applicable standards listed in Table P2905.6. All pipe fittings used in water supply systems shall also comply with NSF 61. For repairs all copper, brass and stainless steel joints below a building slab shall be brazed and/or welded in accordance with the requirements of this code, as appropriate. With the exception of heat fused polypropylene, all other joints and fittings for plastic pipe below a building slab are prohibited.

r. Amend Table P2905.6, Pipe Fittings.

i. Table P2905.6—Pipe Fittings

Material	Standard
Acrylonitrile butadiene styrene (ABS) plastic	ASTM D 2468
Brass	ASTM F1974
Cast-iron	ASME B16.4; ASME B16.12
Chlorinated polyvinyl chloride (CPVC) plastic	ASSE 1061; ASTM D 2846; ASTM F 437; ASTM F 438; ASTM F 439; CSA B137.6
Copper or copper alloy	ASSE 1061; ASME B16.15; ASME B16.18; ASME B16.22; ASME B16.26
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Fittings for cross-linked polyethylene (PEX) plastic tubing	ASSE 1061; ASTM F 877; ASTM F 1807; ASTM F 1960; ASTM F 2080; ASTM F 2098; ASTM F 2159; ASTM F 2434; ASTM F 2735; CSA B137.5
Gray iron and ductile iron	AWWA C110; AWWA C153
Malleable iron	ASME B16.3
Insert fittings for Polyethylene/aluminum/polyethylene (PE-AL-PE) and cross-linked polyethylene/aluminum/polyethylene (PEX-AL-PEX)	ASTM F 1974; ASTM F 1281; ASTM F 1282; CSA B137.9; CSA B137.10
Polyethylene (PE) plastic	CSA B137.1
Fittings for polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 1807; ASTM F2098; ASTM F 2159; ASTM F 2735
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11
Polyvinyl chloride (PVC) plastic	ASTM D 2464; ASTM D 2466; ASTM D 2467; CSA B137.2; CSA B137.3
Stainless steel (Type 304/304L) pipe	ASTM A 312; ASTM A 778
Stainless steel (Type 316/316L) pipe	ASTM A 312; ASTM A 778
Steel	ASME B16.9; ASME B16.11; ASME B16.28

s. Add Section P2910, Separation of Water Service from Contamination.

i. Add Section P2910.1, Separation of water service and sewer lines.

(a). Underground water service pipe and the building drain or building sewer shall be horizontally separated by not less than 5 feet (1524 mm) of undisturbed or compacted earth.

(i). Exceptions:

[a]. The required separation distance shall not apply where the bottom of the water service pipe within 5 feet (1524 mm) of the sewer is not less than 12 inches (305 mm) above the top of the highest point of the sewer and the sewer pipe materials conformed to Table P3002.2.

[b]. Water service pipe is permitted to be located in the same trench with a building drain or building sewer, provided such sewer is constructed of materials listed in Table P3002.1(2) and the water service pipe is placed on a solid shelf excavated at one side of the common trench. The bottom of the water service pipe, at all points, shall be at least 12 inches (305mm) above the top of the sewer line at its highest point.

[c]. Any underground water service pipe which must cross a pipe that conveys sewage (e.g. building drains, building sewers, and other piping conveying sewage) shall have a minimum separation of 12 inches (305 mm) above the top of the sewer. The water service pipe is shall be sleeved to a point not less than 5 feet (1524 mm) horizontally from the sewer pipe centerline on both sides of such crossing with pipe materials listed in Table P2905.4, P3002.1(2), or P3002.2.

t. Add Section P2910.2, Potable Water (Pressure) Lines Near Soil Absorption Trenches, Sand Filter Beds, Oxidation Ponds, and any Effluent Reduction Option (Effluent Reduction Fields, Rock Plant Filters, Spray Irrigation Systems, Overland Flow Systems, Mound Systems, or Subsurface Drip Disposal Systems)

i. Underground potable water (pressure) lines shall not be located within 25 feet (7.6 m) of any soil absorption trenches, sand filter beds, oxidation ponds, or any effluent reduction option including, but not limited to effluent reduction fields, rock plant filters, spray irrigation systems (from the edge of the spray and its drainage), overland flow systems (from the discharge point and field of flow), mound systems, or subsurface drip disposal systems which have been installed for either the disposal of septic tank effluent or mechanical treatment plant effluent.

u. Add Section P2910.3, Potable Water (Pressure) Lines Near Septic Tanks, Mechanical Sewage Treatment Plants, and Pump Stations.

i. Underground potable water (pressure) lines shall not be located within 10 feet (3.0 m) of any septic tank, mechanical sewage treatment plant, or sewage pump station.

v. Add Section P2910.4, Potable Water (Pressure) Lines Near Seepage Pit, Cesspool, or Sanitary Pit Privy.

i. Underground potable water (pressure) lines shall not be located within 50 feet (15.2m) of any seepage pit, cesspool, or sanitary pit privy.

w. Add Section P2910.5, Reclaimed Water Lines.

i. Reclaimed water lines shall be considered and treated as though they are sewerage lines and shall be installed in accord with the spacing requirements of this Section for the protection of potable water lines.

x. Add Section P2910.6, Stop and Waste Valves and Devices.

i. Combination stop and waste valves and cocks shall not be installed underground in a water service pipe, water supply system, or a water distribution system. Any fixture or device which incorporates a stop and waste feature is prohibited if the waste opening is underground or in any location that waste water or water-borne contaminates may enter the device or water supply from the ground or other source by reversal of flow.

9. Amend Chapter 30 Sanitary Drainage.

a. Add Section 3001.4 Repairs to drainage system via re-route.

i. In the case where it is determined that there is a broken underground drain line including, but not limited to, broken drain lines under the slab of a building, and a drain line re-route is performed, the existing broken underground drain line shall be cut or otherwise disconnected from the entire drainage system. At the point of such cutting or disconnection, the entire circumference of the existing pipe which remains connected to the drainage system shall have a wall thickness of not less than 1/8-inch. The existing pipe which remains connected to the drainage system shall be sealed watertight and gastight using approved plumbing materials and joining/jointing methods, e.g., properly install an approved cap, plug, or cleanout on the cut or disconnected pipe.

b. Amend Section P3005.2.2, Horizontal Drains within buildings.

i. Horizontal drains within buildings shall be provided with cleanouts as follows:

(a). All horizontal drains 3-inch nominal diameter or less, cleanouts shall be located at not more than 50 feet (15 200mm) intervals.

(b). For horizontal drains 4-inch nominal diameter through 6-inch nominal diameter, cleanouts shall be located at not more than 80 feet (24 400mm) intervals.

(c). Horizontal drains larger than 6-inch nominal diameter shall be provided with cleanouts located at not more than 100 feet (30 480 mm) intervals.

c. Amend Section P3005.2.4, Change of direction.

i. Each horizontal drainage pipe shall be provided with a cleanout at the upstream end of the pipe and in changes of direction over 45° (0.785 rad).

(a). Exceptions: The following plumbing arrangements are acceptable in lieu of the upstream cleanout:

(i). "P" traps connected to the drainage piping with slip joints or ground joint connections;

(ii). "P" traps into which floor drains, shower drains or tub drains with removable strainers discharge;

(iii). "P" traps into which the straight through type waste and overflow discharge with the overflow connecting to the branch of the tee;

(iv). "P" traps into which residential washing machines discharge;

(v). test tees or cleanouts in a vertical pipe above the flood-level rim of the fixtures that the horizontal pipe serves and not more than 4-feet (1219 mm) above the finish floor.

d. Amend Section P3005.2.7, Building drain and building sewer junction.

i. There shall be a cleanout within 6 feet (1829 mm) of the junction of the building drain and building sewer. This cleanout shall be either inside or outside the building wall, provided that it is brought up to finish grade or to the lowest floor level. An approved two-way cleanout shall be permitted to serve as the required cleanout for both the building drain and the building sewer.

e. Amend Section P3005.4.1, Branch and stack sizing.

i. Branches and stacks shall be sized in accordance with Table P3005.4.1. Below grade drain pipes shall be not less than 11/2 inches (38 mm) in diameter. Drain stacks shall be not smaller than the largest horizontal branch connected.

(a). Exceptions:

(i). a 4-inch by 3-inch (102 mm by 76 mm) closet bend or flange;

(ii). a 4-inch (102 mm) closet bend connected to a 3-inch (76 mm) stack tee shall not be prohibited.

f. Amend Table P3005.4.1, Maximum fixture units allowed to be connected to branches and stacks.

i. Table P3005.4.1—Maximum Fixture Units Allowed to be Connected to Branches and Stacks

Nominal Pipe Size (inches)	Any Horizontal Fixture Branch	Any One Vertical Stack or Drain
1 1/4[a]	—	—
1 1/2[b]	3	4
2b	6	10
2 1/2[b]	12	20
3	20 (not over two water closets)	30 (not over six water closets)
4	160	240

For SI: 1 inch = 25.4 mm.
[a] 1 1/4-inch pipe size limited to a single-fixture drain or trap arm. See Table P3201.7.
[b] No water closets.

g. Amend Section P3005.4.2, Building drain and sewer size and slope.

i. Pipe sizes and slope shall be determined from Table P3005.4.2 on the basis of drainage load in fixture units (d.f.u.) computed from Table P3004.1.

h. Amend Table P3005.4.2, Maximum number of fixture units allowed to be connected to the building drain, building drain branches or the building sewer.

i. Table P3005.4.2—Maximum Number of Fixture Units Allowed to be connected to the Building Drain, Building Drain Branches or The Building Sewer.

Diameter of Pipe (inches)	Slope Per Foot		
	1/8 inch	1/4 inch	1/2 inch
1 1/2a, b	—	Note a	Note a
2b	—	21	27
2 1/2b	—	24	31
3	20 (not over two water closets)	27 (not over two water closets)	36(not over two water closets)
4	180	216	250

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm.
[a] 11/2-inch pipe size limited to a building drain branch serving not more than two waste fixtures, or not more than one waste fixture if serving a pumped discharge fixture or garbage grinder discharge.
[b] No water closets.

i. Add Section P3005.6, Minimum size of soil and waste stacks.

i. No soil or waste stack shall be smaller than the largest horizontal branch connected thereto except that a 4x3 water closet connection shall not be considered as a reduction in pipe size. The soil or waste stack shall run undiminished in size from its connection to the building drain to its connection to the stack vent.

j. Add Section P3005.7, Minimum size of drain serving a water closet.

i. The minimum size of any building drain serving a water closet shall be 3 inches. Not more than two water closets shall discharge into a horizontal 3-inch building drain.

k. Add Section P3005.8, Minimum size of building sewer.

i. In accordance with P3001.4, no building sewer shall be less than 4 inches in size with the exception of force lines.

l. Add Section P3005.9, Underground drainage piping.

i. Any portion of the drainage system installed underground or below a basement or cellar shall not be less than 2-inch diameter.

m. Amend Section P3009.1, Scope.

i. Gray water recycling systems shall only be considered on an individual basis and plans and specifications for any proposed gray water recycling system shall be submitted to the code official or local jurisdiction for review and approval prior to construction. Such plans and specifications shall be appropriately sealed and signed by a Louisiana Registered Professional Engineer. Potable makeup water supply lines shall be protected against backflow by an air gap or reduced pressure principal backflow prevention assembly. The provisions of Section P3009 shall govern the materials, design, construction and installation of gray water systems for flushing of water closets and urinals and for subsurface landscape irrigation. See Figures P3009.1(1) and P3009.1(2).

n. Amend Section P3009.14, Landscape irrigation systems.

i. In accordance with provisions of the *Louisiana State Sanitary Code* [LAC 51:XIII (Sewage Disposal)], a permit shall be obtained from the state health officer prior to the construction of any subsurface landscape irrigation system which utilizes gray water. Subsurface landscape irrigation systems shall comply with Sections P3009.14.1 through P3009.14.11; however, the regulations of the *Louisiana State Sanitary Code* shall supersede any provisions of P3009.14.1 through P3009.14.11 when a conflict exists or a provision is less stringent than those contained in the *Louisiana State Sanitary Code*.

o. Amend Section P3010.1, Air break.

i. An air break shall be provided between the indirect waste pipe and the trap seal of the waste receptor or standpipe. The air break (drainage system) between the indirect waste and the building drainage system shall be installed such that the level of the lowest outlet located on the fixture, device, appliance or apparatus (to which the indirect waste pipe connects) is above the flood-level rim of the receiving sink or other receptor by a vertical distance of at least twice the diameter of the effective opening of the indirect waste pipe, but in no case less than 2 inches (51 mm). In addition, the indirect waste pipe shall terminate below the flood-level rim of the receiving sink or other receptor a distance equal to not more than one-half (1/2) the diameter of the effective opening of the indirect waste pipe.

p. Amend Section P3104.1, Connection.

i. All individual branch and circuit vents shall connect to a vent stack, stack vent or extend to the open air.

q. Amend Section P3201.5, Prohibited trap designs.

i. The following types of traps are prohibited:

(a). bell traps;

(b). separate fixture traps that depend on interior partitions for the water seal, except those lavatory traps made of plastic, stainless steel or other corrosion-resistant material;

(c). "S" traps;

(d). drum traps;

(e). trap designs with moving parts;

(f). crown-vented traps;

(g). running traps;

(i). exceptions:

[a]. a running trap with cleanout may be allowed on condensate waste lines and for certain floor level fixtures installed on a combination waste and vent system.

r. Delete Section P3114, Air Admittance Valves in its entirety and all referencing sections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2383 (November 2015), amended LR 42: 05 (May 2016); repromulgated LR 42:

§111. The International Plumbing Code (Formerly LAC 55:VI.301.A.5)

A. The *International Plumbing Code*, 2012 Edition. The appendices of that code may be adopted as needed, but the specific appendix or appendices shall be referenced by name or letter designation at the time of adoption. (per R.S. 40:1730.28 eff. 1/1/16)

1. Amend Chapter One.

a. Amend Section [A] 101.2, Scope.

i. Section [A] 101.2 Scope. The provisions of this code shall apply to the erection, installation, alteration, repairs, relocation, replacement, addition to, use or maintenance of plumbing systems within this jurisdiction. This code shall also regulate nonflammable medical gas, inhalation anesthetic, vacuum piping, nonmedical oxygen systems and sanitary and condensate vacuum collection systems. The installation of fuel gas distribution piping and equipment, fuel-gas-fired water heaters and water heater venting systems shall be regulated by the *International Fuel Gas Code*. Provisions in the appendices shall not apply unless specifically adopted.

(a). Nothing in this Part or any provision adopted pursuant to this Part shall prohibit the Department of Health and Hospitals from the following:

(i). Regulating stored water temperatures through enforcement of the *Sanitary Code*.

(ii). Regulating medical gas and medical vacuum systems.

[a]. Exception:

[i]. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the *International Residential Code*.

B. Amend Chapter Two Definitions.

Adult Day Care Center—any place or facility, operated by any person for the primary purpose of providing care, supervision and guidance of 10 or more people 18 years and older, not related to the caregiver and unaccompanied by parent or guardian, on a regular basis, for a total of at least 20 hours in a continuous seven day week in a place other than the person's home.

Air Break (Drainage System)—a piping arrangement in which a drain from a fixture, appliance or device discharges indirectly into another fixture, or receptacle at a point below the flood level rim and above the trap seal. An unobstructed horizontal distance of free atmosphere between the outside of the indirect waste pipe and the inside of the waster receptor must exist so as to allow a back-flow of sewage to spill over the flood level rim of the receiving sink or other receptor to prevent such back-flow from reaching the fixture, device, appliance or apparatus served by the indirect waste pipe.

Barometric Loop—a fabricated piping arrangement rising at least 35 feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against backsiphonage backflow.

Building Drain—that part of the lowest piping of a drainage system that receives the discharge from soil, waste and other drainage pipes in side and that extends 30 inches (762 mm) in developed length of pipe beyond the exterior walls of the building and conveys the drainage to the building sewer.

NOTE: Delete definition Combined—a building drain that conveys both sewage and storm water or other drainage.

a. *Sanitary*—a *building drain* that conveys sewage only.

b. *Storm*—a *building drain* that conveys storm water or other drainage, but not sewage.

Building Sewer—that part of the drainage system that extends from the end of the building drain and conveys the discharge to a community sewerage system, commercial treatment facility, or individual sewerage system or other point of disposal.

NOTE: Delete definition Combined—a building sewer that conveys both sewage and storm water or other drainage.

a. *Sanitary*—a *building drain* that conveys sewage only.

b. *Storm*—a *building drain* that conveys storm water or other drainage, but not sewage.

By-Pass—any system of piping or other arrangement whereby the water may be diverted around any part or portion of the water supply system including, but not limited to, around an installed backflow preventer.

Child Day Care Center—any place or facility, operated by any person for the primary purpose of providing care, supervision and guidance of seven or more children under the age of 18, not related to the care giver and unaccompanied by parent or guardian, on a regular basis, for a total of at least 20 hours in a continuous seven day week in a place other than the children's home. A day care center that remains open for more than 20 hours in a continuous seven day week, and in which no individual child remains for more than 24 hours in one continuous stay shall be known as a full-time day care center.

NOTE: Delete definition Combined Building Drain—"See building drain, combined"

NOTE: Delete definition Combined Building Sewer—"See Building sewer, combined"

Commercial Treatment Facility—any treatment facility which is required by the state health officer whenever the use of an individual sewerage system is unfeasible or not authorized.

Community Sewerage System—any sewerage system which serves multiple connections and consists of a collection and/or pumping system/transport system and treatment facility.

Containment—a method of backflow prevention which requires a backflow prevention device or method on the water service pipe to isolate the customer from the water main.

Continuous Water Pressure—a condition when a backflow preventer is continuously subjected to the spill over the flood level rim of the receiving sink or other receptor to prevent such back-flow from reaching the fixture, device, appliance or apparatus served by the indirect waste pipe.

NOTE: Delete definition Lead Free Pipe and Fittings—Containing not more than 8.0 percent lead

NOTE: Delete definition Lead Free Solder and Flux—Containing not more than 0.2 percent lead

Day Care Centers—includes adult and child day care centers.

Degree of Hazard—an evaluation of the potential risk to public health if the public were to be exposed to contaminated water caused by an unprotected or inadequately protected cross connection.

Domestic Well—a water well used exclusively to supply the household needs of the owner/lessee and his family. Uses may include human consumption, sanitary purposes, lawn and garden watering and caring for pets.

Dual Check Valve—a device having two spring loaded, independently operated check valves without tightly closing shut-off valves and test cocks. Generally employed immediately downstream of the water meter. Not an approved backflow prevention device.

Fixture Isolation—a method of backflow prevention in which a backflow preventer is located to protect the potable water of a water supply system against a cross connection at a fixture located within the structure or premises itself.

Human Consumption—the use of water by humans for drinking, cooking, bathing, showering, hand washing, dishwashing, or maintaining oral hygiene.

Indirect Waste Pipe—a waste pipe that does not connect directly with the drainage system, but that discharges into the drainage system through an *air break* or *air gap* into a trap, fixture, or *waste receptor*.

NOTE: Delete definition Individual water supply--A water supply that serves one or more families, and that is not an approved public water supply.

Individual Sewerage System—any system of piping (excluding the building drain and building sewer), and/or collection and/or transport system which serves one or more connections, and/or pumping facility, and treatment facility, all located on the property where the sewage originates; and which utilizes the individual sewerage system technology which is set forth in LAC 51:XIII.Chapter 7, Subchapter B, or a commercial treatment facility which is specifically authorized for use by the state health officer.

Infant—any child under the age of 12 months.

Lead Free—

a. in general:

i. not containing more than 0.2 percent lead when used with respect to solder and flux; and

ii. not more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures;

b. calculation:

i. the weighted average lead content of a pipe, pipe fitting, plumbing fitting, or fixture shall be calculated by using the following formula:

(a). for each wetted component, the percentage of lead in the component shall be multiplied by the ratio of the wetted surface area of that component to the total wetted surface area of the entire product to arrive at the weighted percentage of lead of the component. The weighted percentage of lead of each wetted component shall be added together, and the sum of these weighted percentages shall constitute the weighted average lead content of the product. The lead content of the material used to produce wetted components shall be used to determine compliance with Clause a.ii above. For lead content of materials that are provided as a range, the maximum content of the range shall be used.

NOTE: Delete definition Lead Free Pipe and Fittings.--Containing not more than 8.0 percent lead

NOTE: Delete definition Lead Free Solder and Flux --Containing not more than 0.2 percent lead

Master Meter—a water meter serving multiple residential dwelling units or multiple commercial units. Individual units may or may not be sub-metered.

Plumbing—the practice, materials and fixtures utilized in the installation, maintenance, extension and alteration of all piping, fixtures, plumbing appliances and plumbing appurtenances, within or adjacent to any structure, in connection with sanitary drainage or storm drainage facilities; venting systems; and public or private water supply systems. Plumbing includes yard piping connecting sanitary or storm drainage with any point of disposal or other acceptable terminal as well as the water service piping connecting to a water main or other source of water supply. Plumbing does not include the installation, alteration, repair or maintenance of automatic fire sprinklers and including the underground or overhead water supply beginning at the outlet of an approved backflow prevention device installed under the plumbing provisions of this code where water is to be used or is intended to be used exclusively for fire protection purposes.

Potable Water—water free from impurities present in amount sufficient to cause disease or harmful physiological effects and conforming to the bacteriological, physical, radiological, and chemical quality requirements of the federal Safe Drinking Water Act or the regulations of the Department of Health and Hospitals, Office of Public Health.

Potable Water Supply—a publicly owned or privately owned water supply system which purveys potable water.

Preschool—any child less than five years of age.

Private Water Supply—a potable water supply that does not meet the criteria for a public water supply including, but not limited to a domestic well.

Public or *Public Utilization*—in the classification of plumbing fixtures, "public" applies to fixtures in general toilet rooms of schools, gymnasiums, hotels, hotel/motel

rooms, airports, bus and railroad stations, public buildings, bars, public comfort stations, office buildings, stadiums, stores, restaurants, patient rooms and other installations where a number of fixtures are installed so that their utilization is similarly unrestricted.

NOTE: Delete definition *Public Water Main*—A water supply pipe for public use controlled by public authority.

Public Water Supply—public water system.

Public Water System—a particular type of water supply system intended to provide potable water to the public having at least 15 service connections or regularly serving an average of at least 25 individuals daily at least 60 days out of the year.

Putrescible Waste—waste which is subject to spoilage, rot, or decomposition and may give rise to foul smelling, offensive odors and/or is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies. It includes wastes from the preparation and consumption of food, vegetable matter, and animal offal and carcasses.

Residential Facility—any place, facility, or home operated by any person who receives therein four or more people who are not related to such person for supervision, care, lodging and maintenance with or without transfer of custody. This shall include, but not be limited to group homes, community homes, maternity homes, juvenile detention centers, emergency shelters, halfway homes and schools for the mentally retarded.

Sanitary Sewage—see "sewage."

Sewer—a pipe or other constructed conveyance which conveys sewage, rainwater, surface water, subsurface water, or similar liquid wastes.

a. *Building Sewer*—see "building sewer."

b. *Public Sewer*—a common sewer directly controlled by a public authority or utilized by the public

c. *Sanitary Sewer*—a sewer that carries sewage and excludes storm, surface and ground water.

d. *Storm Sewer*—a sewer that conveys rainwater, surface water, subsurface water and similar liquid wastes.

Sewerage System—any system of piping (excluding the building drain and building sewer) and/or collection and/or transport system and/or pumping facility and/or treatment facility, all for the purpose of collecting, transporting, pumping, treating and/or disposing of sanitary sewage.

Waste Receptor—a *plumbing fixture* designed specifically to collect and dispose of liquid waste received from an indirect waste pipe which is connected to other *plumbing fixtures*, plumbing equipment or appliances which are required to discharge to the drainage system through either an air gap (drainage system) or air break (drainage system). The following type fixtures fall within the classification of indirect waste receptors: floor sinks, curbed cleaning facilities with floor drain, and standpipe drains with integral air gaps (drainage system) or air breaks (drainage system), and may include others when approved as such by the code official.

Water Main—a water supply pipe or system of pipes installed and maintained by a city, township, county, Public Utility Company or other public entity, on public property, in the street or in an approved dedicated easement of public or community use. This term shall also mean the principal artery (or arteries) used for the distribution of potable water to consumers by any water supplier including, but not limited to, those public water systems which are not owned by the public and which may not be on public property.

Water Supplier—a person who owns or operates a water supply system including, but not limited to, a person who owns or operates a public water system.

Water Supply System—the water service pipe, water distribution pipes, and the necessary connecting pipes, fittings, control valves and all appurtenances in or adjacent to the structure or premise. This term shall also mean the system of pipes or other constructed conveyances, structures and facilities through which water is obtained, treated to make it potable (if necessary) and then distributed (with or without charge) for human consumption or other use.

NOTE: Delete definition *Well*—

Bored—a well constructed by boring a hole in the ground with an auger and installing a casing.

Drilled—a well constructed by making a hole in the ground with a drilling machine of any type and installing casing and screen.

Driven—a well constructed by driving a pipe in the ground. The drive pipe is usually fitted with a well point and screen.

Dug—a well constructed by excavating a large-diameter shaft and installing a casing.

C. Amend Chapter 3, General Regulations.

1. Add Section 303.5, Water Piping Quality.

a. All potable water pipes, fittings, valves, and fixtures shall be lead free and shall be evaluated and listed as conforming with NSF/ANSI 372. Any solder or flux which is used in the installation or repair of any public water system or any plumbing in a residential or nonresidential facility providing water for human consumption shall be lead free.

i. Exception: The lead free requirement above shall not apply to:

(a). leaded joints necessary for the repair of existing cast iron pipes;

(b). fire hydrants, pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or

(c). toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.

2. Amend Section [B] 309.2, Flood hazard.

a. For structures located in flood hazard areas, the following systems and equipment shall be located and installed as required by Section 1612 of the *International Building Code*.

NOTE: Where a private water supply is used it must meet the applicable requirements of LAC 51:XII (Water Supplies) and LAC 56:I (Water Wells) shall be utilized.

i. Exception:

(a). The following systems are permitted to be located below the elevation required by Section 1612 of the *International Building Code* for utilities and attendant equipment provided that the systems are designed and installed to prevent water from entering or accumulating within their components and the systems are constructed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to up to such elevation;

(i). all water service pipes;

(ii). all sanitary drainage piping;

(iii). storm drainage piping;

(iv). manhole covers shall be sealed, except where elevated to or above the design flood elevation;

(v). all other plumbing fixtures, faucets, fixture fittings, piping systems and equipment;

(vi). water heaters;

(vii). vents and vent systems.

3. Amend Section 312.1, Required Tests.

a. The permit holder shall make the applicable tests prescribed in Sections 312.2 through 312.10 to determine compliance with the provisions of this code. The permit holder shall give reasonable advance notice to the code official when the plumbing work is ready for tests. The code official shall verify the test results. The equipment, material, power and labor necessary for the inspection and test shall be furnished by the permit holder and the permit holder shall be responsible for determining that the work will withstand the test pressure prescribed in the following tests. All plumbing system piping shall be tested with either water or by air. After the plumbing fixtures have been set and their traps filled with water, the entire drainage system shall be submitted to final tests. The code official shall require the removal of any cleanouts if necessary to ascertain whether the pressure has reached all parts of the system.

4. Amend Section 312.3, Drainage and vent test.

a. An air test shall be made by forcing air into the system until there is a uniform gauge pressure of 5 psi (34.5 kPa) or sufficient to balance a 10-inch (254 mm) column of mercury. This pressure shall be held for a test period of not less than15 minutes. Any adjustments to the test pressure required because of changes in ambient temperatures or the seating of gaskets shall be made prior to the beginning of the test period.

5. Amend Section 312.5, Water supply system test.

a. Upon completion of a section of or the entire water supply system, the system, or portion completed, shall be tested and proved tight under a water pressure not less than 1.5 times the working pressure of the system, but not less than 140 psi; or, for piping systems other than plastic, by an air test of not less than 50 psi (344 kPa). This pressure shall be held for not less than 15 minutes. The water utilized for tests shall be obtained from a potable source of supply. The required tests shall be performed in accordance with this section and Section 107.

6. Amend Section 312.10, Installation, inspection and testing of backflow prevention assemblies, barometric loops and air gaps.

a. Installation, inspection and testing shall comply with Sections 312.10.1 through 312.10.3.

7. Amend Section 312.10.1, Inspections.

a. Annual inspections shall be made of all backflow prevention assemblies, barometric loops and air gaps to determine whether they are operable, properly installed and maintained, and meet testing/code requirements. Inspections of backflow prevention devices including barometric loops and air gaps used to protect high degree of hazard cross connections shall be documented in writing and the report provided to the owner of the backflow prevention device.

8. Amend Section 312.10.2, Testing.

a. Reduced pressure principle, double check, pressure vacuum breaker, reduced pressure detector fire protection, double check detector fire protection, and spill-resistant vacuum breaker backflow preventer assemblies shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The testing procedure shall be performed in accordance with one of the following standards: ASSE 5013, ASSE 5015, ASSE 5020, ASSE 5047, ASSE 5048, ASSE 5052, ASSE 5056, CSA B64.10.1, USC's FCCC and HR's "Manual of Cross-Connection Control", or UFL's TREEO's "Backflow Prevention—Theory and Practice". Any backflow preventer which is found to be defective shall be repaired.

9. Add Section 312.10.3, Owner Responsibilities.

a. The owner of the backflow prevention assemblies shall comply with the following.

i. It shall be the duty of the owner of the backflow prevention assembly to see that these tests are made in a timely manner in accord with the frequency of field testing specified in 312.10.2 of this code.

ii. The owner shall notify the building official, and/or water supplier (for those devices associated with containment) in advance when the tests are to be undertaken so that the building official and/or water supplier may witness the tests if so desired.

iii. Upon completion, the owner shall provide records of such tests, repairs, overhauls, or replacements to the building official or water supplier (for those devices associated with containment). In addition, all records shall be kept by the owner of the backflow prevention device or method for at least 5 years and, upon specific request, shall be made available to the building official or water supplier.

iv. All tests, repairs, overhauls or replacements shall be at the expense of the owner of the backflow preventer.

10. Add Section 314.3, Plenum.

a. No floor drain or other plumbing fixture except electric water heaters shall be installed in a room containing air handling machinery when such room is used as a plenum. When rooms are used as a plenum, equipment drains shall be conveyed through an indirect waste receptor located outside such rooms or other approved point of disposal.

11. Amend Section 316.1.2, Submittal.

a. The registered design professional engineer shall indicate on the permit application that the plumbing system is an alternative engineered design. The permit and permanent permit records shall indicate that an alternative engineered design was part of the approved installation.

D. Amend Chapter 4.

1. Amend Section 403.3.3, Location of toilet facilities in occupancies other than malls and educational buildings.

a. In occupancies other than covered and open mall buildings, and educational buildings, the required public and employee toilet facilities shall be located not more than one story above or below the space required to be provided with toilet facilities, and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m).

2. Add Section 403.3.7, Location of toilet facilities in educational buildings.

a. For primary schools, and other special types of institutions with classrooms, for children through 12 years of age, separate boys' and girls' toilet room doors shall not be further than 200 feet from any classroom doors. For secondary schools, and other special types of institutions

with classrooms, for persons of secondary school age, separate boys' and girls' toilet room doors shall not be further than 400 feet from any classroom door. In multi-storied buildings, there shall be boys' and girls' toilet rooms on each floor, having the number of plumbing fixtures as specified in Table 403.1 of this Code for the classroom population of that floor. When new educational buildings are added to an existing campus, the restroom facilities and drinking fountains located in the existing building(s) may be used to serve the occupants of the new educational building(s) only when all of the following provisions are met:

i. covered walkways consisting of a roof designed to protect the students and faculty from precipitation having a minimum width of 6 feet and located above a slip-resistant concrete or other acceptable hard surfaces leading to and from the restrooms shall be provided whenever children or faculty have to walk outside to access the toilet room;

ii. the path of travel from the classroom door to the toilet room doors (boys' or girls') does not exceed the applicable distance specified in this Section; and

iii. the number of occupants of the new building does not cause an increase in the school population that would trigger the need for more fixtures per Table 403.1 (Minimum Number of Required Plumbing Fixtures).

3. Add Section 403.6, Other fixture requirements for licensed pre-schools, day care centers, and residential facilities.

a. Additional plumbing fixtures shall be provided in day care centers and residential facilities as required by this Section.

4. Add Section 403.6.1, Food preparation.

a. The food preparation area in pre-schools, day cares, and residential facilities shall meet the following requirements. The food preparation, storage and handling where six or less individuals are cared for shall provide a two-compartment sink and an approved domestic type dishwasher. Where the number of individuals cared for is between 7 and 15, either a three-compartment sink, or an approved domestic or commercial type dishwashing machine and a two-compartment sink with hot and cold running water shall be provided. Where 16 or more individuals are cared for, a three-compartment sink must be provided. If a dishwasher is also utilized in these instances (16 or more individuals), it must be a commercial type and it shall be in addition to the required three-compartment sink. One laundry tray, service sink, or curbed cleaning facility with floor drain shall also be provided on the premises for cleaning of mops and mop water disposal (for facilities caring for 16 or more individuals).

5. Add Section 403.6.2, Caring for children between 0 and 4 years of age.

a. In child day care facilities, a hand washing sink shall be in or adjacent to each diaper changing area. In addition, one extra laundry tray, service sink, or similar fixture is required to clean and sanitize toilet training potties immediately after each use. Such fixture shall be dedicated solely for this purpose and shall not be in the food preparation/storage, utensil washing, or dining areas. Training potties shall not be counted as toilets in determining the minimum fixture requirements of Table 403.1. Fixtures shall be size appropriate for the age of the children being cared for (toilets 11 inches maximum height and lavatories 22 inches maximum height), or if standard size fixtures are used, safe, cleanable step aids shall be provided.

6. Add Section 410.5, Minimum Required Separation from Contamination.

a. Drinking fountain fixtures shall provide a minimum requirement of 18 inches of separation from its water outlet (spigot) to any source of contamination. Combination sink/drinking fountain units shall provide a minimum of 18 inches between the drinking fountain water outlet (spigot) and the nearest outside rim of the sink bowl [or other source(s) of contamination].

i. Exception:

(a). This 18 inch minimum separation may only be reduced by the use of a vertical shield made of a smooth, easily cleaned surface that is attached flush with the top surface of the unit and extends to a distance at least 18 inches in height above the drinking fountain water outlet (spigot) level.

(b). Prohibited Fixture. Combination sink/drinking fountain units which share the same sink bowl are prohibited except in individual prison cells."

7. Amend Section 412, Floor and Trench Drains.

a. Add Section 412.5, Miscellaneous areas.

i. A floor drain shall be required in public toilet rooms, excluding hotel/motel guest rooms or patient rooms of a hospital or nursing home.

ii. A floor drain shall be required in the recess room for sterilizers in a medical facility.

iii. Floor drains are not permitted in general food storage areas, for example, a food storage closet or room.

8. Amend Section 417.3, Shower water outlet.

a. Waste outlets serving showers shall be not less than 2 inches (50.8 mm) in diameter and, for other than waster outlets in bathtubs, shall have removable strainers not less than 3 inches (76 mm) in diameter with strainer openings not less than 1/4 inch (6.4 mm) in least dimension. Where each shower space is not provided with an individual waste outlet, the waste outlet shall be located and the floor pitched so that waste from one shower does not flow over the floor area serving another shower. Waste outlets shall be fastened to the waste pipe in an approved manner.

9. Add Section 418.4, Handwash Sinks.

a. Dedicated handwash sinks shall be located to permit convenient use by all employees in food processing, food preparation, and other food handling areas.

b. Each commercial body art (tattoo) facility shall provide a hand washing sink to be used solely for hand washing in body art procedure area for the exclusive use of the operator. A separate instrument sink shall also be provided for the sole purpose of cleaning instruments and equipment prior to sterilization.

c. A hand washing sink may not be used for purposes other than hand washing.

d. Sinks used for food preparation or for washing and sanitizing of equipment and utensils shall not be used for hand washing.

10. Add Section 418.5, Manual Warewashing, Sink Requirements.

a. A sink with at least three compartments constructed of smooth, impervious non-corrosive material

such as stainless steel or high density food grade polymer plastic shall be provided in slaughter rooms, packing rooms, retail food establishments, and other food handling areas for manual washing, rinsing and sanitizing equipment and utensils except where there are no utensils or equipment to wash, rinse and sanitize; i.e., such as in a facility with only prepackaged foods.

11. Add Section 422.11, Handwashing Facilities.

a. Medical facilities, including doctor's office and clinics, shall be provided with hand washing facilities within each patient examination and treatment room. The hand wash facility shall be provided with hot and cold water delivered via a mixing faucet.

12. Amend Section 425.2, Flushometer valves and tanks.

a. Flushometer valves and tanks shall comply with ASSE 1037 or CSA B125.3. I Vacuum breakers on flushometer valves shall conform to the performance requirements of ASSE 1001 or CSA B64. 1.1. Flushometer valves shall be equipped with an approved vacuum breaker. The vacuum breaker shall be installed on the discharge side of the flushing valve with the critical level at least 4 inches (102 mm) above the overflow rim of the bowl. Access shall be provided to vacuum breakers. Flushometer valves shall be of the water conservation type and shall not be used where the water pressure is lower than the minimum required for normal operation. When operated, the valve shall automatically complete the cycle of operation, opening fully and closing positively under the water supply pressure. Each flushometer valve shall be provided with a means for regulating the flow through the valve. The trap seal to the fixture shall be automatically refilled after each flushing cycle.

E. Amend Chapter 5, Water Heaters.

1. Amend Section 503.1, Cold water line valve.

a. The cold water branch line from the main water supply li ne to each hot water storage tank or water heater shall be provided with a full port ball valve, located near the equipment and serving only the hot water storage tank or water heater. The valve shall not interfere or cause a disruption of the cold water supply to the remainder of the cold water system. The valve shall be provided with access on the same floor level as the water heater served.

2. Amend Section 504.7, Required pan.

a. Where a storage tank-type water heater or a hot water storage tank is installed in a location where water leakage from the tank will cause damage, the tank shall be installed in a galvanized steel pan having a material thickness of not less than 0.0276-inch (0.7 mm), or other pans approved for such use.

i. Exception:

(a). Electric water heaters may rest in a high impact plastic pan of at least 1/16-inch (1.6 mm) thickness.

3. Amend Section 504.7.1, Pan size and drain.

a. The drain pan shall be a minimum of 2-inches (2") (50.8 mm) in depth and shall be of sufficient size and shape to receive all dripping or condensate from the tank or water heater. The pan shall be drained by an indirect waste pipe having a diameter of not less than 1-inch (25.4 mm). Piping for safety pan drains shall be of those materials listed in Table 605.4.

F. Amend Chapter 6, Water Supply and Distribution.

1. Amend Section 602.3, Individual water supply.

a. Where a potable public water supply is not available, a private water supply meeting the applicable requirements of LAC 51:XII (Water Supplies) and LAC 56:I (Water Wells) shall be utilized.

i. Delete and remove Sections 602.3.1, 602.3.2, 602.3.3, 602.3.4, 602.3.5 and 602.3.5.1, Pump Enclosure.

2. Amend Section 603.2, Separation of water service and sewer lines.

a. Underground water service pipe and the building drain or building sewer shall be horizontally separated by not less than 5-feet (1524 mm) of undisturbed or compacted earth.

i. Exceptions:

(a). The required separation distance shall not apply where the bottom of the water service pipe within 5 feet (1524 mm) of the sewer is not less than 12 inches (305 mm) above the top of the highest point of the sewer and the sewer pipe materials conform to Table 702.3.

(b). Water service pipe is permitted to be located in the same trench with a building drain or building sewer, provided such sewer is constructed of materials listed in Table 702.2 and the water service pipe is placed on a solid shelf excavated at one side of the common trench. The bottom of the water service pipe, at all points, shall be at least 12 inches (305 mm) above the top of the sewer line at its highest point.

(c). Any underground water service pipe which must cross a pipe that conveys sewage (e.g., building drains, building sewers, and other piping conveying sewage) shall have a minimum vertical separation of 12 inches (305 mm) above the top of the sewer. The water service pipe shall be sleeved to a point not less than 5 feet (1524 mm) horizontally from the sewer pipe centerline on both sides of such crossing with pipe materials listed in Table 605.3, 702.2 or 702.3.

3. Add Section 603.3, Potable Water (Pressure) Lines Near Soil Absorption Trenches, Sand Filter Beds, Oxidation Ponds, and any Effluent Reduction Option (Effluent Reduction Fields, Rock Plant Filters, Spray Irrigation Systems, Overland Flow Systems, Mound Systems, or Subsurface Drip Disposal Systems).

a. Underground potable water (pressure) lines shall not be located within 25 feet (7.6 m) of any soil absorption trenches, sand filter beds, oxidation ponds, or any effluent reduction option including, but not limited to effluent reduction fields, rock plant filters, spray irrigation systems (from the edge of the spray and its drainage), overland flow systems (from the discharge point and field of flow), mound systems, or subsurface drip disposal systems which have been installed for either the disposal of septic tank effluent or mechanical treatment plant effluent.

4. Add Section 603.4, Potable Water (Pressure) Lines Near Septic Tanks, Mechanical Sewage Treatment Plants, and Pump Stations.

a. Underground potable water (pressure) lines shall not be located within 10 feet (3.0 m) of any septic tank, mechanical sewage treatment plant, or sewage pump station.

5. Add Section 603.5, Potable Water (Pressure) Lines Near Seepage Pit, Cesspool, or Sanitary Pit Privy.

a. Underground potable water (pressure) lines shall not be located within 50 feet (15.2m) of any seepage pit, cesspool, or sanitary pit privy.

6. Add 603.6, Reclaimed Water Lines.

a. Reclaimed water lines shall be considered and treated as though they are sewerage lines and shall be installed in accord with the spacing requirements of this Section for the protection of potable water lines.

7. Add Section 603.7, Stop and Waste Valves and Devices.

a. Combination stop and waste valves and cocks shall not be installed underground in a water service pipe, water supply system, or a water distribution system. Any fixture or device which incorporates a stop and waste feature is prohibited if the waste opening is underground or in any location that waste water or water-borne contaminates may enter the device or water supply from the ground or other source by reversal of flow.

8. Amend Table 604.5, Minimum Sizes of Fixture Water Supply Lines.

a. Table 604.5—Minimum Sizes of Fixture Water Supply Pipes

Fixture	Minimum Pipe Size (inch)
Bathtubs[a] (60x 32 and smaller)	1/2
Bathtubs[a] (larger than 60□x 32)	1/2
Bidet	3/8
Combination sink and tray	1/2
Dishwasher, domestic[a]	1/2
Drinking fountain	1/2
Hose bibbs	1/2
Kitchen sink[a]	1/2
Kitchen sink , Commercial	3/4
Lavatory	1/2
Shower, single head[a]	1/2
Sinks, flushing rim	3/4
Sinks, service	1/2
Urinal, flush tank	1/2
Urinal, flushometer valve	3/4
Wall hydrant	1/2
Water closet, flush tank	3/8
Water closet, flushometer valve	1
Water closet, flushometer tank	1/2
Water closet, one piece[a]	1/2

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm, 1 pound per square inch = 6.895 kPa.

[a] Where the developed length of the distribution line is 60 feet or less, and the available pressure at the meter is 35 psi or greater, the minimum size of an individual distribution line supplied from a manifold and installed as part of a parallel water distribution system shall be one nominal tube size smaller than the sizes indicated.

9. Amend Section 605.2, Lead content of water supply pipe and fittings.

a. Water Piping Quality. All potable water pipes, fittings, valves, and fixtures shall be lead free and shall be evaluated and listed as conforming with NSF/ANSI 372. Any solder or flux which is used in the installation or repair of any public water system or any plumbing in a residential or nonresidential facility providing water for human consumption shall be lead free.

i. Exception: The lead free requirement above shall not apply to:

(a). leaded joints necessary for the repair of existing cast iron pipes;

(b). fire hydrants, pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or

(c). toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.604.

10. Amend Section 605.3, Water service pipe with corresponding Table 605.3.

a. Water service pipe shall conform to NSF 61 and shall conform to one of the standards listed in Table 605.3. Water service pipe or tubing, installed underground and outside of the structure, shall have a working pressure rating of not less than 160 psi (1100 kPa) at 73.4ºF (23ºC). Where the water pressure exceeds 160 psi (1100 kPa) piping material shall have a working pressure rating not less than the highest available pressure. Water service piping materials not third-party certified for water distribution shall terminate at or before the full open valve located at the entrance to the structure. All ductile iron water service piping shall be cement mortar lined in accordance with AWWA C104.

i. Table 605.3—Water Service Pipe

Material	Standard
Acrylonitrile butadiene styrene (ABS) plastic pipe	ASTM D 1527; ASTM D 2282
Brass pipe	ASTM B 43
Chlorinated polyvinyl chloride (CPVC) plastic pipe	ASTM D 2846; ASTM F 441; ASTM F 442; CSA B137.6
Copper or copper-alloy pipe	ASTM B 42; ASTM B 302
Copper or copper-alloy tubing (Type K, WK, L, or WL only. i.e., Type M copper is prohibited, M or WM)	ASTM B 75; ASTM B 88; ASTM B 251; ASTM B 447
Cross-linked polyethylene (PEX) plastic pipe and tubing	ASTM F 876; ASTM F 877; AWWA C904; CSA B137.5
Cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX) pipe	ASTM F 1281; ASTM F 2262; CSA B137.10M
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Ductile iron water pipe	AWWA C151/A21.51; AWWA C115/A21.15
Galvanized steel pipe	ASTM A 53
Polyethylene (PE) plastic pipe	ASTM D 2239; ASTM D 3035; AWWA C901; CSA B137.1
Polyethylene (PE) plastic tubing	ASTM D 2737; AWWA C901; CSA B137.1
Polyethylene/aluminum/polyethylene (PE-AL-PE) pipe	ASTM F 1282; CSA B137.9
Polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 2769
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11
Polyvinyl chloride (PVC) plastic pipe	ASTM D 1785; ASTM D 2241; ASTM D 2672; CSA B137.3

Material	Standard
Stainless steel pipe (Type 304/304L)	ASTM A 312; ASTM A 778
Stainless steel pipe (Type 316/316L)	ASTM A 312; ASTM A 778

11. Amend Section 605.3.1, Dual check-valve-type backflow preventer.

a. Dual check-valve backflow preventers installed on the water supply system shall comply with ASSE 1024 or CSA B64.6. These devices, which are commonly installed immediately downstream of water meters by water suppliers, are not approved backflow prevention devices and are only allowed to be installed when no cross connections exist downstream of the device or when all downstream cross connections are properly protected by approved backflow prevention devices, assemblies, or methods in accordance with Section 608 of this code.

12. Amend Table 605.4, Water Distribution Pipe.

a. Table 605.4—Water Distribution Pipe

Material	Standard
Brass pipe	ASTM B 43
Chlorinated polyvinyl chloride (CPVC) plastic pipe and tubing	ASTM D 2846; ASTM F 441; ASTM F 442; CSA B137.6
Copper or copper-alloy pipe	ASTM B 42; ASTM B 302
Copper or copper-alloy tubing (Type K, WK, L, or WL only. *i.e.*, Type M copper is prohibited, M or WM)	ASTM B 75; ASTM B 88; ASTM B 251; ASTM B 447
Cross-linked polyethylene (PEX) plastic tubing	ASTM F 876; ASTM F 877; CSA B137.5
Cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX) pipe	ASTM F 1281; ASTM F 2262; CSA B137.10M
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Ductile iron pipe	AWWA C151/A21.51; AWWA C115/A21.15
Galvanized steel pipe	ASTM A 53
Polyethylene/aluminum/polyethylene (PE-AL-PE) composite pipe	ASTM F 1282
Polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 2769
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11
Stainless steel pipe (Type 304/304L)	ASTM A 312; ASTM A 778
Stainless steel pipe (Type 316/316L)	ASTM A 312; ASTM A 778

13. Amend Section 605.5, Fittings.

a. Pipe fittings shall be approved for installation with the piping material installed and shall comply with the applicable standards listed in Table 605.5. Pipe fittings utilized in water supply systems shall also comply with NSF 61. Ductile and gray iron pipe fittings shall be cement mortar lined in accordance with AWWA C104. For repairs all copper, brass and stainless steel joints below a building slab shall be brazed and/or welded in accordance with the requirements of this code, as appropriate. With the exception of heat fused polypropylene, all other joints and fittings for plastic pipe below a building slab are prohibited.

14. Amend Table 605.5, Pipe Fittings.

a. Table 605.5—Pipe Fittings

Material	Standard
Acrylonitrile butadiene styrene (ABS) plastic	ASTM D 2468
Cast-iron	ASME B16.4; ASME B16.12
Chlorinated polyvinyl chloride (CPVC) plastic	ASSE 1061; ASTM D 2846; ASTM F 437; ASTM F 438; ASTM F 439; CSA B137.6
Copper or copper alloy	ASSE 1061; ASME B16.15; ASME B16.18; ASME B16.22;
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Fittings for cross-linked polyethylene (PEX) plastic tubing	ASSE 1061, ASTM F 877; ASTM F 1807; ASTM F 1960; ASTM F 2080; ASTM F 2098, ASTM F 2159; ASTM F 2434; ASTM F 2735; CSA B137.5
Fittings for polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 1807; ASTM F 2098; ASTM F 2159; ASTM F 2735
Gray iron and ductile iron	AWWA C110/A21.10; AWWA C153/A21.53
Insert fittings for polyethylene/aluminum/polyethylene (PE-AL-PE) and cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX)	ASTM F 1974; ASTM F 1281; ASTM F 1282; CSA B137.9; CSA B137.10M
Malleable iron	ASME B16.3
Metal (brass) insert fittings for polyethylene/aluminum/polyethylene (PE-AL-PE) and cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX)	ASTM F 1974
Polyethylene (PE) plastic pipe	ASTM D 2683; ASTM D 3261; ASTM F 1055; CSA B137.1
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11
Polyvinyl chloride (PVC) plastic	ASTM D 2464; ASTM D 2466; ASTM D 2467; CSA B137.2; CSA B137.3
Stainless steel (Type 304/304L)	ASTM A 312; ASTM A 778
Stainless steel (Type 316/316L)	ASTM A 312; ASTM A 778
Steel	ASME B16.9; ASME B16.11; ASME B16.28

15. Amend Section 606.1, Location of full-open valves.

a. Full-open valves shall be installed in the following locations:

i. on the building water service pipe from the public water supply near the curb;

ii. on the water distribution supply pipe at the entrance into the structure;

iii. on the discharge side of every water meter;

iv. on the base of every water riser pipe in occupancies other than multiple-family residential occupancies that are two stories or less in height and in one- and two-family residential occupancies;

v. on the top of every water down-feed pipe in occupancies other than one- and two-family residential occupancies;

vi. on the entrance to every water supply pipe to a dwelling unit, except where supplying a single fixture equipped with individual stops;

vii. on the water supply pipe to a gravity or pressurized water tank;

viii. on the water supply pipe to every water heater;

ix. on each water supply branch line 1 1/2 inches or larger so as to isolate all fixtures and all pieces of equipment supplied by the branch line. The shutoff valve shall be installed in a labeled and accessible location as close to the connection to the supply main and/or riser as practical.

b. When such shutoff valve is located in the service pipe outside the building, it shall be located and accessible in a manufactured, approved, valve box with a readily removable access cover which extends to grade (G) level. When drain valves are provided for the distribution piping or other portions of the water distribution system, such drains shall be above grade (G) or otherwise located to prevent the possibility of backflow into the piping system after the system has been drained.

16. Amend Section 606.2, Location of shutoff valves.

a. Shutoff valves shall be installed in the following locations:

i. on the fixture supply to each plumbing fixture other than bathtubs and showers in one- and two-family residential occupancies. Such vales shall permit each fixture to be shutoff without interfering with the water supply to any other fixtures. In all buildings other than one-and two-family residential occupancies, shutoff valves shall be installed which permit the water supply to all fixtures and equipment in each separate room to be shut off without interference with the water supply to any other room or portion of the building or each individual fixture and piece of equipment shall have a shutoff valve which will permit each fixture and piece of equipment to be shut off without interfering with the water supply to other fixtures or equipment;

ii. on the water supply pipe to each sillcock;

iii. on the water supply pipe to each appliance or mechanical equipment.

17. Amend Section 606.5.5, Low-pressure cutoff required on booster pumps.

a. A low-pressure cutoff shall be installed on all booster pumps in a water pressure booster system to prevent creation of a vacuum or negative pressure on the suction side of the pump when a positive pressure of 20 psi (137.9 kPa) or less occurs on the suction side of the pump.

18. Amend Section 607.3.2, Backflow prevention device or check valve.

a. Where a backflow prevention device, check valve or other device is installed on a water supply system utilizing storage water heating equipment, a device for controlling pressure shall be installed at an accessible location between the checking device and the water heating equipment to limit thermal expansion of the water being heated to not more than 80 psi (552 kPa) static pressure at any fixture on the system. A potable water expansion tank or auxiliary relief valve set at 80 psi (552 kPa) shall be acceptable. The auxiliary relief valve shall be in addition to the water heater safety relief valve. This thermal expansion control device shall be designed and trimmed for repeated operation. The valve shall be a minimum 1/2-inch pipe size, shall be adjustable and calibrated, and shall include a tag describing its function.

19. Amend Section 608.1, General.

a. A potable water supply system shall be designed, installed and maintained in such a manner so as to prevent contamination from non-potable liquids, solids or gases being introduced into the potable water supply through cross-connections or any other piping connections to the system. Backflow preventers shall conform to the applicable Standard referenced in Table 608.1. Backflow preventer applications shall conform to Table 608.1, except as specifically stated in Sections 608.2 through 608.16.27 and Sections 608.18 through 608.18.2.

20. Amend Section 608.4, Water service piping/Containment to protect potable water supplies.

a. Water service piping shall be protected in accordance with Sections 603.2. Containment to protect potable water supplies shall be achieved in accordance with 608.18 through 608.18.2.

21. Amend Section 608.6, Cross-connection control.

a. Cross connections shall be prohibited, except where approved backflow prevention devices, assemblies, or methods are installed to protect the potable water supply. A dual check valve type backflow preventer (i.e., device meeting ASSE 1024 or CSA B64.6 with two spring loaded, independently operating check valves without tightly closing shut-off valves or test cocks which is commonly installed immediately downstream of water meters by water suppliers) is not an approved backflow prevention device when a known cross connection exists downstream of the device. These devices are only allowed to be installed when no cross connections exist downstream of the device or when all downstream cross connections are properly protected by approved backflow prevention devices, assemblies, or methods.

22. Amend Section 608.8, Identification of nonpotable water.

a. Where nonpotable water systems are installed, the piping conveying the nonpotable water shall be identified either by color marking or metal tags in accordance with Sections 608.8.1 through 608.8.3. All nonpotable water outlets such as hose connections, open ended pipes, and faucets shall be identified at the point of use for each outlet with the words, "Nonpotable—not safe for drinking." The words shall be indelibly printed on a tag or sign constructed of corrosion-resistant waterproof material or shall be indelibly printed on the fixture. The letters of the words shall be not less than 0.5 inches (12.7 mm) in height and in colors in contrast to the background on which they are applied.

i. Exception:

(a). Overall Exception to this Section (§608.8 of this code). Pursuant to R.S. 40:4.12, industrial-type facilities listed therein shall not be required to comply with this section (§608.8 of this code) provided that such facilities

have a potable water distribution identification plan in conformity with the requirements of R.S. 40:4.12. The required formal cross-connection control survey of the facility referenced in R.S. 40:4.12 shall be performed by an individual holding a valid cross-connection control surveyor certificate issued under the requirements of ASSE 5120, or other individuals holding a surveyor certificate from a nationally recognized backflow certification organization approved by the state health officer.

23. Amend Section 608.14, Location of backflow preventers.

a. Access shall be provided to backflow preventers as specified by the manufacturer's instructions for the required testing, maintenance and repair. A minimum of 1-foot of clearance shall be provided between the lowest portion of the assembly and grade or platform. Elevated installations exceeding 5-feet above grade(g) shall be provided with a suitably located permanent platform capable of supporting the installer, tester, or repairer. Reduced pressure principal type backflow preventers, and other types of backflow preventers with atmospheric ports and/or test cocks (e.g., atmospheric type vacuum breakers, double check valve assemblies, pressure type vacuum breaker assemblies, etc.), shall not be installed below grade (in vaults or pits) where the potential for a relief valve, an atmospheric port, or a test cock being submerged exists.

24. Amend Section 608.14.2, Protection of backflow preventers.

a. Backflow preventers subjected to freezing temperatures shall protected from freezing by heat, insulation or both; or as otherwise recommended by the manufacturer.

25. Amend Section 608.15.4, Protection by a vacuum breaker.

a. Openings and outlets shall be protected by atmospheric-type or pressure-type vacuum breakers. The critical level of atmospheric type vacuum breakers shall be installed not less than 6 inches (152 mm) above all downstream piping and not less than 6 inches (152 mm) above the flood-level rim of the fixture receptor or device served. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker. Atmospheric vacuum breakers including, but not limited to, hose bibb vacuum breakers shall not be subjected to continuous water pressure. The critical level of pressure type vacuum breakers shall be installed not less than 12 inches (305 mm) above all downstream piping and not less than 12 inches (305 mm) above the flood-level rim of the fixture receptor or device served. Fill valves shall be set in accordance with Section 425.3.1. Vacuum breakers shall not be installed under exhaust hoods or similar locations that will contain toxic fumes or vapors.

26. Amend Section 608.15.4.2, Hose connections.

a. Sillcocks, hose bibbs, wall hydrants and other openings with a hose connection shall be protected against backflow by an atmospheric-type or pressure-type vacuum breaker installed in accordance with Section 608.15.4, or by a permanently attached hose connection vacuum breaker in which the highest point of usage is less than 10 feet above the hose connection vacuum breaker. Hose bib vacuum breakers shall not be subjected to continuous water pressure.

27. Amend Section 608.16, Connections to the potable water system.

a. Connections to the potable water system shall conform to Sections 608.16.1 through 608.16.27. These Sections (608.16.1-608.16.27) are not inclusive of all potential contamination sources which may need fixture isolation protection. For potential contamination sources not listed in Sections 608.16.1 through 608.16.27, backflow prevention methods or devices shall be utilized in accordance with Table B1 of CAN/CSA B64.10-1994. When a potential contamination source and its associated backflow prevention method or device is not identified in this code or Table B1 of CAN/CSA B64.10-1994, backflow prevention methods or devices shall be utilized as directed by the building official.

28. Amend Section 608.16.5, Connections to lawn irrigation systems.

a. The potable water supply to lawn irrigation systems shall be protected against backflow by an atmospheric vacuum breaker, a pressure vacuum breaker assembly or a reduced pressure principle backflow prevention assembly. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker. When an irrigation/lawn sprinkler system is provided with separate zones, the potable water supply shall be protected by a pressure vacuum breaker or reduced pressure principal backflow prevention assembly. Atmospheric vacuum breakers shall be installed at least 6 inches (152 mm) above the highest point of usage (i.e., 6 inches (152 mm) above all downstream piping or highest sprinkler head). Pressure type vacuum breakers shall be installed at least 12 inches (305 mm) above the highest point of usage (i.e., 12 inches (305 mm) above all downstream piping and the highest sprinkler head). Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow prevention assembly.

29. Amend Section 608.16.8, Portable Cleaning Equipment.

a. Where the portable cleaning equipment connects to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, 608.13.2, 608.13.3, 608.13.5, 608.13.6, or 608.13.8. The type of backflow preventer shall be selected based upon the application in accordance with Table 608.1.

30. Add Section 608.16.11, Cooling towers.

a. The potable water supply to cooling towers shall be protected against backflow by an air gap.

31. Add Section 608.16.12, Chemical tanks.

a. The potable water supply to chemical tanks shall be protected against backflow by an air gap.

32. Add Section 608.16.13, Commercial Dishwashers in commercial establishments.

a. The potable water supply to commercial dishwashers in commercial establishments shall be protected against backflow by an air gap, atmospheric vacuum breaker, or pressure vacuum breaker. Vacuum breakers shall meet the requirements of Section 608.15.4.

33. Add Section 608.16.14, Ornamental Fountains.

a. The potable water supply to ornamental fountains shall be protected against backflow by an air gap.

34. Add Section 608.16.15, Swimming pools, spas, hot tubs.

a. The potable water supply to swimming pools, spas, or hot tubs shall be protected against backflow by an air gap or reduced pressure principal backflow prevention assembly.

35. Add Section 608.16.16, Baptismal fonts.

a. The potable water supply to baptismal fonts shall be protected against backflow by an air gap.

36. Add Section 608.16.17, Animal watering troughs.

a. The potable water supply to animal watering troughs shall be protected against backflow by an air gap.

37. Add Section 608.16.18, Agricultural chemical mixing tanks.

a. The potable water supply to agricultural chemical mixing tanks shall be protected against backflow by an air gap.

38. Add Section 608.16.19, Water hauling trucks.

a. The potable water supply to water hauling trucks/tankers shall be protected against backflow by an air gap when filled from above. When allowed to be filled from below, they shall be protected by a reduced pressure principle backflow prevention assembly. When a tanker truck is designated for the hauling of food grade products (and has been cleaned utilizing food grade cleaning procedures) and is allowed to be filled from below, a double check valve assembly shall be acceptable.

39. Add Section 608.16.20, Air conditioning chilled water systems and/or condenser water systems.

a. The potable water supply to air conditioning chilled water systems and condenser water systems shall be protected against backflow by a reduced pressure principal backflow prevention assembly.

40. Add Section 608.16.21, Pot-type chemical feeders.

a. The potable water supply to pot-type chemical feeders shall be protected against backflow by a reduced pressure principal backflow prevention assembly.

41. Add Section 608.16.22, Food processing steam kettles.

a. The potable water supply to food processing steam kettles shall be protected against backflow by a double check valve backflow prevention assembly.

42. Add Section 608.16.23, Individual travel trailer pads.

a. The potable water supply to individual travel trailer pads shall be protected against backflow by a double check valve backflow prevention assembly.

43. Add Section 608.16.24, Laboratory and/or medical aspirators.

a. The potable water supply to laboratory and/or medical aspirators shall be protected against backflow by an atmospheric or pressure vacuum breaker installed in accordance with Sections 608.3.1 and 608.15.4.

44. Add Section 608.16.25, Laboratory or other sinks with threaded or serrated nozzles.

a. The potable water supply to laboratory sinks or other sinks with threaded or serrated nozzles shall be protected against backflow by an atmospheric or pressure vacuum breaker installed in accordance with Sections 608.3.1 and 608.15.4.

45. Add Section 608.16.26, Mortuary/embalming aspirators.

a. The potable water supply to mortuary/embalming aspirators shall be protected against backflow by a pressure vacuum breaker installed in the supply line serving the aspirator. The critical level of the vacuum breaker shall be installed a minimum of 12 inches higher than the aspirator. The aspirator shall be installed at least 6 inches above the highest level at which suction may be taken. An air gap shall be provided between the outlet of the discharge pipe and the overflow rim of the receiving fixture.

46. Add Section 608.16.27, Room(s) or other sub-unit(s) of a premise or facility receiving water where access is prohibited.

a. When access is prohibited to particular areas, rooms, or other sub-units of a premise or facility which is receiving water, the potable water supply serving those areas shall be protected against backflow by a reduced pressure principal backflow protection assembly.

47. Amend Section 608.17, Protection of individual water supplies.

a. An individual water supply shall be located and constructed so as to be safeguarded against contamination in accordance with the applicable requirements of LAC 51:XII (Water Supplies) and LAC 56:I (WaterWells).

48. Remove and delete Sections 608.17.1 thru 608.17.8 including Table 608.17.1.

49. Add Section 608.18 18, Containment practices.

a. Backflow prevention methods or devices shall be utilized as directed by the water supplier or code official to isolate specific water supply system customers from the water supply system's mains when such action is deemed necessary to protect the water supply system against potential contamination caused by backflow of water from that part of the water system owned and maintained by the customer (for example, the piping downstream of the water meter, if provided). Minimum requirements shall be in accordance with Section 608.18.1 through 608.18.2.

50. Add Section 608.18.1, Containment requirements.

a. As a minimum, the following types of backflow prevention assemblies or methods shall be installed and maintained by water supply system customers immediately downstream of the water meter (if provided) or on the water service pipe prior to any branch line or connections serving the listed customer types and categories.

51. Add Table 608.18.1, Containment Requirements.

a. Table 608.18.1—Containment Requirements

Air Gap
1. Fire Protection/Sprinkler System utilizing non-potable water as an alternative or primary source of water
Reduced Pressure Principle Backflow Prevention Assembly
1. Hospitals, Out-Patient Surgical Facilities, Renal Dialysis Facilities, Veterinary Clinics
2. Funeral Homes, Mortuaries
3. Car Wash Systems
4. Sewage Facilities
5. Chemical or Petroleum Processing Plants
6. Animal/Poultry Feedlots or Brooding Facilities
7. Meat Processing Plants
8. Metal Plating Plants
9. Food Processing Plants, Beverage Processing Plants
10. Fire Protection/Sprinkler Systems using antifreeze in such system (a detector type assembly is recommended on unmetered fire lines)

11. Irrigation/Lawn Sprinkler Systems with Fertilizer Injection
12. Marinas/Docks
13. Radiator Shops
14. Commercial Pesticide/Herbicide Application
15. Photo/X-ray/Film Processing Laboratories
16. Multiple Commercial Units served by a master meter
17. Any type of occupancy type or any other facility having one or more Single-walled Heat Exchangers which uses any chemical, additive, or corrosion inhibitor, etc., in the heating or cooling medium
18. Any type of occupancy type or any other facility having one or more Double-walled Heat Exchangers which use any chemical, additive, or corrosion inhibitor, etc., in the heating or cooling medium and which does not have a path to atmosphere with a readily visible discharge
19. Premises where access/entry is prohibited
Pressure Vacuum Breaker Assembly/Spill Resistant Vacuum Breaker Assembly
1. Irrigation/Lawn Sprinkler Systems
Double Check Valve Assembly
1. Fire Protection/Sprinkler Systems (a detector type double check valve assembly is recommended on unmetered fire lines)
2. Two residential dwelling units served by a master meter, unless both units are located on a parcel or contiguous parcels of land having the same ownership and neither unit is used for commercial purposes. As used herein, the term "commercial purposes" means any use other than residential.
3. Three or more residential dwelling units served by a master meter
4. Multistoried Office/Commercial Buildings (over 3 floors)
5. Jails, Prisons, and Other Places of Detention or Incarceration

52. Add Section 608.18.2, Other containment requirements.

a. Table 608.18.1 of this code above is not inclusive of all potential contamination sources which may need containment protection. For potential contamination sources not listed in this table, backflow prevention methods or devices shall be utilized in accordance with Table B1 of CAN/CSA B64.10-1994. When a potential contamination source and its associated backflow prevention method or device is not identified in Table 608.18.1 of this code above or Table B1 of CAN/CSA B64.10-1994, backflow prevention methods or devices shall be utilized:

i. as directed by the building code official; or

ii. as directed by the water supplier.

iii. In cases of a discrepancy regarding the particular backflow prevention assembly or method required, the assembly or method providing the higher level of protection shall be required.

G. Amend Chapter 7, Sanitary Drainage.

1. Amend Section 701.2, Sewer required.

a. Buildings in which plumbing fixtures are installed and premises having sanitary drainage system piping shall be connected to a community sewerage system, where available, or an approved commercial treatment facility or individual sewerage meeting the requirements of LAC 51:XIII (Sewage Disposal).

2. Amend Section701.3, Separate Sewer Connection.

a. A building having plumbing fixtures installed and intended for human habitation, occupancy or use on premises abutting on a street, alley or easement in which there is community sewerage system shall have a separate connection with the sanitary sewer. Where located on the same lot, multiple buildings shall not be prohibited from connecting to a common sanitary building sewer that connects to the community sewerage system.

3. Amend Section 701.8, Engineered systems.

a. Engineered sanitary drainage systems shall conform to the provisions of Section 316 and 714. Single stack plumbing systems may be considered for approval by the code official for use on the upper floors of hotel and motel guest rooms but shall not be approved for condominium or apartment complexes.

4. Amend Section 701.9, Drainage piping in food service areas.

a. Exposed soil or waste piping, including vacuum drainage systems, shall not be installed above any food preparation areas, food or utensil storage areas or eating surfaces in food service establishments unless they are adequately shielded to intercept potential drips.

5. Add Section 701.10, Repairs to drainage system via re-route.

a. In the case where it is determined that there is a broken underground drain line including, but not limited to, broken drain lines under the slab of a building, and a drain line re-route is performed, the existing broken underground drain line shall be cut or otherwise disconnected from the entire drainage system. At the point of such cutting or disconnection, the entire circumference of the existing pipe which remains connected to the drainage system shall have a wall thickness of not less than 1/8-inch. The existing pipe which remains connected to the drainage system shall be sealed watertight and gastight using approved plumbing materials and joining/jointing methods, e.g., properly install an approved cap, plug, or cleanout on the cut or disconnected pipe.

6. Amend Section 702.5, Chemical waste system.

a. A chemical waste system shall be completely separated from the sanitary drainage system. The chemical waste shall be treated in accordance with Section 803.2 before discharging to the sanitary drainage system. Separate drainage systems for chemical wastes and vent pipes shall be constructed of one of the materials listed in Table 702.5 or other materials approved by the plumbing official. The material selected shall be resistant to corrosion and degradation for the concentrations of chemicals involved. Joints shall be made in conformance with the manufacturer's recommendations.

i. Table 702.5—Chemical Waste System

Material	Standard
High silicon cast iron	ASTM A 518/A 518M
Borosilicate glass	ASTM C 1053
Chlorinated poly [vinyl chloride] (CPVC)	ASTM F 2618
Polyolefin	ASTM F 1412
Polyvinylidene fluoride (PVDF)	ASTM F 1673

7. Add Section 703.6, Minimum Size Building Sewer.

a. No building sewer shall be less than 4 inches in size with the exception of force lines.

8. Delete Section 706.4, Heel- or side-inlet quarter bends.

9. Amend Section 708.3, Where Required.

a. Cleanouts shall be located in accordance with Sections 708.3.1 through 708.3.6.

10. Amend Section 708.3.1, Horizontal drains within buildings.

a. All horizontal drains shall be provided with cleanouts located not more than 100 feet (30 480 mm) apart. Horizontal drains within buildings shall be provided with cleanouts as follows:

i. All horizontal drains 3-inch nominal diameter or less, cleanouts shall be located at not more than 50 feet (15 200mm) intervals.

ii. For horizontal drains 4-inch nominal diameter through 6-inch nominal diameter, cleanouts shall be located at not more than 80 feet (24 400mm) intervals.

iii. Horizontal drains larger than 6-inch nominal diameter shall be provided with cleanouts located at not more than 100 feet (30 480 mm) intervals.

11. Amend Section 708.3.2, Building sewers.

a. Building sewers 4-inch nominal diameter through 6-inch nominal diameter shall be provided with cleanouts located not more than 80 feet (24 400mm) apart measured from the upstream entrance of the cleanout. For building sewers 8 inches (203 mm) and larger, manholes shall be provided and located not more than 200 feet (60 960 mm) from the junction of the building drain and building sewer, at each change in direction and at intervals of not more than 400 feet (122 m) apart. Manholes and manhole covers shall be of an approved type.

12. Amend Section 708.3.3, Changes of direction.

a. Each horizontal drainage pipe shall be provided with a cleanout at the upstream end of the pipe and in changes of direction over 45° (0.785 rad).

i. Exceptions:

(a). The following plumbing arrangements are acceptable in lieu of the upstream cleanout:

(i). "P" traps connected to the drainage piping with slip joints or ground joint connections;

(ii). "P" traps into which floor drains, shower drains or tub drains with removable strainers discharge;

(iii). "P" traps into which the straight through type waste and overflow discharge with the overflow connecting to the branch of the tee;

(iv). "P" traps into which residential washing machines discharge;

(v). test tees or cleanouts in a vertical pipe above the flood-level rim of the fixtures that the horizontal pipe serves and not more than 4-feet (1219 mm) above the finish floor.

13. Amend Section 708.3.5, Building drain and building sewer junction.

a. There shall be a cleanout within 6 feet (1829 mm) of the junction of the building drain and the building sewer. The cleanout shall be either inside or outside the building wall and shall be brought up to the finished ground level or to the basement floor level. An approved two-way cleanout is allowed to be used at this location to serve as a required cleanout for both the building drain and building sewer. The minimum size of the cleanout at the junction of the building drain and building sewer shall comply with Section 708.7.

14. Amend Section 710.1, Maximum fixture unit load.

a. The maximum number of drainage fixture units connected to a given size of building sewer, building drain or horizontal branch of the building drain shall be determined using Table 710.1(1). The maximum number of drainage fixture units connected to a given size vertical soil or waste stack, or horizontal branch connecting to a vertical soil or waste stack, shall be determined using Table 710.1(2).

15. Amend Table 710.1(1).

a. Table 710.1(1)—Building Drains And Sewers

Diameter Of Pipe (Inches)	Maximum Number Of Drainage Fixture Units Connected To Any Portion Of The Building Drain Or The Building Sewer, Including Branches Of The Building Drain[a]			
	Slope Per Foot			
	1/16 inch	1/8 inch	1/4 inch	1/2 inch
1 1/4			1	1
1 1/2			3	3
2			21	26
2 1/2			24	31
3		20 (not over two water closets)	27 (not over two water closets)	36 (not over two water closets)
4	—	180	216	250
5	—	390	480	575
6	—	700	840	1,000
8	1,400	1,600	1,920	2,300
10	2,500	2,900	3,500	4,200
12	3,900	4,600	5,600	6,700
15	7,000	8,300	10,000	12,000

For SI: 1 inch = 25.4 mm, 1 inch per foot = 83.3 mm/m.

[a] The minimum size of any building drain serving a water closet shall be 3 inches.

16. Amend Table 710.1(2).

a. Table 710.1(2)—Horizontal Fixture Branches and Soil Stacks[a]

Diameter of Pipe (inches) (The minimum size of any branch or soil stack serving a water closet shall be 3".)	Maximum Number of Drainage Fixture Units (dfu)			
	Total for horizontal branch (Does not include branches of the building drain. Use 50 percent less dfu's for any circuit or battery vented fixture branches, no size reduction permitted for circuit or battery vented branches throughout the entire branch length.)	Soil Stacks[b]		
		Total discharge into one branch interval when greater than three branch intervals	Total for soil stack when three branch intervals or less	Total for soil stack when greater than three branch intervals
1 1/2	3	2	4	8
2	6	6	10	24
2 1/2	12	9	20	42

Diameter of Pipe (inches) (The minimum size of any branch or soil stack serving a water closet shall be 3".)	Maximum Number of Drainage Fixture Units (dfu)			
	Total for horizontal branch (Does not include branches of the building drain. Use 50 percent less dfu's for any circuit or battery vented fixture branches, no size reduction permitted for circuit or battery vented branches throughout the entire branch length.)	Soil Stacks[b]		
		Total discharge into one branch interval when greater than three branch intervals	Total for soil stack when three branch intervals or less	Total for soil stack when greater than three branch intervals
3	20 (not over two water closets)	16 (not over two water closets)	30 (not over six water closets)	60 (not over six water closets)
4	160	90	240	500
5	360	200	540	1,100
6	620	350	960	1,900
8	1,400	600	2,200	3,600
10	2,500	1,000	3,800	5,600
12	3,900	1,500	6,000	8,400
15	7,000	Note [c]	Note [c]	Note [c]

For SI: 1 inch = 25.4 mm.

[a] Does not include branches of the building drain. Refer to Table 710.1(1).

[b] Soil stacks shall be sized based on the total accumulated connected load at each story or branch interval. As the total accumulated connected load decreases, stacks are permitted to be reduced in size. Stack diameters shall not be reduced to less than one-half of the diameter of the largest stack size required.

[c] Sizing load based on design criteria.

17. Add Section 710.1.3, Minimum size of soil and waste stacks.

a. No soil or waste stack shall be smaller than the largest horizontal branch connected thereto except that a 4x3 water closet connection shall not be considered as a reduction in pipe size. The soil or waste stack shall run undiminished in size from its connection to the building drain to its connection to the stack vent.

18. Add Section 710.1.4, Minimum size of drain serving a water closet.

a. The minimum size of any building drain serving a water closet shall be 3 inches. Not more than two water closets shall discharge into a 3-inch horizontal building drain. Not more than six water closets shall discharge into a 3-inch vertical building drain.

19. Add Section 710.3, Underground Drainage Piping.

a. Any portion of the drainage system installed underground or below a basement or cellar shall not be less than 2-inch diameter. In addition, any portion of the drainage system installed underground which is located upstream from a grease trap or grease interceptor as well as the underground horizontal branch receiving the discharge there from shall not be less than 3-inch diameter.

20. Amend Section 713.9, Local vents and stacks for bedpan washers.

a. Bedpan washers shall be vented to open air above the roof by means of one or more local vents. The vent terminal and location of the local vent shall be the same as required for sanitary sewer vents. The local vent for a bedpan washer shall not be less than a 2-inch-diameter (51 mm) pipe. A local vent serving a single bedpan washer is permitted to drain to the fixture served.

H. Chapter 8 Indirect/Special Waste.

1. Amend Section 802.1.1, Food handling.

a. Equipment and fixtures utilized for the storage, preparation and handling of food shall discharge through an indirect waste pipe by means of an air gap. Food handling equipment includes but is not limited to the following: any sink where food is cleaned, peeled, cut up, rinsed, battered, defrosted or otherwise prepared or handled; potato peelers; ice cream dipper wells; refrigerators; freezers; walk-in coolers or freezers; ice boxes; ice making machines; fountain type drink dispensers; rinse sinks; cooling or refrigerating coils; laundry washers; extractors; steam tables; steam kettles; egg boilers; coffee urns; steam jackets or other food handling or cooking equipment wherein the indirect waste pipe may come under a vacuum; or similar equipment.

2. Amend Section 802.2, Installation.

a. Indirect waste piping shall discharge through an air gap or air break into a waste receptor. Waste receptors and standpipes shall be trapped and vented and shall connect to the building drainage system. All indirect waste piping that exceeds 30 inches (762 mm) in developed length measured horizontally, or 54 inches (1372 mm) in total developed length, shall be trapped. The maximum length of indirect waste piping to the waste receptor shall not exceed 15 feet (4527 mm). Should an indirect waste pipe exceed 15 feet in length, a local vent shall be provided at a maximum of every 15 feet (4527 mm) in length. Indirect waste piping shall be installed as to permit ready access for flushing and cleaning.

3. Amend Section 802.2.2, Air break.

a. An air break shall be provided between the indirect waste pipe and the trap seal of the waste receptor or standpipe. The air break (drainage system) between the indirect waste and the building drainage system shall be installed such that the level of the lowest outlet located on the fixture, device, appliance or apparatus (to which the indirect waste pipe connects) is above the flood-level rim of the receiving sink or other receptor by a vertical distance of at least twice the diameter of the effective opening of the indirect waste pipe, but in no case less than 2 inches (51

mm). In addition, the indirect waste pipe shall terminate below the flood-level rim of the receiving sink or other receptor a distance equal to not more than one-half (1/2) the diameter of the effective opening of the indirect waste pipe.

I. Delete Section 918, Air Admittance Valves in its entirety and all referring sections of the 2012 IPC.

J. Amend Chapter 10: Traps, Interceptors and Separators.

1. Amend Section 1002.1, Fixture Traps.

a. Each plumbing fixture shall be separately trapped by a liquid-seal trap, except as otherwise permitted by this code. The vertical distance from the fixture outlet to the trap weir shall not exceed 24 inches (610 mm), and the horizontal distance shall not exceed 30 inches (610 mm) measured from the centerline of the fixture outlet to the centerline of the inlet of the trap. The height of a clothes washer standpipe above a trap shall conform to Section 802.4. A fixture shall not be double trapped.

i. Exceptions:

(a). This section shall not apply to fixtures with integral traps.

(b). A combination plumbing fixture is permitted to be installed on one trap, provided that one compartment is not more than 6 inches (152 mm) deeper than the other compartment and the waste outlets are not more than 30 inches (762 mm) apart.

(c). A grease interceptor intended to serve as a fixture trap in accordance with the manufacturer's installation instructions shall be permitted to serve as the trap for a single fixture or a combination sink of not more than three compartments where the vertical distance from the fixture outlet to the inlet of the interceptor does not exceed 30 inches (762 mm) and the developed length of the waste pipe from the most upstream fixture outlet to the inlet of the interceptor does not exceed 60 inches (1524 mm).

(d). One trap may be installed for a set of not more than three single-compartment sinks or laundry trays or three lavatories immediately adjacent to each other in the same room, if the waste outlets are not more than 30 inches (762 mm) apart and the trap is centrally located when three compartments are installed.

2. Amend Section 1002, Prohibited traps.

a. The following types of traps are prohibited:

i. traps that depend on moving parts to maintain the seal;

ii. bell traps;

iii. crown-vented traps;

iv. traps not integral with a fixture and that depend on interior partitions for the seal, except those traps constructed of an approved material that is resistant to corrosion and degradation;

v. "S" traps;

vi. drum traps;

(a). exception:

(i). drum traps used as solids interceptors and drum traps serving chemical waste systems shall not be prohibited.

vii. running traps;

(a). exceptions:

(i). a running trap with cleanout may be allowed on condensate waste lines and for certain floor level fixtures installed on a combination waste and vent system.

3. Amend Section 1002.4, Trap Seals.

a. Each fixture trap shall have a liquid seal of not less than 2 inches (51 mm) and not more than 4 inches (102 mm), or deeper for special designs relating to accessible fixtures. Where a trap seal is subject to loss by evaporation, (*i.e., floor drains or similar traps where the water seal is not replenished regularly and automatically)* a trap seal primer valve shall be installed. Trap seal primer valves shall connect to the trap at a point above the level of the trap seal. A trap seal primer valve shall conform to ASSE 1018 or ASSE 1044.

4. Add Section 1002.4.2, Drainage type trap seal primer valves.

a. Drainage-type trap seal primers meeting ASSE 1044 shall capture liquid wastes only from:

i. the tail piece of a lavatory;

ii. the discharge side of the atmospheric vacuum breaker located downstream of a flushometer valve servicing a water closet or a clinical sink (the takeoff point on the discharge pipe must be at least 4" below the critical level of the vacuum breaker); or,

iii. the refill/hush tube of ballcocks

5. Amend Section 1003.2, Approval.

a. Interceptors and of each separators shall be designed and installed in accordance with the manufacturer's instructions and the requirements of this section based on the anticipated conditions of use. Wastes that do not require treatment or separation shall not be discharged into any interceptor or separator. No interceptor or separator shall be installed until its design, size, location and venting has been approved by the local jurisdictional code official. The local jurisdictional code official shall have the authority to require a grease interceptor to be serviced, repaired, or replaced with a larger unit when it is determined that a unit is not working or being maintained properly, the unit is damaged, or the mode of operation of the facility no longer meets the anticipated conditions of use (i.e., offensive odors, sewage backups or overflows, or when it is determined that grease is bypassing the grease interceptor and causing downstream blockages or interfering with sewage treatment.

6. Amend Section 1003.3, Grease interceptors.

a. Grease interceptors shall comply with the requirements of Sections 1003.3.1 through 1003.3.5.

7. Amend Section 1003.3.1, Grease interceptors and automatic grease removal devices required.

a. A grease interceptor or automatic grease removal device, sized in accordance with Section 1003.3.5 of this code, shall be required to receive the drainage from fixtures and equipment with grease-laden waste located in food preparation areas, such as in restaurants, hotel kitchens, hospitals, school kitchens, bars, factory cafeterias and clubs. Fixtures and equipment shall include pot sinks, prerinse sinks; soup kettles or similar devices; work stations; floor drains or sinks into which kettles are drained; automatic hood wash units and dishwashers. Grease interceptors and automatic grease removal devices shall receive waste only

from fixtures and equipment that allow fats, oils or grease to be discharged. Other than standard detergents associated with dishwashing; emulsifiers, chemicals, enzymes or bacteria shall not discharge into a grease interceptor or automatic grease removal device. A grease interceptor or an automatic grease removal device shall not be required for individual detached one- and two-family dwelling units or any private living quarters.

8. Amend Section 1003.3.2, Hydromechanical grease interceptors.

a. Hydromechanical grease interceptors shall be evaluated, tested, and certified for conformance with ASME A 112.14.3, PDI-G101, or PDI-G102. Hydromechanical grease interceptors shall be equipped with devices to control the rate of water flow so that the water flow does not exceed the rated flow. The flow-control device shall be vented and terminate not less than 6 inches (152 mm) above the flood rim level or be installed in accordance with the manufacturer's instructions. To prevent odors in the kitchen or occupied space, such vent shall be directly connected to the building vent system. Hydromechanical grease interceptors shall be sized in accordance with Section 1003.3.5 of this code.

9. Amend Section 1003.3.3, Automatic grease removal devices.

a. Automatic grease removal devices shall be evaluated, tested, and certified for conformance with ASME A112.14.4. Where automatic grease removal devices are installed, such devices shall be located downstream of each fixture or multiple fixtures in accordance with the manufacturer's instructions. Ready access shall be provided for inspection and maintenance. Automatic grease removal devices shall be sized in accordance with Section 1003.3.5 of this code.

10. Amend Section 1003.3.4, Gravity grease interceptors.

a. Gravity grease interceptors shall comply with the requirements of Sections 1003.3.4.1 through 1003.3.4.8 and shall be sized in accordance with Section 1003.3.5 of this code.

11. Amend 1003.3.4.1, Indoor installations.

a. If a gravity grease interceptor must be installed within an enclosed building, any access covers shall be gasketed to prevent the intrusion of odors into the building.

12. Amend Section 1003.3.4.2, Distance.

a. The grease interceptor shall be placed as close to the plumbing fixture(s) discharging greasy waste as possible, but preferably on the outside of the building when feasible.

13. Add Section 1003.3.4.3, Outlet pipe.

a. The minimum diameter of the outlet pipe shall not be less than 4 inches. The invert of the gravity grease interceptor outlet opening (i.e., lowest portion of the outlet pipe where it draws waste near the bottom of the grease interceptor), shall be located at a maximum of 6 inches and a minimum of 4 inches from the floor of the grease interceptor. This requirement also applies to any intermediate outlets in multi-compartment gravity grease interceptors.

14. Add Section 1003.3.4.4, Air space.

a. A minimum of one foot of air space shall be provided above the static water level.

15. Add Section 1003.3.4.5, Venting.

a. A gravity grease interceptor outlet shall be properly vented in accordance with this section to prevent it from siphoning itself out. Any internally vented outlet line shall have the vent terminal extended to within 2 inches of the bottom of the access cover to prevent grease from escaping the gravity grease interceptor through the open vent terminal. For those gravity grease interceptors having a gasketed cover, the gravity grease interceptor outlet line shall not be allowed to be internally vented. In this case, the outlet line itself shall be vented with a minimum 2-inch vent pipe installed in accordance with Chapter 9 of this code.

16. Add Section 1003.3.4.6, Water seal.

a. On unbaffled single compartment gravity grease interceptors, a 90° ell shall be used on the inlet and shall terminate 6 inches below the static water level. On baffled single compartment gravity grease interceptors, a baffle wall shall be placed between the inlet and outlet. The inlet shall discharge into the gravity grease interceptor at a level at least 6 inches below the top of the baffle wall.

17. Add Section 1003.3.4.7, Minimum horizontal distance.

a. The minimum horizontal distance between the inlet and outlet piping in the gravity grease interceptor shall be 24 inches.

18. Add Section 1003.3.4.8, Access/Covers.

a. Access from the top of the gravity grease interceptor shall be provided by an easily removable cover above an access opening for proper maintenance. Additional access opening/covers shall be provided as necessary to provide accessibility to each compartment in multi-compartment or multi-baffled arrangements as well as access to both the inlet and outlet. Access opening covers shall be above or at grade (G) to provide ready accessibility. Each access cover shall be designed so that it cannot slide, rotate, or flip when properly installed in order that the opening is not unintentionally exposed. Especially for lightweight covers, mechanical fasteners are recommended to augment the safety of and ensure positive closure of the cover.

19. Amend Section 1003.3.5, Minimum required liquid holding capacity.

a. In all instances of new construction, change of occupancy classification or use of the property, a gravity grease interceptor or hydro-mechanical grease interceptor meeting the minimum capacity as required by this Section of the Code shall be installed. The minimum required capacity (volume) of the grease interceptor shall be determined based upon the maximum number of persons served during the largest meal period in accordance Section 1003.3.5.1 or 1003.3.5.2 of this code.

20. Add Section 1003.3.5.1,Without garbage grinder.

a. The minimum capacity for applications without a garbage grinder shall not be less than 125 gallons below the static water level. This capacity is sufficient to hold the flow from one meal long enough to accomplish proper grease separation when serving up to 50 people during a single meal period. When over 50 people are served during a single meal period, the minimum capacity shall be increased beyond 125 gallons based upon at least an additional 2 1/2 gallons per person beginning with the 51st person served and greater.

21. Add Section 1003.3.5.2, With garbage grinder.

a. When a garbage grinder is connected, the minimum capacity shall not be less than 500 gallons below the static water level. This capacity is sufficient to hold the flow from one meal long enough to accomplish proper grease separation when serving up to 50 people during a single meal period. When a garbage grinder is connected and over 50 people are served during a single meal period, the minimum capacity shall be increased beyond 500 gallons based upon at least an additional 2 1/2 gallons per person beginning with the 51st person served and greater.

i. Exception:

(a). At the discretion of the code official local jurisdictional code official, a smaller, point of use type hydro-mechanical grease interceptor or automatic grease removal device may be permissible when:

(i). a concrete slab would have to be broken at an existing building or facility for the proper installation of a grease interceptor; or

(ii). an outside, unpaved area surrounding an existing building where a grease interceptor could be installed is available; however, it is determined that the area is located further than 75 feet from the plumbing fixtures that the grease interceptor would be servicing; or

(iii). the code official local jurisdictional code official determines that the installation is unfeasible such as when servicing a kitchen located on the upper floors of a multistoried building; or

(iv). the code official local jurisdictional code official determines that minimal fat, oil and grease will be produced or introduced into the sanitary drainage system based on the menu and mode of operation of the facility (i.e., snowball stands, sandwich shops, or other similar facilities with low grease production and which utilize single-service tableware and hollowware including forks, knives, spoons, plates, bowls, cups, and other serving dishes).

(b). In these instances, listed under the exception, the minimum required size of the hydromechanical grease interceptor shall be determined based upon fixture discharge rate (gpm) and grease retention capacity (pounds) in accordance with PDI G101 or ASME A 112.14.3. Automatic grease removal devices shall be sized in accordance with ASME A112.14.4. In no case shall a grease interceptor or automatic grease removal device be installed which has an approved rate of flow of less than 20 gallons per minute.

22. Amend Section 1003.10, Access and maintenance of interceptors and separators.

a. Access shall be provided to each interceptor and separator for service and maintenance. A two-way cleanout shall be provided on the discharge waste line immediately downstream of all interceptors and separators. Interceptors and separators shall be maintained by periodic removal of accumulated grease, scum, oil, or other floating substances and solids deposited in the interceptor or separator.

K. Amend Chapter 11, Storm Drainage.

1. Amend Section 1101.2, Where required.

a. All roofs, paved areas, yards, courts and courtyards shall drain into a separate storm sewer system or to an approved place of disposal. For one- and two-family dwellings, and where approved, storm water is permitted to discharge onto flat areas, such as streets or lawns, provided that the storm water flows away from the building.

2. Amend Section 1101.3, Prohibited drainage.

a. Storm water shall not be drained into sewers intended for sewage only.

i. Exception:

(a). Liquid waste from the cleaning operation and from the leakage of garbage containers and dumpsters holding putrescible wastes shall be disposed of as sewage. Methods used for this disposal shall prevent rainwater and runoff from adjacent areas from entering the sanitary sewerage system (i.e., dumpster pads may be elevated or curbed, enclosed or covered). When determined by the code official that liquid wastes or putrescible wastes contain fats, oils or grease (or, for new establishments, will likely contain fats, oils, or grease in the future), an approved grease interceptor shall be installed in the waste line in accordance with Section 1003 of this code.

3. Amend Section 1102.2 1102.2, Inside storm drainage conductors.

a. Inside storm drainage conductors installed above ground shall conform to one of the standards listed in Table 702.1. Plastic piping shall be schedule 40.

4. Amend Section 1102.3, Underground building storm drain pipe.

a. Underground building storm drain pipe shall conform to one of the standards listed in Table 702.2. Plastic piping shall be schedule 40.

5. Delete Section 1103.1.

6. Delete Section 1103.2.

7. Delete Section 1103.3.

8. Delete Section 1103.4.

9. Amend Section 1104.2, Combining storm with sanitary drainage prohibited.

a. The sanitary and storm drainage systems of a structure shall be entirely separate.

10. Amend Section 1106.2, Vertical conductors and leaders.

a. Vertical conductors and leaders shall be sized for the maximum projected roof area, in accordance with Table 1106.2(1) and Table 1106.2(2). If a vertical offset is 45 degrees or less, the leader can be sized as a vertical pipe. If the offset is greater than 45 degrees, the pipe must be sized as a horizontal pipe.

11. Delete Section 1109.1.

12. Amend Section 1113.1, Building subdrains.

a. Building subdrains located below the public storm sewer level shall discharge into a sump or receiving tank, the contents of which shall be automatically lifted and discharged into the gravity storm drainage system as required for building sumps. The sump and pumping equipment shall comply with Section 1114.1.

L. Amend Chapter 13, Gray Water Recycling Systems.

1. Amend Section 1301.1, Scope.

a. Gray water recycling systems shall only be considered on an individual basis and plans and specifications for any proposed gray water recycling system shall be submitted to the local jurisdictional code official for review and approval prior to construction. Such plans and specifications shall be appropriately sealed and signed by a Louisiana Registered Professional Engineer. Potable makeup water supply lines shall be protected against backflow by an air gap or reduced pressure principal backflow prevention assembly. The provisions of Chapter 13 shall govern the materials, design, construction and installation of gray water

systems for flushing of water closets and urinals and for subsurface landscape irrigation. See Figures 1301.1(1) and 1301.1(2).

M. Amend Chapter 14, Referenced Standards.

1. Amend CSA Referenced Standard.

a. B64.10.1-07 Maintenance and Field testing of Backflow Prevention devices Section 312.10.2

b. B64.10-94 Manual for the Selection, Installation, Maintenance and Field testing of Backflow Prevention Devices (not including Part 6 (Maintenance and Field Testing) Section 608.16 and Section 618.2

N. Add and reserve Chapter 15 for future use.

O. Add Chapter 16, Travel Trailer and Mobile/Manufactured Home Parks.

1. Add the following definitions:

Dependent Travel Trailer—a travel trailer not equipped with a water closet.

Drain Hose—the approved type hose, flexible and easily detachable, used for connecting the drain outlet on a travel trailer to a sewer inlet connection.

Drain Outlet—the lowest end of the main drain of a travel trailer itself to which a drain hose is connected.

Independent Travel Trailer—a travel trailer equipped with a water closet and a bath or shower.

Inlet Coupling—the terminal end of the branch water line to which the mobile/manufactured home or travel trailer's water service connection is made. It may be a swivel fitting or threaded pipe end.

Intermediate Waste Holding Tank (travel trailers only)—an enclosed tank for the temporary retention of water-borne waste.

Mobile/Manufactured Home—a prefabricated home built on a permanent chassis which can be transported in one or more sections and is typically used as a permanent dwelling. Manufactured homes built since 1976 are built to the Manufactured Home Construction and Safety Standards (HUD Code) and display a HUD certification label on the exterior of each transportable section.

Park or *Mobile/Manufactured Home Park* or *Travel Trailer Park*—any lot, tract, parcel or plot of land upon which more than one travel trailer and/or mobile/manufactured homes parked for the temporary or permanent use of a person or persons for living, working or congregating.

Park Drainage System—the entire system of drainage piping within the park which is used to convey sewage or other wastes from the mobile/manufactured home or travel trailer drain outlet connection, beginning at its sewer inlet connection at the mobile/manufactured home or travel trailer site, to a community sewerage system, a commercial treatment facility, or an individual sewerage system.

Park Water Distribution System—all of the water distribution piping within the park, extending from the water supply system or other source of supply to, but not including, the mobile/manufactured home or travel trailer's water service connection, and including branch service lines, fixture devices, service buildings and appurtenances thereto.

Service Building—a building housing toilet and bathing facilities for men and women, with laundry facilities.

Sewer Inlet—a sewer pipe connection permanently provided at the travel trailer or mobile/manufactured home site which is designed to receive sewage when a travel trailer or a mobile/manufactured home is parked on such site. It is considered the upstream terminus of the park drainage system.

Travel Trailer—a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use.

Travel Trailer Sanitary Service Station—a sewage inlet with cover, surrounded by a concrete apron sloped inward to the drain, and watering facilities to permit periodic wash down of the immediately adjacent area, to be used as a disposal point for the contents of intermediate waste holding tanks of travel trailers.

Water Service Connection—as used in conjunction with mobile/manufactured homes and travel trailers, the water pipe connected between the inlet coupling of the park water distribution system and the water supply fitting provided on the mobile/manufactured home or travel trailer itself.

2. Add Section 1601, General.

a. Add Section 1601.1, Scope.

i. The requirements set forth in this Chapter shall apply specifically to all new travel trailer and mobile/manufactured home parks, and to additions to existing parks as herein defined, and are to provide minimum standards for sanitation and plumbing installation within these parks, for the accommodations, use and parking of travel trailers and/or mobile/manufactured homes.

b. Add Section 1601.2, Governing Provisions.

i. Other general provisions of this code shall govern the installation of plumbing systems in travel trailer and mobile/manufactured home parks, except where special conditions or construction are specifically defined in this Chapter.

c. Add Section 1601.3, Sewage collection, disposal, treatment.

i. Travel trailers or mobile/manufactured homes shall not hereafter be parked in any park unless there are provided plumbing and sanitation facilities installed and maintained in conformity with this code. Every travel trailer and mobile/manufactured home shall provide a gastight and watertight connection for sewage disposal which shall be connected to an underground sewage collection system discharging into a community sewerage system, a commercial treatment facility, or an individual sewerage system which has been approved by the state health officer.

d. Add Section 1601.4, Travel trailer sanitary service station.

i. At least one travel trailer sanitary service station shall be provided in all travel trailer parks that accept any travel trailers having an intermediate waste holding tank. The water supply serving the sanitary service station shall be protected against backflow by a reduced pressure principle backflow prevention assembly meeting the requirements of Section 608 of this code.

e. Add Section 1601.5, Materials.

i. Unless otherwise provided for in this Chapter, all piping fixtures or devices used in the installation of

drainage and water distribution systems for travel trailer parks and mobile/manufactured home parks shall conform to the quality and weights of materials prescribed by this code.

f. Add Section 1601.6, Installation.

i. Unless otherwise provided for in this Chapter, all plumbing fixtures, piping drains, appurtenances and appliances designed and used in the park drainage, water distribution system, and service connections shall be installed in conformance with the requirements of this code.

g. Add Section 1601.7, Maintenance.

i. All devices or safeguards required by this Chapter shall be maintained in good working order by the owner, operator, or lessee of the travel trailer park or his designated agent.

3. Add Section 1602, Service Buildings.

a. Add Section 1602.1, Service buildings for independent travel trailers.

i. Each travel trailer park which serves only independent travel trailers shall have at least one service building to provide necessary sanitation and laundry facilities. Each mobile/manufactured home park which also serves one or more independent travel trailers (in addition to mobile/manufactured homes) shall have at least one service building to provide necessary sanitation and laundry facilities. When a service building is required under this Section, it shall have a minimum of one water closet, one lavatory, one shower or bathtub for females and one water closet, one lavatory, and one shower or bathtub for males. In addition, at least one laundry tray or clothes washing machine and one drinking fountain located in a common area shall be provided.

(a). Exception:

(i). Temporary (6 months) travel trailers residing in mobile home parks and or where more than one travel trailer resides for the purpose of employment and or hardships, may be exempted by the local jurisdiction building official from 1302.1.

b. Add Section 1602.2, Service building for dependent travel trailers.

i. The service building(s) in travel trailer or mobile/manufactured home parks that also accommodate dependent travel trailers shall have a minimum of two water closets, one lavatory, one shower or bathtub for females, and one water closet, one lavatory, one urinal, and one shower or bathtub for males. In addition, at least one laundry tray or clothes washing machine and one drinking fountain located in a common area shall be provided. The above facilities are for a maximum of ten dependent travel trailers. For every ten additional dependent travel trailers (or any fraction thereof) the following additional fixtures shall be provided: One laundry tray or clothes washing machine, one shower or bathtub for each sex, and one water closet for females. Also, one additional water closet for males shall be provided for every 15 additional dependent travel trailers (or any fraction thereof).

c. Add Section 1602.3, Service building design requirements.

i. Each service building shall conform to Sections 1302.3.1 through 1302.3.3 of this code.

d. Add Section 1302.3.1, Construction.

i. Every service building shall be of permanent construction with an interior finish of moisture resistant material which will stand frequent washing and cleaning and the building shall be well-lighted and ventilated at all times.

e. Add Section 1602.3.2, Fixture separation.

i. The laundry tray(s) and/or clothes washing machine(s) and drinking fountain(s) shall be located in a common area. None of these fixtures shall be located within any toilet room. Each water closet, tub and/or shower shall be in separate compartments with self-closing doors on all water closet compartments. The shower stall shall be a minimum of 3 x 3 feet (914 x 914 mm) in area, with a dressing compartment.

f. Add Section 1602.3.3, Floor drains.

i. A minimum 2-inch floor drain protected by and approved trap primer shall be installed in each toilet room and laundry room.

4. Add Section 1603, Park Drainage System.

a. Add Section 1603.1, Separation of water and sewer lines.

i. The sewer main and sewer laterals shall be separated from the park water service and distribution system in accordance with Section 603.2 of this code.

b. Add Section 1603.2, Minimum size pipe.

i. The minimum size pipe in any mobile/manufactured home park or travel trailer park drainage system shall be 4 inches. This includes branch lines or sewer laterals to individual travel trailers and mobile/manufactured homes.

c. Add Section 1603.3, Fixture units.

i. Each mobile/manufactured home and travel trailer shall be considered as 6 fixture units in determining discharge requirements in the design of park drainage and sewage disposal systems.

d. Add Section 1603.4, Sewage disposal/treatment.

i. The discharge of a park drainage system shall be connected to a community sewerage system. Where a community sewerage system is not available, an approved commercial treatment facility or individual sewerage system shall be installed in accord with the requirements of LAC 51:XIII (Sewage Disposal).

e. Add Section 1603.5, Manholes and cleanouts.

Manholes and/or cleanouts shall be provided and constructed as required in Chapter 7 of this code. Manholes and/or cleanouts shall be accessible and brought to grade.

f. Add Section 1603.6, Sewer inlets.

i. Sewer inlets shall be 4-inch diameter and extend above grade (G) 3 to 6 inches (76 to 152 mm). Each inlet shall be provided with a gas-tight seal when connected to a travel trailer or mobile/manufactured home and have a gas-tight seal plug for use when not in service.

g. Add Section 1603.7, Drain connections.

i. Drain connections shall slope continuously downward and form no traps. All pipe joints and connections shall be installed and maintained gastight and watertight.

h. Add Section 1603.8, Waste.

i. No sewage, waste water, or any other effluent shall be allowed to be deposited on the surface of the ground.

i. Add Section 1603.9,Testing the park drainage system.

i. Upon completion and before covering, the park drainage system shall be subjected to a static water test performed in accordance with Section 312 of this code.

5. Add Section 1604, Water Supply and Distribution System.

a. Add Section 1604.1, General.

i. Every mobile/manufactured home and travel trailer site shall be provided with an individual branch water service line delivering potable water.

b. Add Section 1604.2, Water service lines.

i. Water service lines to each travel trailer site shall be sized to provide a minimum of 8 gpm (0.505 L/s) at the point of connection with the trailer's water distribution system. Water service lines to each mobile/manufactured home site shall be sized to provide a minimum of 17 gpm (1.1 L/s) at the point of connection with the mobile/manufactured home's water distribution system. All water service lines shall be a minimum of 3/4 inch. A separate service shutoff valve shall be installed on each water service line. In instances where a backflow prevention device or assembly is installed on the water service line (see Section 608.16.23), the shutoff valve shall be located on the supply side of the device or assembly.

c. Add Section 1604.3, Water Service Connections.

i. The water service connection from the water service line to the mobile/manufactured home or travel trailer site shall be not less than 1/2-inch diameter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1) and Act836 of the 2014 of the Regular Louisiana Legislative Session. .

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2386 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:

Jason Starnes
Interim Undersecretary

1606#51

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Boeuf Wildlife Management Area Reopening

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under authority of R.S. 56:115, the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopt the following Emergency Rule:

Currently, due to excessive high water levels associated with excessive rainfall in North Louisiana, Boeuf Wildlife Management Area is closed to all activities. Water has receded on this area. Staff have inspected the area roads and deemed the area suitable and safe for public access. Therefore, it is deemed appropriate to reopen this area to all activities.

In accordance with the provisions of 56:6.1, public access to and use of the above mentioned wildlife management area shall be as follows: open to all activities. This Declaration of Emergency shall become effective May 13, 2016.

Charles J. Melancon
Secretary

1606#002

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Russell Sage Wildlife Management Area Reopening

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under authority of R.S. 56:115, the secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopt the following Emergency Rule:

Currently, due to excessive high water levels associated with excessive rainfall in North Louisiana, Russell Sage Wildlife Management Area is closed to all activities. Waterhas receded to the extent that the area has been deemed suitable and safe for public access. Therefore, it is deemed appropriate to reopen Russell Sage Wildlife Management Area to all activities.

In accordance with the provisions of 56:6.1, public access to and use of the above mentioned wildlife management area shall be as follows: open to all activities. This Declaration of Emergency shall become effective May 13, 2016.

Charles J. Melancon
Secretary

1606#003

Rules

RULE

Department of Children and Family Services
Division of Programs

Risk Assessment Evaluation (LAC 67:I.Chapter 3)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:I, General Administration, Chapter 3, Risk Assessment Evaluation.

Chapter 3 has been amended in accordance with R.S. 46.51.2, R.S. 46:1414.1, R.S. 15:1110.2 and R.S. 17:407.41. The amendments include adding an owner, operator, current or prospective employee, or volunteer of an early learning center licensed by the Louisiana Department of Education as individuals entitled to request risk assessment evaluation. In addition, the Chapter has been amended to add procedures and conditions of employment for current and prospective department employees/volunteers, and to update risk evaluation panel membership consistent with current job titles and responsibilities.

Title 67
SOCIAL SERVICES
Part I. General Administration
Chapter 3. Risk Assessment Evaluation
§301. Introduction

A. - B.2. ...

C. Any prospective employee or current employee whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys and who discloses or it becomes known that their name was recorded subsequent to January 1, 2010 on the state central registry with a justified (valid) finding of abuse or neglect, may request a risk assessment evaluation in accordance with the following.

1. In accordance with LAC 67:I.305, the prospective employee will have 10 calendar days to make his request for a risk assessment evaluation from the date of receipt of written notification that his name appears on the state central registry and of the risk assessment evaluation process. The application process shall be terminated for a prospective employee and he may not be considered for a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys in the future, unless it is determined that he does not pose a risk to children.

2. In accordance with LAC 67:I.305, a current employee will have 10 calendar days to make a request for a risk assessment evaluation from the date of receipt of written notification that his name appears on the state central registry and of the risk assessment evaluation process. When the employee fails to make such a request, and:

a. he is currently in a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, performance of licensing surveys, termination proceedings will begin immediately after the 10 calendar days have elapsed; or

b. if he is not currently in a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, performance of licensing surveys but is applying for such a position, he will remain in his current position and shall not be considered for the new position. The provisions in this Chapter pertaining to a prospective employee are applicable to this employee.

3. If a prospective employee requests a risk assessment evaluation within the required time frame and there is a determination that the individual does not pose a risk to children, the prospective employee may reapply for employment and be considered for a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys.

4. If a current employee requests a risk assessment evaluation within the required time frame, as a condition of continued employment in a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys, the current employee shall be directly supervised by another paid employee of the department, who has not disclosed nor has it become known that their name appears with a justified (valid) finding on the state central registry prior to January 1, 2010; or, found not to pose a risk by the risk evaluation panel. Under no circumstances may the employee with the justified finding be left alone and unsupervised with the children pending the disposition of the risk evaluation panel that they do not pose a risk to children.

5. If the risk evaluation panel finds the prospective employee or current employee does pose a risk to children and the prospective employee or current employee chooses not to appeal the finding, the prospective employee may not be considered for a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys, and termination proceedings shall begin on the current employee, unless his current position does not include those duties.

6. If the risk evaluation panel finds the individual does pose a risk to children and the prospective employee appeals the finding within the required timeframe, the prospective employee may not be considered for a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys. If the current employee appeals the finding within the required timeframe he shall continue to have direct supervision in a

position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys at all times by another paid employee of the department who has not disclosed nor has it become known that they have a justified (valid) finding on the state central registry prior to January 1, 2010; or found not to pose a risk by the risk evaluation panel, until there is a final ruling rendered by the DCFS appeals unit or the appropriate district court that the current employee does not pose a risk to children. Supervision may end effective with such a final ruling from the DCFS appeals unit and/or the appropriate district court. If the DCFS appeals unit and/or the appropriate district court upholds the risk evaluation panel finding that the individual does pose a risk to children, a prospective employee shall not be considered for a position whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys and termination proceedings for a current employee in a position with those duties will begin immediately upon the receipt of the notice of this final ruling.

D. No person whose duties include supervisory or disciplinary authority over children or direct care of a child may volunteer or become a service provider as provided in LAC 67:V.1103 for DCFS until:

1. the department has conducted a search of the state central registry of justified (valid) abuse or neglect and has determined that the individual's name is not recorded therein subsequent to January 1, 2010; or

2. if an individual's name is recorded on the state central registry subsequent to January 1, 2010, a risk evaluation panel has, previous to his application to volunteer or become a service provider as provided in LAC 67:V.1103, determined in writing that the individual does not pose a risk to children.

E. In accordance with R.S. 46:1414.1, 15:1110.2 and 17:407.41 any owner, operator, current or prospective employee, or volunteer of an early learning center or juvenile detention facility licensed by the department or an early learning center licensed by the Louisiana Department of Education who discloses that he is currently recorded on the state central registry for a justified (valid) finding of abuse or neglect shall be entitled to a risk evaluation provided by the department to determine whether the individual poses a risk to children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.2, R.S. 46:1414.1, R.S. 15:1110.2 and R.S. 17:407.41.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:851 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 39:3248 (December 2013), LR 42:860 (June 2016).

§303. Risk Evaluation Panel and/or Risk Evaluation Coordinator

A. A risk evaluation panel (panel) is established to conduct risk assessment evaluations for an individual as listed in LAC 67:I.301.B, C and E whose name appears on the state central registry to determine if that individual poses a risk to children.

B.1. Members of the panel shall be designated pursuant to Paragraph B.2 and consist of:

a. the risk evaluation panel coordinator;

b. a child welfare manager responsible for in home services;

c. a child welfare manager responsible for out of home services;

d. a regional child welfare administrator;

e. a child welfare manager responsible for continuous quality improvement, except for panel reviews relating to DCFS prospective or current employees;

f. a program child welfare manager for licensing for panel reviews relating to owners, operators, current or prospective employees, or volunteers of specialized providers and juvenile detention facilities; and

g. any others designated as deemed necessary to convene an appropriate panel.

2. The panel members listed in Paragraph B.1 shall be designated by the DCFS secretary, or his designee.

3. The risk evaluation panel coordinator shall be a non-voting member of the panel.

C. The duties of the panel shall include:

1. conducting an assessment of an individual listed in LAC 67:I.301.B, C and E whose name appears on the state central registry and has requested a risk evaluation to determine whether that individual poses a risk to children;

2. providing written notification of the decision to the individual; and

3. retaining all records of decisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.2, R.S. 46:1414.1, R.S. 15:1110.2 and R.S. 17:407.41.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:851 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 39:3248 (December 2013), LR 42:861 (June 2016).

§305. Risk Assessment Evaluation Process

A. The risk evaluation panel will determine if the individual listed in LAC 67:I.301.B, C and E poses a risk to children based on the information available in the DCFS case record, licensing record if applicable, and any supplemental information provided by the employee.

B. ...

C. The prospective or current employee of DCFS or any owner, operator, current or prospective employee, or current or prospective volunteer of a specialized provider or juvenile detention facility licensed by the department or an early learning center licensed by the Louisiana Department of Education is responsible for providing the following documentation to the risk evaluation panel to be used in conjunction with the information in the case record in making a risk determination:

1. - 3. ...

D. The prospective or current employee of DCFS or any owner, operator, current or prospective employee, or current or prospective volunteer of a specialized provider or juvenile detention facility licensed by the department or an early learning center licensed by the Louisiana Department of Education must submit the information within 10 calendar days of the request for a risk evaluation by mailing to:

Louisiana Department of Children and Family Services
Attention: Risk Evaluation Panel
627 North Fourth St., Third Floor
Baton Rouge, LA 70802

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.2, R.S. 46:1414.1, R.S. 15:1110.2 and R.S. 17:407.41.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:852 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 39:3248 (December 2013), LR 42:861 (June 2016).

§307. Risk Determination Criteria

A. ...

B. The panel shall determine if an individual poses a risk to children based on the information available in the DCFS case record, licensing record if applicable, and any supplemental information provided by the prospective or current employee whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys, or a prospective/current volunteer.

B.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.2, R.S. 46:1414.1, R.S. 15:1110.2 and R.S. 17:407.41.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:852 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 39:3248 (December 2013), LR 42:862 (June 2016).

§309. Appeals Process

A. - B. ...

C. The individual may file a request for an administrative appeal within 30 days of the mailing of the notice of the determination with the DCFS Appeals Unit. Administrative appeals for prospective employees or current employees of DCFS are conducted by the DCFS Appeals Unit. If the request for an administrative appeal is made by a current or prospective owner, employee or volunteer of a specialized provider or juvenile detention facility licensed by the department or an early learning center licensed by the Louisiana Department of Education, within 30 days of the mailing of the notice of the determination, that request shall be sent by the Appeals Unit to the Division of Administrative Law.

D. All decisions rendered by the administrative law judge within the DCFS appeals unit or the division of administrative law are final and such decisions shall exhaust the individual's administrative appeal rights.

E. Within 30 calendar days after the mailing date listed on the notice of the final decision by the DCFS appeals unit or the division of administrative law, or if a rehearing is requested, within 30 calendar days after the date of the decision thereon, the individual may obtain judicial review by filing a petition for review of the decision in the Nineteenth Judicial District Court or the district court of the domicile of the individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.2, R.S. 46:1414.1, R.S. 15:1110.2 and R.S. 17:407.41.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 36:852 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 39:3248 (December 2013), LR 42:862 (June 2016).

§311. Correction or Expungement of Central Registry Entries

A. Notwithstanding any other provisions, a panel determination shall not be used to prohibit an individual from being considered for employment when the justified (valid) finding that served as the basis for the risk assessment evaluation is:

1. corrected either pursuant to *Children's Code* article 616 or by DCFS; or

2. expunged either pursuant to LAC 67:V.1103 or LAC 67:V.1105.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:51.2, R.S. 46:1414.1, R.S. 15:1110.2 and R.S. 17:407.41.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, LR 42:862 (June 2016).

Marketa Garner Walters
Secretary

1606#019

RULE

Department of Children and Family Services
Division of Programs
Child Welfare Section

State Central Registry (LAC 67:V.1103)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:V, Subpart 3, Child Protective Services, Chapter 11, Section 1103, State Central Registry.

Section 1103 has been amended in accordance with 42 USC 15601 et seq., and 28 CFR 115.6. Amendments to this Section provide for the disclosure of state central registry information as required by the Federal Prison Rape Elimination Act (PREA) on justified/valid sexual abuse findings to the Office of Juvenile Justice, upon request, when a prospective or current employee of a juvenile facility is listed as a perpetrator; include disclosure of justified/valid findings on the state central registry for prospective volunteers and service providers; and update current department and program titles.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 3. Child Protective Services
Chapter 11. Administration and Authority

§1103. State Central Registry

A. The Department of Children and Family Services establishes and will maintain a state central registry (SCR) of all reported cases of child abuse and neglect. The purpose of the SCR is to compile information of past reports of child abuse or neglect thus enabling child protective services staff to conduct a more complete evaluation of current reports of suspected abuse or neglect of children which may include a pattern of incidents. All records of reports of child abuse or neglect are confidential in accordance with R.S. 46:56.

B. The *Louisiana Children's Code*, article 616, requires the maintenance of a SCR of all reported cases. This includes records of investigations with justified/valid findings; unjustified/invalid findings in accordance with *Children's Code*, article 615 E(1); and, inconclusive findings for evaluating court appointed special advocates (CASA) volunteers in accordance with *Children's Code*, article 616 F. As part of the investigation, the Department of Children and Family Services child protective services staff shall provide to caretakers written notice of the SCR and the rules governing maintenance and expungement of SCR records.

1. - 6. ...

7. Any person whose name is included on the SCR with a justified/valid determination may file a rule to show cause against the Department of Children and Family Services in the court exercising juvenile jurisdiction in the parish in which the investigation was conducted to show why the information on file should not be expunged. The Department of Children and Family Services will expunge the petitioner's name and other identifying information upon receipt of a court order to do so. Any expungement order issued by a court shall not take effect as to non-identifying statistical information on file until the three-year record retention period required by federal law for audit purposes has expired, counting from the month and year of the determination. During the three-year record retention period, such records bearing the non-identifying statistical information shall be sealed and accessible only to the financial auditors.

C. The Department of Children and Family Services is authorized to release information maintained on the SCR in limited circumstances. This information will be released according to the following provisions.

1. The Department of Children and Family Services will disclose information maintained on the SCR regarding cases of child abuse or neglect to other states' child welfare agencies upon formal inquiry by that agency, when the inquiry is made pursuant to an ongoing child protective services investigation, child protection alternative response, foster care home study, adoptive home study, or family services case following a child protective services investigation in the requesting state, in accordance with R.S. 46:56(F)(4)(a). This information may also be released to private licensed child placing agencies located in Louisiana and in other states upon formal inquiry and verification of licensure. Information released to such agencies is confidential and shall not be released to sources outside the agency.

2. The Department of Children and Family Services will conduct a search of the SCR for foster, adoptive and other home studies for the purpose of placement of children who are in the custody of the department or receiving services from the department.

3. The Department of Children and Family Services will disclose limited information on a SCR records check when requested by an employer or prospective employer of a person who will be exercising supervisory authority over that employer's minor children or other dependent person as part of that person's direct employment and supervision as a caregiver by the parent or person with the dependent. The written request for the information will be a signed and notarized request form that must be signed by the employee and employer. The form will be provided upon request from the employer, prospective employer, employee, or prospective employee. The information that will be disclosed will include whether or not a record of a justified/valid finding of abuse or neglect was found which identifies the employee or prospective employee as a perpetrator. The information will be disclosed to the employer or prospective employer.

4. The Department of Children and Family Services will disclose information in records of reports of child abuse or neglect when requested in writing from persons cited in R.S. 46:56(F)(10)(a). The information to be disclosed is limited to whether or not the department has a report that is currently open and under investigation or has been determined to be justified/valid, the status of the investigation, the determination made by the department and any action taken by the department. Action taken by the department will include the following: case under investigation, case closed, referred for services, continued services post investigation, and child taken into custody.

5. The Department of Children and Family Services will disclose information regarding justified/valid reports in foster homes, early learning centers, restrictive care facilities and registered family child day care homes to the agency or sponsoring agency responsible for the licensure or registration of the facility.

6. The Department of Children and Family Services will disclose information regarding justified/valid reports when requested pursuant to R.S. 46:56(F)(1) and *Children's Code*, article 616 C, with a written request from a judge of a court exercising juvenile jurisdiction for a CASA applicant, with the applicant's written consent.

7. The Department of Children and Family Services will provide SCR records checks for independent adoptions in accordance with the *Louisiana Children's Code*.

8. The Department of Children and Family Services will disclose information regarding justified/valid reports when requested pursuant to R.S. 46:51.2(A) for potential or current employees of the Department of Children and Family Services when that individual's name is listed on the SCR as a perpetrator. If the individual requests a risk assessment evaluation, this information will also be disclosed to the risk evaluation panel. Information disclosed shall be limited to those names recorded on the SCR subsequent to January 1, 2010.

9. The Department of Children and Family services will disclose information regarding justified/valid findings when requested as part of the application process of a prospective DCFS volunteer or service provider. Information disclosed shall be limited to those names recorded on the SCR subsequent to January 1, 2010. The disclosures for prospective volunteers and service providers are limited to the following individuals:

a. an individual who will be providing services for a child currently in the department's custody through a mentoring or tutoring program established by a memorandum of understanding with the department;

b. an individual who has personally entered into an agreement with the department for the provision of transportation services for a child currently in its custody;

c. an individual who has agreed to serve as a monitor of a safety plan developed by the department for the

protection of a child's health and safety while remaining in his home.

10. The Department of Children and Family Services will disclose information on justified/valid sexual abuse findings in accordance with 42 USC 15601 et seq., and 28 CFR 115.6 for prospective and current juvenile facility employees of the Office of Juvenile Justice upon receipt of a written request.

11. The Department of Children and Family Services will disclose information on justified/valid findings in accordance with R.S. 46:1414.1. This information will be released according to the following provisions.

a. The Department of Children and Family Services will disclose information on justified/valid findings involving any owner, operator, current or prospective employee or volunteer of a specialized provider or juvenile detention facility licensed by the Department of Children and Family Services or early learning center licensed by the Louisiana Department of Education when requested in writing by law enforcement to prosecute under R.S. 46:1441.1.

b. The Department of Children and Family Services will disclose information on justified/valid findings involving any owner, operator, volunteer, current or prospective employee of a specialized provider or juvenile detention facility licensed by the Department of Children and Family Services when requested in writing by the department's Child Welfare Licensing Section when they have reasonable suspicion or are provided facts that indicate reasonable suspicion the individual's name is currently maintained on the SCR as a perpetrator. Reasonable suspicion is defined as licensing having or acquiring information containing specific and articulable facts that indicate that an owner, operator, current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse or neglect against a minor in an investigation with a justified/valid finding currently recorded on the SCR. Upon receipt of the SCR clearance information that the individual is currently listed as a perpetrator, the appropriate child care or residential licensing and regulatory personnel shall immediately report the false information on the disclosure form and the SCR listing to the local district attorney.

c. If the owner, operator, current or prospective employee or volunteer of a specialized provider or juvenile detention facility licensed by the Department of Children and Family Services or an early learning center licensed by the Louisiana Department of Education discloses, or it becomes known, that their name is listed on the SCR as a perpetrator and requests a risk assessment evaluation, the Department of Children and Family Services will disclose the information on the SCR to the risk evaluation panel.

AUTHORITY NOTE: Promulgated in accordance with the Children's Code, title VI, articles 615 and 616 and title XII, article 1173, R.S. 14:403(H), R.S. 46:51.2(A), R.S 46:56, R.S. 46:1414.1, 42 USC 15601 et seq., and 28 CFR 115.6.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), amended LR 20:198 (February 1994), LR 21:583 (June 1995), LR 23:590 (May 1997), LR 26:790 (April 2000), LR 31:1609 (July 2005), LR 36:838 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Child Welfare Section, LR 42:862 (June 2016).

Marketa Garner Walters
Secretary

1606#015

RULE

Department of Children and Family Services
Economic Stability Section

Pre- and Post-Release Family Strengthening Program
(LAC 67:III.5577)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) has adopted LAC 67:III, Subpart 15, Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55, TANF Initiatives, Section 5577, Pre- and Post-Release Family Strengthening Program.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) block grant, adoption of Section 5577 is necessary to govern the collection of eligible rehabilitation expenditures for incarcerated and released male offenders who are fathers of minor children who are members of a needy family that may be counted as maintenance of effort (MOE) for the TANF grant.

This action was made effective by an Emergency Rule dated and effective February 1, 2016.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives
Chapter 55. TANF Initiatives
§5577. Pre- and Post-Release Family Strengthening Program

A. The department shall enter into a memorandum of understanding with the Louisiana Department of Public Safety and Corrections to collect information on rehabilitation expenditures for the purpose of claiming eligible expenditures that may count as maintenance of effort (MOE) effective Temporary Assistance for Needy Families (TANF) state plan FY 2015 for the TANF grant. The eligible rehabilitation expenditures that may be claimed as MOE are from the following programs.

1. Regional Reentry Program. This program provides the following services to incarcerated male inmates to assist them in becoming self-sustaining individuals upon release: life skills training; two forms of identification; discharge planning which includes residence, employment, and referral/connection to community resources; high school equivalency classes consisting of literacy, adult basic education, and pre-HiSET classes; and vocational training opportunities. The program attempts to alter the offender's negative attitudes and behavior through treatment and training, reconnect families separated by incarceration, and prepare the family to receive the offender upon release.

2. Day Reporting Program. This program offers the following services to released offenders with technical violations who face revocation and re-incarceration: non-medical substance abuse treatment, life skills, employment skills, job placement assistance, cognitive-behavioral interventions, and intensive case management. Additional services may also include adult basic education and HiSET preparation, parenting and family relations skills, anger management, pro-social family and community support, relapse prevention activities, and pro-social cognitive decision-making as needed. The program seeks to identify critical thinking and decision making errors that can be addressed, substance abuse and mental health needs, as well as assist with family dynamics to ensure the offender has the resources and tools necessary to remain in the community and avoid a return to prison.

3. Local Jail Transition Specialists. This program uses mobile transition specialists who provide the following services to incarcerated state offenders that are housed at local jails: parenting and anger management programming, behavior modification, and case management. The program seeks to reduce the offender's risk of recidivism, increase pro-social decision making, and ensure offenders are routed to the regional reentry programs and/or day reporting centers as appropriate.

B. These services meet TANF goal 2, to end dependence of needy parents on government benefits, by promoting job preparation, work, and marriage, and TANF goal 4, to encourage the formation and maintenance of two-parent families.

C. Eligibility for services attributable to TANF/MOE funds is limited to incarcerated and released male offenders who are fathers of minor children who are members of a needy family. A family meets financial eligibility if any member receives a Family Independence Temporary Assistance Program (FITAP) grant, Kinship Care Subsidy Program (KCSP) grant, Supplemental Nutrition Assistance Program (SNAP) benefit, Title XIX (Medicaid) Medical Assistance Program benefit, Louisiana Children's Health Insurance Program (LaCHIP) benefit, or supplemental security income (SSI) benefit.

D. Services are considered non-assistance by the department.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., P.L. 104-193, and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 42:864 (June 2016).

Marketa Garner Walters
Secretary

1606#016

RULE

Department of Economic Development
Office of Business Development

Quality Jobs Program (LAC 13:I.Chapter 11)

These rules are being published in the *Louisiana Register* as required by R.S. 47:4351 et seq. The Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 36:104, has amended and reenacted §§1105, 1107, 1111, 1117, and 1123 and enacted §1133 for the administration of the Quality Jobs Program in LAC 13:I.Chapter 11, to implement fees under the new fee schedule provided for by Act 361 of the 2015 Regular Session of the Louisiana Legislature and to make other changes to bring the rules into compliance with statute and department procedures.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs
Chapter 11. Quality Jobs Program

§1105. Qualified Employers

A. To qualify for a Quality Jobs Program contract, an employer must meet the following requirements.

1. - 2.i. …

3. Payroll

a. - c. …

d. The employer shall have the required annual payroll for new direct jobs and the minimum five new direct jobs for the employer's fiscal year for which the employer is applying for its third annual rebate, or the contract is cancelled and any rebates received must be repaid.

4. - 5.d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2307 (November 2003), amended by the Office of Business Development, LR 37:2590 (September 2011), LR 42:865 (June 2016).

§1107. Application Fees, Timely Filing

A. The applicant shall submit an advance notification on the prescribed form before locating the establishment or the creation of any new direct jobs in the state. All financial incentive programs for a given project shall be filed at the same time, on the same advance notification form. An advance notification fee of $250, for each program applied for, shall be submitted with the advance notification form. An advance notification filing shall be considered by the department to be a public record under *Louisiana Revised Statutes*, title 44, chapter 1, Louisiana Public Records Law, and subject to disclosure to the public.

B. An application for the Quality Jobs Program must be filed with the Office of Business Development, Business Incentives Services, P.O. Box 94185, Baton Rouge, LA 70804-9185 on the prescribed forms no later than 24 months after the department has received the advance notification and fee. Failure to file an application within the prescribed timeframe will result in the expiration of the advance notification.

C. An application fee shall be submitted with the application based on the following:

1. 0.5 percent (.005) times the estimated total incentive rebates (see application fee worksheet to calculate);

2. the minimum application fee is $500 and the maximum application fee is $15,000 for a single project;

3. an additional application fee will be due if a project's employment or investment scope is or has increased, unless the maximum has been paid.

D. An application to renew a contract shall be filed within 60 days of the initial contract expiring. A fee of $250 must be filed with the renewal contract. The board may approve a request for renewal filed more than 60 days but less than five years after expiration of the initial contract, and may impose a penalty for the late filing of the renewal request, including a reduction of the 5-year renewal period.

E. The advance notification, application, or annual certification is not deemed to be filed until all information requested on the form and the required fees are received by LED. Processing fees for advance notifications, applications, or annual certification that have been accepted for eligible projects shall not be refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2308 (November 2003), amended by the Office of Business Development, LR 37:2591 (September 2011), LR 42:865 (June 2016).

§1111. Consultation with the LWC and the LDR

A. The department will provide a copy of the application and all relative information to the LWC and the LDR for review. Either the LWC or the LDR or both may require additional information from the applicant.

B. The department must receive a letter-of-no-objection or a letter-of-approval from the LWC and the LDR, prior to submitting the application to the board for action. If LWC or LDR issues an objection to an application other than an objection because an applicant is in active negotiations with, under audit by or in litigation with the department issuing the objection, the applicant has six months to clear the objection or the application shall be cancelled. The six-month period shall begin on the date LED sends written notification to the company of the objection received from LWC or LDR. Applicants may demonstrate active negotiation to LED by providing written documentation of ongoing, bilateral communications between the applicant or its representative and LWC or LDR as applicable, even if such communication begins after the objection was issued, or other written verification as approved by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:964 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2309 (November 2003), amended by the Office of Business Development, LR 37:2592 (September 2011), LR 42:866 (June 2016).

§1117. The Contract

A. The board, after no objection from the executive director of the LWC and secretary of the LDR, and with the approval of the governor, may enter into a contract with an employer for a period up to five years.

1. - 5. …

6. A fee of $250 shall be filed with a request for any contract amendment, including but not limited to, a change of ownership, change in name, or change in location.

B. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2309 (November 2003), amended by the Office of Business Development, LR 37:2592 (September 2011), LR 42:866 (June 2016).

§1123. Rebate Claim Filing

A. Payroll Rebate

1. An annual certification and a fee of $250 shall be filed annually, commencing within six months after completion of the applicant's fiscal year or execution of the contract, whichever is later. The department may grant an extension of up to an additional six months provided the extension is requested prior to the filing deadline. Failure to file an annual certification within the prescribed timeframe may result in the annual rebate being denied or restricted. An annual certification is required in each year the contract is active, irrespective of whether annual rebates are being claimed.

2. - 6. …

B. Sales and Use Tax Rebate or Investment Tax Credit

1. An annual employee certification report with a $250 annual employee certification report fee must be filed on all active contracts for the employer to qualify for the sales and use tax rebate or investment tax credit under this Chapter. Employers must meet the requirements of the Enterprise Zone legislation and rules to qualify.

2. - 3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2311 (November 2003), amended by the Office of Business Development, LR 37:2594 (September 2011), LR 42:866 (June 2016).

§1133. Applicability of Act 126 of the 2015 Legislative Session to the Quality Jobs Program

A. Pursuant to Act 126 of the 2015 Regular Session of the Louisiana Legislature:

1. for projects filing an advance notification on or after July 1, 2015, from July 1, 2015, through June 30, 2018, annual payroll rebates will be approved for payment at a rate of 5 percent or 6 percent (as applicable) multiplied by 80 percent of payroll. Payroll rebates approved on and after July 1, 2018, will be calculated on 100 percent of payroll. However, annual payroll rebates claims that are due before July 1, 2018, but not timely filed are subject to reduction in the discretion of the Board of Commerce and Industry;

2. projects filing advance notification before July 1, 2015, are not affected by Act 126, and payroll rebates will be calculated on 100 percent of payroll irrespective of date of approval for payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 42:866 (June 2016).

Anne G. Villa
Undersecretary

1606#028

RULE

Department of Economic Development
Office of Business Development

Enterprise Zone Program (LAC 13:I.Chapter 7)

These rules are being published in the *Louisiana Register* as required by R.S. 47:4351 et seq. The Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 36:104 has amended and reenacted §§701, 717, 721, 723, 725, 729, 731, and 739 for the administration of the Enterprise Zone Program in LAC 13:I.Chapter 7 to implement fees under the new fee schedule provided for by Act 361 of the 2015 Regular Session of the Louisiana Legislature and to make other changes to bring the rules into compliance with statute and department procedures.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs
Chapter 7. Enterprise Zone Program

§701. Scope and Qualifications

A. - D. …

E. Qualifications

1.a. To qualify for the enterprise zone program, a business must create permanent full-time net new jobs that are at least equal to the lesser of:

i. five jobs, created within the first two years of the contract period; or

ii. the number of jobs equal to a minimum of 10 percent of the employees employed throughout the United States by the business and its affiliates, a minimum of one, created within the first year of the contract period.

b. For good cause shown, the board may grant an extension of not more than two years to comply with the above job creation requirements.

2. - 4.d. …

5. Limitation on Retail Establishments

a. No retail business with an NAICS code of 44, 45, or 722 is eligible to participate in the program unless it filed an advance notification prior to July 1, 2015.

b. For advance notifications filed on or after June 21, 2013 and before July 1, 2015:

i. retail establishments that are assigned a North American industry classification code beginning with 44 or 45 and have more than 100 employees nationwide including affiliates prior to the contract effective date are not eligible to participate unless:

(a). the business is a grocery store or pharmacy as defined by LED; and

(b). the business is located in an enterprise zone;

ii. however, if a retail establishment filed an advance prior to July 1, 2015, but did not enter into an EZ contract prior to July 1, 2015, it cannot claim EZ incentives until on or after July 1, 2016.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 17:252 (March 1991), amended by Department of Economic Development, Office of Commerce and Industry, LR 22:446 (June 1996), amended by the Department of Economic Development, Office of Business Development, LR 29:2298 (November 2003), LR 37:2368 (August 2011), LR 40:490 (March 2014), LR 42:867 (June 2016).

§717. Annual Employee Certification

A. An annual employee certification report (ECR) must be filed with the business incentive services by May 31 on all active contracts validating compliance with §§709, 711, 713, and 715. An ECR fee of $250 shall be submitted with the report. Failure to file may result in contract cancellation. One 30-day extension may be granted if requested in writing if the request is received prior to the due date of the ECR.

B. - D.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2301 (November 2003), amended LR 37:2373 (August 2011), LR 40:494 (March 2014), LR 42:867 (June 2016).

§721. Advance Notification

A. An advance notification form, and a $250 fee, shall be filed with business incentive services prior to the beginning of the project. All incentives for the same project must be indicated on one advance notification and be identified by one project number. It is not acceptable to apply for Enterprise Zone Program and use the same project in a miscellaneous capital addition application for the Industrial Tax Exemption Program. Internet filing of the advance notification may be made at the department website.

B. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development LR 29:2302 (November 2003), amended LR 37:2373 (August 2011), LR 40:495 (March 2014), LR 42:867 (June 2016).

§723. Application

A. - B. …

C. An application fee equal to 0.5 percent (0.005) of the total estimated tax relief shall be submitted with each application. Total estimated tax relief includes jobs tax credits, state sales and use tax rebates and investment tax credits. Jobs tax credits are calculated by multiplying the total new jobs estimated to be created within the five-year contract period by $2,500 ($5,000 for rubber, aerospace or auto parts manufacturers). An additional application fee will be due if a project's employment or investment is increased from that stated in the application, resulting in a minimum fee of $100 more than previously paid. The minimum fee is $500 and the maximum fee is $15,000 per application. All fees shall be made payable to Louisiana Department of Economic Development.

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR

29:2303 (November 2003), amended LR 37:2373 (August 2011), LR 40:495 (March 2014), LR 42:867 (June 2016).

§725. Recommendations of the Secretaries of Economic Development and Revenue

A. …

B. The department must receive a letter-of-no-objection or a letter-of-approval from the LDR, prior to submitting the application to the board for action. If LDR issues an objection to an application other than an objection because an applicant is in active negotiations with, under audit by or in litigation with LDR, the applicant has six months to clear the objection or the application shall be cancelled. The six-month period shall begin on the date LED sends written notification to the company of the objection received from LDR. Applicants may demonstrate active negotiation to LED by providing written documentation of ongoing, bilateral communications between the applicant or its representative and LDR, even if such communication begins after the objection was issued, or other written verification as approved by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 29:2303 (November 2003), amended LR 37:2374 (August 2011), LR 40:495 (March 2014), LR 42:868 (June 2016).

§729. Enterprise Zone Program Contract

A. …

B. Business incentive services must be notified, on the prescribed form, of any change that will affect the contract. A fee of $250 shall be submitted with a request for any contract amendment. This includes, but is not limited to, changes in the ownership or operational name of the business holding a contract, or the suspension, closing, or abandonment of operations. Failure to report any changes within six months may constitute a breach of contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 37:2374 (August 2011), amended LR 40:496 (March 2014), LR 42:868 (June 2016).

§731. Project Completion

A. Within six months after the project ending date or the governor's signature on the contract, whichever is later, the business shall file with business incentive services, on the prescribed form, a project completion report and an affidavit of final cost. A project completion report fee of $250 and an affidavit of final cost fee of $250 shall be submitted with these forms or any amendments to these forms.

B. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 37:2374 (August 2011), amended LR 40:496 (March 2014), LR 42:868 (June 2016).

§739. Fees

A. Advance notifications, applications, and affidavits of final cost are not deemed to be filed until all information requested on the form and the required fees are received by LED. Processing fees for advance notifications, applications, or annual certifications that have been accepted for eligible projects shall not be refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1786(5).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 37:2376 (August 2011), amended LR 40:497 (March 2014), LR 42:868 (June 2016).

Anne G. Villa
Undersecretary

1606#029

RULE

Office of the Governor
Board of Examiners of Certified Shorthand Reporters

Certification Affidavit of Court Reporting Firm
(LAC 46:XXI.1303)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Board of Examiners of Certified Shorthand Reporters has adopted changes made to the court reporting procedures Rule.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXI. Certified Shorthand Reporters
Chapter 13. Code of Ethics

§1303. Employment Relationship with Court Reporting Firm

A. - D. …

E. Certification Affidavit of Court Reporting Firm

CERTIFICATION AFFIDAVIT OF COURT REPORTING FIRM

STATE OF _____
PARISH OR COUNTY OF _____

BEFORE ME, the undersigned authority, duly qualified to take acknowledgments and administer oaths within the state and locality inscribed above, personally appeared _____ ("Affiant"), who is representing _____, a _____ [state] corporation [or limited liability company or other form of business organization] that is doing business in Louisiana as a court reporting firm as defined by Acts 2014, No. 839 (hereinafter, "Court Reporting Firm"). The physical address of the entity's principal place of business is _____[street and suite number, if any] in _____[city], State of _____, Zip _____, Telephone: ( ) _____, Email _____. After being duly sworn, Affiant did attest as follows:

1. Affiant is a knowledgeable representative who is authorized to act on behalf of the Court Reporting Firm in executing this Certification Affidavit.

2. The Court Reporting Firm has engaged a Louisiana licensed court reporter to perform court reporting services in connection with the deposition(s) of _____ [identify by name each deponent covered by this certification; attach additional sheets if necessary] to be taken in the following proceeding: _____ vs. _____, pending in the _____ Court under matter number _____.

3. Affiant certifies, after performing due diligence, that the Court Reporting Firm has no prohibited employment or contractual relationship, direct or indirect, under Louisiana

Code of Civil Procedure Article 1434 with a party litigant in the matter for which the court reporter's services have been engaged. Affiant further acknowledges affiant's duty to provide information and will provide information promptly to the Louisiana Board of Examiners of Certified Shorthand Reporters (hereinafter, "CSR Board") regarding any change in these relationships or in Affiant's knowledge of these relationships.

4. Affiant attaches hereto the schedule of all charges and other disclosures that the court reporter must have available at the time of taking the deposition.

5. Affiant further states that Affiant is familiar with the nature of an oath and with penalties as provided by applicable state laws for falsely swearing to statements made in an instrument of this nature. Affiant further certifies that Affiant has read and understands the full facts and content of this Affidavit.

SIGNATURE OF AFFIANT:_____
Sworn before me this me this _____ day of _____, 20___

_____
Notary Public_____
Print name:
My commission expires:

Form 10/15 Effective July 1, 2016

Each completed Firm Certification Affidavit in the foregoing form must be filed with the CSR Board by the taking court reporter within 30 days of the date of the deposition. The filing does not need to include the schedule of charges.

I, a Louisiana Licensed Court Reporter, as the officer who took the depositions(s), hereby submit this certification affidavit via _____ [facsimile/e-mail] within 30 days of the date of the depositions to which this certification applies. I further certify that I have received the required schedule of all charges and other disclosures from the Court Reporting Firm in connection with this certification and acknowledge my obligation to maintain the schedule for a minimum of three years.

I have read and confirmed that the language of the certification affidavit conforms with the form promulgated by the CSR Board. I have listed below or on additional pages, if necessary, the name and contact information for each taking attorney.

_____ _____
Signature Date

_____ _____
Printed Name LA CCR NO.

Taking Attorney Name:_____
Firm Name:_____
Address: _____
_____
Phone: _____ Email: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2557(B), R.S. 37:2555(G), and R.S. 37:2556(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 41:335 (February 2015), amended LR 42:868 (June 2016).

Judge Paul A. Bonin
Chair

1606#009

RULE

Office of the Governor
Division of Administration
Office of Technology Services

Information Technology Contracts for Consulting Services
(LAC 34:I.Chapter 55)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Office of the Governor, Division of Administration, Office of Technology Services (OTS) enacts LAC 34:I.5521, LAC 34:I.5523, and LAC 34:I.5525 for the procurement of information technology (IT) consulting services, IT systems, IT services, IT equipment or similar services contracts as authorized by R.S. 39:200(L). OTS has adopted provisions which will allow it the ability to make multiple awards in information technology consulting services contracts.

Title 34
GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL
Part I. Purchasing
Subpart 3. Equipment-Lease-Purchase Program
Chapter 55. Procedures for Information Technology Hardware, Software, Software Maintenance and Support Services and Hardware Maintenance

§5521. Procurement of Information Technology Consulting Services, Information Consulting Systems, Information Technology Services, Information Technology Equipment Using Multiple Awards

A. A multiple award is an award of an indefinite quantity contract for one or more information technology (IT) consulting services, IT systems, IT services, IT equipment or similar service to more than one contractor through the request for proposals or invitation to bid process. A multiple award may be in the state's best interest when award to two or more contractors is needed for adequate delivery, service, or availability. In making a multiple award, care shall be exercised to protect and promote the principles of competitive solicitation. Multiple awards shall not be made when a single award will meet the state's needs without sacrifice of economy or service. Awards shall not be made for the purpose of dividing the business or avoiding the resolution of tie proposals. Any such awards shall be limited to the least number of IT consultants, IT systems, IT services, or IT equipment necessary to meet the valid requirements of the Office of Technology Services. It shall be mandatory that the requirements of the Office of Technology Services that can be met under the contract be obtained in accordance with the contract, provided, that:

1. the state shall reserve the right to take solicitations separately if a particular service requirement arises which exceeds the scope specified in the contract;

2. the state shall reserve the right to take solicitations separately if the contract will not meet a nonrecurring or special need of the state;

3. the state reserves the right to use its own personnel to provide similar services when such services are available and satisfy the Office of Technology Services need.

B. Where multiple award contracts exist for IT consulting services, IT systems, IT services, IT equipment or similar service, the Office of Technology Services may utilize any of the following procedures prior to issuing task orders.

1. The Office of Technology Services may prepare a request for response that may include, if applicable, the following (A request for response is an informal process used to seek additional information to assist the state chief information officer (CIO) make a best value determination.):

a. a performance-based statement of work that includes such things as:

i. the work to be performed;

ii. location of the work;

iii. period of performance;

iv. deliverable schedule;

v. applicable performance standards;

vi. acceptance criteria;

vii. any special requirements (e.g. security clearances, special knowledge, etc.);

viii. the products or services required using generic description of products or services whenever possible;

b. if necessary or applicable, a request for submittal of a project plan for performing the task and information on the contractor's experience and/or past performance performing similar tasks;

c. a request for submittal of a firm-fixed total price for the product and/or service which are no higher than prices in the multiple award contract;

d. submit the request for response to at least three multiple award contract holders, whenever available, offering functionally equivalent products and/or services that will meet the Office of Technology Services' needs.

2. The CIO may issue task orders by allowing selected awardees to give oral presentations in lieu of written response to a request for response.

3. The CIO need not contact awardees prior to issuing an order if the CIO has information, such as price sheets or catalogs available to determine the best value for the state.

C. Evaluation and Selection of the Contractor to Receive the Task Order

1. In making a best value determination, the CIO shall place the task order(s) with the contractor(s) that meet(s) the Office of Technology Services' needs. The Office of Technology Services should give preference (where allowable) to small entrepreneurships or small and emerging businesses when two or more contractors can provide the products and/or services at the same firm-fixed total price.

2. A best value determination is one that considers, in addition to underlying contract pricing, such factors as:

a. probable life of the product selected;

b. technical qualifications;

c. delivery terms;

d. warranty;

e. maintenance availability;

f. administrative costs;

g. compatibility of a product within the user's environment;

h. user's familiarity with the item or service; and

i. qualifications and experience of proposed staff.

3. The Office of Technology Services shall document in the procurement file the evaluation of the contractors' response that formed the basis for the selection. The documentation shall identify the contractor from which the product and/or services were purchased, the products and/or services purchased, and the cost of the resulting order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:200(L).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Technology Services, LR 42:869 (June 2016).

§5523. Intent to Use

A. If a multiple award is anticipated prior to issuing a solicitation, the method of award should be stated in the solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:200(L).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Technology Services, LR 42:870 (June 2016).

§5525. Determination Required

A. The chief information officer shall make a written determination setting forth the reasons for a multiple award, which shall be made a part of the procurement file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:200(L).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Technology Services, LR 42:870 (June 2016).

Richard Howze
Chief Information Officer

1606#006

RULE

Office of the Governor
Real Estate Appraisers Board

License Requirements (LAC 46:LXVII.Chapter 103)

Under the authority of the Louisiana Real Estate Appraisers Law, R.S. 37:3397 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Appraisers Board has amended Chapter 103 (License Requirements).

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate
Subpart 2. Appraisers

Chapter 103. License Requirements

§10308. Appraiser Trainees

A. - A.1. …

2. The certified residential or certified general real property appraiser shall be responsible for the conduct of the licensed appraiser trainees and shall supervise their work product, in accordance with the guidelines and requirements

of the "2016-2017 Uniform Standards of Professional Appraisal Practice" or its successor.

2.a. - 5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 31:1333 (June 2005), amended LR 37:333 (January 2011), LR 41:368 (February 2015), LR 42:870 (June 2016).

§10309. Application for Experience Credit

A. …

B. Experience credit shall be approved by the board in accordance with *The Real Property Appraiser Qualification Criteria*, May 2015, prescribed by the Appraiser Qualifications Board of the Appraisal Foundation (AQB). Calculation of experience hours shall be based solely on actual hours of experience.

C. Only those real property appraisals consistent with the "Uniform Standards of Professional Appraisal Practice" or its successor will be accepted by the board for experience credit.

D. - E. …

AUTHORITY NOTE:Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1426 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1333 (June 2005), LR 37:333 (January 2011), LR 39:310 (February 2013), LR 41:368 (February 2015), LR 42:871 (June 2016).

§10313. General Experience Requirements

A. ...

1. When an appraisal report is signed by more than one person, credit for said assignment shall be claimed according to the number of actual hours worked by each person. For the purpose of granting credit, a person signing in the capacity of a review or supervisory appraiser is not considered as a co-signer on the report, provided that his or her role as such is clearly indicated in the report.

A.2. - B.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1427 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board of Certification, LR 29:126 (February 2003), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1334 (June 2005), LR 37:333 (January 2011), LR 41:369 (February 2015), LR 42:871 (June 2016).

§10317. Co-Signed Reports, Reviews, Articles and Textbooks

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999), repealed by the Office of the Governor, Real Estate Appraisers Board, LR 42:871 (June 2016).

§10319. Temporary Practice License

A. An applicant shall be granted a temporary practice license to perform the appraisal assignment described in his or her application, if:

1. the applicant has filed a properly completed application;

2. the applicant has submitted the required fee with the application;

3. the applicant has satisfied the board as to his qualifications and eligibility for temporary licensing privileges; and

4. the time projected by the applicant for completion of the assignment is reasonable, given the scope and complexity of the assignment.

B. Application for a temporary practice license shall be made on forms prescribed by the board.

C. Licensing privileges granted under the provisions of this Subsection shall expire upon completion of the appraisal assignment described in the application for temporary licensing.

D. The board shall extend the applicant's temporary practice license expiration date, if the applicant shows, in writing, that additional time is needed to complete the assignment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 42:871 (June 2016).

Bruce Unangst
Executive Director

1606#021

RULE

Office of the Governor
Real Estate Appraisers Board

Prohibited Activities
(LAC 46:LXVII.30701, 30901, 31101, and 31103)

Under the authority of the Louisiana Real Estate Appraisers Law, R.S. 37:3397 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Appraisers Board has amended Chapters 307 (Prohibited Activities), 309 (Disciplinary Authority; Enforcement and Hearings), and 311 (Compensation of Fee Appraisers).

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate
Subpart 3. Appraisal Manaagement Companies
Chapter 307. Prohibited Activities

§30701. Improper Influence

A. - A.6. …

7. committing an act or practice that impairs, or attempts to impair, an appraiser's independence, objectivity or impartiality;

8. making referrals to Louisiana appraisers for appraisal services during any period in which the appraisal management company license has expired; or

9. requiring an appraiser to indemnify it or hold it harmless from any liability, damage, losses or claims arising out of the services provided by it. This prohibition shall not preclude indemnification agreements for services performed by the appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3415.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 37:2408 (August 2011), amended LR 42:871 (June 2016).

Chapter 309. Disciplinary Authority; Enforcement and Hearings

§30901. Causes for Censure, Suspension, Revocation, or Denial of a License

A. The Louisiana Real Estate Appraisers Board may censure, deny, suspend, or revoke an appraisal management company license, or may restrict or limit the activities of an appraisal management company or a person who owns an interest in or participates in the business of the appraisal management company, if the board finds that any of the following circumstances apply.

1. - 6. …

7. The licensee failed to notify the board within ten days of any disciplinary action imposed against the licensee, its owners, or employees in any state.

B. - D.2.d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3415.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 37:2408 (August 2011), amended LR 42:872 (June 2016).

Chapter 311. Compensation of Fee Appraisers

§31101. General Provisions; Customary and Reasonable Fees; Presumptions of Compliance

A. - C. …

D. Except in the case of breach of contract or substandard performance of real estate appraisal activity, an appraisal management company shall make payment to an independent contractor appraiser for the completion of an appraisal or appraisal review assignment:

1. within 30 days after the appraiser provides the completed appraisal report to the appraisal management company.

2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3415.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 39:3073 (November 2013), amended LR 42:872 (June 2016).

§31103. Disclosure

A. When an appraisal obtained through an appraisal management company is used for loan purposes, the borrower or loan applicant shall be provided with a written disclosure of the total compensation to the appraiser or appraisal firm within the certification body of the appraisal report that is transmitted to the client/intended end user and it shall not be redacted or otherwise obscured.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3415.1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 42:872 (June 2016).

Bruce Unangst
Executive Director

1606#020

RULE

Department of Health and Hospitals
Board of Dentistry

Advertising and Soliciting by Dentists and Complaints and Investigation (LAC 46:XXXIII.301 and 801)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry has amended LAC 46:XXXIII.301 and 801.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Profession

Chapter 3. Dentists

§301. Advertising and Soliciting by Dentists

A. - E.5. …

6. advertises any procedure mandated or prohibited by law, such as advertising that a dentist has "state of the art sterilization," when state of the art sterilization is required of all dentists;

E.7. - J. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended 1971, amended and promulgated LR 13:179 (March 1987), amended by Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18:739 (July 1992), LR 20:657 (June 1994), LR 21:567 (June 1995), LR 22:23 (January 1996), LR 22:1215 (December 1996), repromulgated LR 23:199 (February 1997), amended LR 23:1524 (November 1997), LR 25:509 (March 1999), LR 25:1476 (August 1999), LR 26:690 (April 2000), LR 27:1890 (November 2001), LR 28:1776 (August 2002), LR 28:2512 (December 2002), LR 30:2305 (October 2004), LR 32:243 (February 2006), LR 37:2150 (July 2011), LR 42:872 (June 2016).

Chapter 8. Complaints, Investigation, and Informal Resolution

§801. Complaints and Investigation

A. Complaints to the board about licensees or about individuals practicing without a license must be in writing to be considered by the board. Complaints, other than complaints involving advertising violations, must also be signed by the person filing the complaint. However, the board president has the discretion to accept an anonymous complaint or oral complaint when the complaint, in the board president's judgement with the agreement of one other board member, appears to indicate a significant potential for harm to the public. The board shall keep a record of the number of complaints per year, other than advertising complaints, that were accepted despite being anonymous and/or oral. This record of the number of anonymous and/or oral complaints accepted shall be kept in accordance with the board's record retention schedule, and shall be considered a public record, although details about the

complaints are not public records and shall remain privileged and confidential pursuant to applicable statutes. Complaints can come from any source, including but not limited to the general public, board members and governmental agencies or their contractors.

B. - D. …

E. The subject of the complaint will be provided with a copy of the complaint no later than the date on which the complaint is provided to the DOC unless the board president, in his discretion, determines that:

1. providing the complaint to the subject would jeopardize a board investigation, in which case a copy of the complaint will be provided once the board president determines that providing the complaint would no longer jeopardize any investigation, but in any event, no later than the date of any informal hearing on the matter; or

2. the board president, in his discretion feels that there is good cause to keep the identity of the complainant confidential, in which case a detailed summary of the facts of the complaint shall be provided, withholding any information that might reveal the identity of the complainant.

F. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:56 (January 2016), amended LR 42:872 (June 2016).

Arthur Hickham, Jr.
Executive Director

1606#005

RULE

Department of Health
Board of Nursing

Nursing Practice (LAC 46:XLVII.Chapter 37)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, the Louisiana State Board of Nursing (LSBN) has amended LAC 46:XLVII.3703.A.a.iv.c and adopted LAC 46:XLVII.3709. The Nurse Practice Act provides that the registered nurse and APRN may delegate selected nursing functions approved by the board; however medication administration has previously been considered a complex task that has not been deemed delegable to unlicensed personnel in any circumstances. The Rule changes provide for such delegation in limited and specific circumstances. The Act and rules assign to the registered nurse and APRN the responsibility of providing the same quality of patient care as provided by the registered nurse when tasks are delegated. The administrative rules also address specific criteria that must be met in order for the registered nurse to delegate tasks.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLVII. Nurses: Practical Nurses and Registered Nurses
Chapter 37. Nursing Practice
§3703. Definition of Terms Applying to Nursing Practice

A. Terms applying to legal definitions of nursing practice, R.S. 37:913(13) and (14).

* * *

Delegating Nursing Interventions—entrusting the performance of selected nursing tasks by the registered nurse to other competent nursing personnel in selected situations. The registered nurse retains the accountability for the total nursing care of the individual. The registered nurse is responsible for and accountable to each consumer of nursing care for the quality of nursing care he or she receives, regardless of whether the care is provided solely by the registered nurse or by the registered nurse in conjunction with other licensed or unlicensed assistive personnel.

a. - a.iv.(b). …

(c). The administration of medications is a complex task when it requires the consideration of a number of factors and the formulation of judgments according to those factors. Delegation of medication administration to unlicensed assistive personnel is prohibited except as authorized and provided for in LAC 46:XLVII.3709.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, R.S. 37:911, R.S. 37:913 and R.S. 37:935.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing LR 7:79 (March 1981), amended LR 10:598 (August 1984), LR 12:677 (October 1986), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), LR 32:245 (February 2006), amended by the Department of Health, Board of Nursing, LR 42:873 (June 2016).

§3709. Delegation of Medication Administration to Unlicensed Assistive Personnel in Outpatient Clinic Settings

A. Introduction. Registered nurses and advanced practice registered nurses may delegate medication administration in outpatient clinic settings for patients with stable and predictable health conditions under specific provisos as provided for in this Subpart. When delegating to unlicensed assistive personnel, the registered nurse or advanced practice registered nurse is authorizing the unlicensed assistive personnel to perform a task that is normally within the registered nurse's or advanced practice registered nurse's scope of practice. Prior to agreeing to delegate tasks including medication administration, the registered nurse or advanced practice registered nurse is responsible for understanding rules relative to delegating nursing care and for achieving the competence to delegate and supervise.

B. Definitions

Administration of Medication—removal of an individual dose from a previously dispensed or distributed, properly labeled container, verifying the dose and medication with the prescriber's order, giving the individual dose to the proper patient at the proper time by the proper route and promptly recording the time and dose given.

Delegation—entrusting the performance of selected nursing tasks by the registered nurse to other competent nursing personnel in selected situations. The registered nurse or advanced practice registered nurse retains the accountability for the total nursing care of the individual. The registered nurse and advanced practice registered nurse is responsible for and accountable to each consumer of nursing care for the quality of nursing care he or she receives, regardless of whether the care is provided solely by the registered nurse/advanced practice registered nurse or by the registered nurse/advanced practice registered nurse in conjunction with other licensed or unlicensed assistive personnel.

Direct Supervision—the registered nurse or advanced practice registered nurse is physically present in the office or suite where the procedure, including medication administration, is being performed at all times that the unlicensed assistive personnel is on duty providing services. Direct supervision also includes ongoing oversight, follow-up and evaluation of the individual patient and the ongoing oversight, follow-up and evaluation of competency of the unlicensed assistive personnel.

Outpatient Clinic Setting—nonresidential facilities, that provides treatment for health conditions that is obtained on an outpatient basis which allows patients to return to and function in their usual environment. Outpatient clinic settings for the purpose of this subpart do not include facilities such as hospitals, emergency rooms, and ambulatory surgical centers.

Person-Specific—health care needs and related factors in order to meet the unique needs of the specific person receiving care.

Stable and Predictable—a situation in which the person's clinical and behavioral status is determined by a licensed registered nurse or advanced practice registered nurse to be non-fluctuating and consistent. A stable and predictable condition involves long term health care needs which are recuperative in nature, do not require the regular scheduled presence or reassessment of a licensed nurse, and is not characterized by rapid changes.

Unlicensed Assistive Personnel—an unlicensed individual who is trained to function in an assistive role to the licensed nurse in the provision of patient activities as delegated by the nurse. Unlicensed assistive personnel have no authority to provide nursing care, despite any education or training, without the delegation of such care and tasks from registered nurses or advanced practice registered nurses.

C. Responsibilities. Registered nurses and advanced practice registered nurses may delegate medication administration in outpatient clinic settings provided the following conditions are met.

1. The registered nurse or advanced practice registered nurse has assessed the health status of the individual immediately prior to the delegation, and the patient's health condition is determined to be stable and predictable.

2. The registered nurse or advanced practice registered nurse provides direct supervision and retains the accountability for the total nursing and advanced practice nursing care of the individual and retains the responsibility to:

i. assess the patient;

ii. develop and implement the plan of care;

iii. determine that the medication administration can be safely and legally delegated;

iv. ensure the medication administration is properly documented in the patient's record;

v. ascertain the training and competency of the unlicensed assistive personnel to whom the registered nurse or advanced practice registered nurse delegates the administration of medication;

vi. rescind the delegation if the patient's condition changes, it is determined that the unlicensed assistive personnel is not safe or competent to administer the medication, or as otherwise determined by the registered nurse or advanced practice registered nurse.

3. The delegation of medication administration to unlicensed assistive personnel must be person-specific, and the unlicensed assistive personnel must:

i. be adequately trained for the task;

ii. have demonstrated that the task has been learned;

iii. be able to perform the task safely in the given nursing situation;

iv. be safe for the person to carry out the task;

v. have appropriate supervision available during the task implementation.

4. The delegation of medication administration by the unlicensed assistive personnel must be an established policy of the practice setting and include all aspects of LAC 46:XLVII.3709.G at a minimum. The policy must be written, recorded, and available to all.

5. The registered nurse or advanced practice registered nurse and the unlicensed assistive personnel must be employed by the same organization or otherwise be formally accountable to the same institution or organization.

D. Prohibitions and Exceptions

1. Under no circumstances shall a registered nurse or advanced practice registered nurse delegate the administration of:

i. drugs given by the intravenous route;

ii. blood and blood products;

iii. investigational drugs;

iv. cancer therapeutic agents;

v. total parenteral nutrition solutions;

vi. drugs given through accessing an implanted device;

vii. insulin;

viii. oxygen;

ix. controlled substances;

x. anesthetic agents;

xi. any agents used in the provision of cosmetic and aesthetic dermatological procedures.

2. The delegation of medication administration is person-specific and is in no way considered a certification or skill that authorizes the unlicensed assistive personnel to

utilize the title or credentials of other professionals including licensed persons.

3. These rules do not apply to inpatient facilities, licensed emergency departments of a hospital, long term care facilities, any residential facilities, or any other facility in which a registered nurse is required to be present by statute or administrative rule.

4. This Subpart, LAC 46:XLVII.3709, does not apply to nursing students enrolled in board approved nursing programs while practicing under the direct supervision of qualified faculty and preceptors.

5. The registered nurse or advanced practice registered nurse shall not delegate medication administration or any other task if the intervention requires the registered nurse's or advanced practice registered nurse's judgment to safely alter the standard procedure in accordance with the needs of the patient; or requires the consideration of a number of factors in order to perform the procedure; or requires judgment to determine how to proceed from one step to the next.

6. The reconstitution of and the calculation of any medication doses except for measuring a prescribed amount of a liquid medication for oral administration or breaking a tablet for administration as instructed by the registered nurse or advanced practice registered nurse shall not be delegated to unlicensed assistive personnel.

7. The registered nurse or advanced practice registered nurse shall not delegate any responsibilities of delegating including but not limited to all provisions in LAC 46:XLVII.3709.C.

E. Training. In order for a registered nurse or advanced practice registered nurse to be authorized by the board to delegate medication administration under LAC 46:XLVII.3709, there must be documented, formal training performed by a registered nurse or advanced practice registered nurse of the unlicensed assistive personnel.

1. The formal training must include, at a minimum, didactic and demonstrated competency in:

i. legal aspects of administering medication;

ii. medical terminology;

iii. proper documentation;

iv. principles and rights of medication administration;

v. administration techniques; and

vi. patient consent.

F. Organizational Policy. Registered nurses or advanced practice registered nurses and facilities that allow for delegating medication administration to unlicensed assistive personnel are responsible for ensuring that there is an approved organizational policy in place that:

1. addresses and allows delegation of medication administration to unlicensed assistive personnel;

2. establishes and provides for formal processes for documenting and reporting medication errors as committed by the unlicensed assistive personnel. Such provisions must provide for remediation of the unlicensed assistive personnel, registered nurse or advanced practice registered nurse, and system as appropriate;

3. provides mechanisms for documenting in writing the training and ongoing competency of the unlicensed assistive personnel and ensures that the delegating registered nurse or advanced practice registered nurse has access to such competence information;

4. provides for a formally documented, written annual review and re-assessment of competency of the unlicensed assistive personnel on no less than an annual basis and ensures that the delegating registered nurse or advanced practice registered nurse has access to such competence information;

5. provides for and recognizes that the decision to delegate tasks including delegation of medication administration in any specific situation is at the final discretion of the registered nurse or advanced practice registered nurse who is providing direct and immediate care to the patient;

6. provides for documentation and review of other pertinent procedures such as needle stick injuries, universal precautions, and infection control.

G. Limitations

1. All unlicensed assistive personnel who have been trained or otherwise recognized or authorized to administer medication in another jurisdiction or under the provisions of another code, rule, statute or other law body in Louisiana must meet the provisions of LAC 46:XLVII.3709 in order to administer medication in outpatient clinic settings through the delegation from registered nurses and advanced practice registered nurses.

H. Failure to abide by any provision of this Part may result in formal disciplinary action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Nursing, LR 42:873 (June 2016).

Karen C. Lyon
Executive Director

1606#010

RULE

Department of Health and Hospitals
Board of Nursing

Undergraduate and Graduate Nursing Education
Degree Programs (LAC 46:XLVII.Chapter 35 and 4509)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, the Louisiana State Board of Nursing (LSBN) has amended Chapter 35 and Chapter 45. The Rule changes allow the Louisiana State Board of Nursing to combine Chapter 35, which focuses on undergraduate nursing programs, and Chapter 45, Section 4509, which focuses on graduate nursing programs. In addition, Chapter 35 has been revised to align with current national nursing trends and practices. Chapter 35 provides guidelines regarding the following for undergraduate and graduate nursing education programs: (1) program approval; (2) program closure; and (3) day-to-day operating requirements. These changes provide clarity to expectations of the Louisiana State Board of Nursing for in-state and out-of-state undergraduate and graduate nursing education programs.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLVII. Nurses: Practical Nurses and Registered Nurses
Subpart 2. Registered Nurses
Chapter 35. Undergraduate and Graduate Nursing Education Degree Programs

§3501. Duties of the Board Directly Related to Undergraduate and Graduate Nursing Education Degree Programs

A. The authority of the Board of Nursing relating to undergraduate and graduate nursing education degree programs is contained in R.S. 37:911 et seq., and as amended.

B. R.S. 37:918, duties and powers of the board, states that the board shall:

1. establish and publish minimum curriculum requirements and standards for individuals seeking to be licensed under this Part;

2. approve undergraduate and graduate nursing education degree programs whose graduates meet the licensing requirements of the board;

3. provide for hearings for undergraduate and graduate nurse education degree programs when approval is denied or withdrawn;

4. establish and publish standards of professional nursing practice and education in accordance with standards nationally accepted by the profession; and

5. adopt and revise rules and regulations necessary to enable the board to implement this Part in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:184 (April 1977), amended LR 10:1023 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), LR 42:876 (June 2016).

§3503. Definitions

Accreditation—an external quality review process used in U.S. education and performed by peers to assure that postsecondary institutions and other education providers meet and maintain minimum standards of quality and integrity regarding academics, administration, structure, function, performance and related services. The goal of accreditation is to ensure that education provided by institutions of higher education meets acceptable levels of quality.

1. *Regional Accreditation*—accreditation by an agency recognized by the Council on Higher Education Accreditation and/or the U.S. Department of Education to ensure the quality and integrity of public and private, mainly non-profit, degree-granting, two--- and four-year, institutions.

2. *National Nursing (Program) Accreditation*—accreditation by an agency recognized by the Council on Higher Education Accreditation and/or the U.S. Department of Education to ensure the quality and integrity of diploma, associate, baccalaureate, graduate, and residency programs in nursing.

Acknowledge—recognition of receipt of item by the board or board staff that does not require board approval.

Advanced Practice Nursing Role—the advanced practice role for which a graduate nursing education degree program prepares its graduates. The advanced practice role categories for licensure include certified nurse midwives (CNM), certified registered nurse anesthetists (CRNA), clinical nurse specialists (CNS), and nurse practitioners (NP).

Approval—legal recognition indicating the undergraduate and/or graduate nursing education degree program(s) has met the legal standards established by the board.

Approved Program—an undergraduate and/or graduate nursing education degree program(s) approved by the board.

* * *

Clinical Facility, Major—a clinical facility utilized to provide more than half of the clinical experiences to more than half of the students enrolled in the undergraduate and/or graduate nursing education degree program(s).

Cohort—students in a group admitted simultaneously with the same expected graduation date.

Competency—an expected level of performance that results from an integration of knowledge, skills, abilities, and judgment. Knowledge encompasses the scope of practice, standards of practice, standards of professional performance, content from science and the humanities, practical experience and personal capabilities. Skills include psychomotor, communication, interpersonal, and diagnostic skills. Ability is the capacity to act effectively and requires listening, integrity, self-knowledge of strengths and weaknesses, positive self-regard, emotional intelligence, and openness to feedback. Judgment includes critical thinking, problem solving, ethical reasoning, and decision-making.

Cooperating Agency—Repealed.

Course—a distinct unit of instruction which has been organized for presentation with a specific time frame. This includes all related learning experiences deemed necessary by the faculty to meet the stated outcomes.

Curriculum—the planned studies and learning activities designed to lead to graduation and eligibility for registered nurse licensure and/or advanced practice registered nurse licensure.

Distance Education—instruction offered by any means where the student and faculty are in separate physical locations. Teaching methods may be synchronous or asynchronous and shall facilitate and evaluate learning in compliance with Board of Nursing approval status/regulations.

Distance Education Technology—the methods and technical support used to teach undergraduate and graduate students who may be physically distant from the faculty.

Faculty—

1. *Chief Nurse Administrator*—the registered nurse with a graduate degree in nursing with the authority and responsibility for the administration of the undergraduate and/or graduate nurse education degree program(s) and implementation of the curriculum. This title is used regardless of the person's official title in the parent institution.

2. *Nurse Faculty*—a doctorate or master's in nursing prepared registered nurse and/or advanced practice registered nurse with academic preparation and experience. Nurse faculty are underwritten contractual agreement with a parent institution for administration, teaching, research, service, or clinical education of students in programs

preparing candidates for registered nurse and/or advanced practice registered nurse licensure.

3. *Support Faculty*—an individual with academic preparations and experience in their respective professional discipline that provides services or teaches support courses.

4. *Graduate Assistant*—a registered nurse who serves in a support role at a university while completing graduate or post-graduate education. Graduate assistants are not faculty exceptions.

5. *Preceptor (Undergraduate)*—a baccalaureate prepared registered nurse with one year experience, who is employed in a clinical setting and serves as a role model, resource person, and clinical educator to enhance the learning experiences of a nursing student.

6. *Preceptor (Graduate)*—an advanced practice registered nurse, physician, or dentist, who provides guidance, serves as a role model, resource person, and clinical educator to enhance the learning experiences of an advanced practice nursing student.

7. *Joint Appointment*—a registered nurse employed by a clinical agency who holds at least the minimum qualifications of a nurse faculty member and who has predetermined responsibilities with both the educational institution and the clinical agency in the same time period. There shall be clearly defined schedules and financial agreements for both the educational program and the clinical agency.

Goals—general aims of the program that are consistent with the institutional and program missions.

Graduation Rate—percentage of a cohort of students who complete their program within 150 percent of the published time for the program.

Major Change in Curriculum—Repealed.

1. - 4. Repealed.

Major/Substantive Change in Approved Nursing Education Degree Program—a change in the current established approved nursing education degree program. Any one of the following shall be deemed to constitute a major/substantive change:

1. alteration, other than editorial, in program's mission/philosophy and outcomes (refer to §3511);

2. in legal status of the program (refer to §3513);

3. change in status with regulatory, governmental or institutional accreditation (refer to §3513);

4. reduction in resources impacting the sustainability of the undergraduate and/or graduate nurse education degree program(s) (refer to §3519);

5. reduction in faculty size exceeding 25 percent and in faculty exceptions exceeding 20 percent of full-time faculty employed in accordance with §3515;

6. addition or deletion of clinical role/population preparing advance practice registered nurses in an approved graduate nursing education degree program in accordance with §3507;

7. implementation of innovative strategies in undergraduate and/or graduate nursing education degree program(s) with a focus to include, but not limited to student enrollment, retention, and graduation rates; test previous models of nursing education and develop and test new models of nursing education;

8. addition or deletion of more than 10 percent of the semester credit hours from the undergraduate and/or graduate nurse education degree program(s) of studies;

9. in student enrollment, achievement completion rates, graduation rates, pass rates for the National Council licensure examination-registered nurse and certification; and/or

10. addition or deletion of a major clinical facility providing students' clinical experiences (refer to §3529).

Mission Statement—a statement of purpose defining the unique nature and scope of the parent institution or the nursing education degree program.

Nursing Education Degree Program—a program whose purpose is to prepare graduates eligible to apply to write the registered nurse licensing examination and/or certification and licensure as an advanced practice registered nurse.

1. ...

2. *Baccalaureate*—a program leading to a bachelor's degree in nursing conducted by an educational unit that is an integral part of a college or university.

3. ...

4. *Advanced Practice Registered Nurse (APRN)*—a graduate nursing education degree program that prepares an individual for certification and licensure in the roles of certified nurse midwives (CNM), certified registered nurse anesthetists (CRNA), clinical nurse specialists (CNS), and nurse practitioners (NP) and awards master's degree, practice doctorate degree or post-master's certificate.

5. *Post-Master's Certificate*—a post-master's or post-doctoral nursing education program of study that awards a certificate of completion in the roles of certified nurse midwives (CNM), certified registered nurse anesthetists (CRNA), clinical nurse specialists (CNS), and nurse practitioners (NP).

6. *Post-Graduate Residency*—a program that provides education and support necessary to develop the judgment, skill and knowledge for a successful transition from an undergraduate or graduate nursing education degree program into an entry level generalist or an advanced practice registered nurse professional role.

7. *Post-Graduate Fellowship*—an opportunity given to a professional registered or advanced practice registered nurse to build upon current practice through extension of knowledge, professional development, and leadership in clinical and research areas of interest.

8. *Practice Doctorate Degree*—a program conducted by an educational unit, department, division, college or school that is an integral part of a college or university, leading to a doctorate degree, which prepares experts in one of three practice arenas: health care, leadership, or teaching. In addition to preparing the experts in direct clinical practice, the program shall confer proficiency in the following areas:

a. leadership;

b. health care systems;

c. evidence-based practice and research utilization;

d. advocacy/policy and clinical teaching with patients, students, families, communities and professional colleagues.

Objectives—Repealed.

Outcomes—quantitative or qualitative student, faculty or program measures of achievement.

Parent Institution—the organization or agency responsible for the administration and operation of the undergraduate and graduate nurse education degree programs.

Pass Rate (Certification)—the percentage of graduates from a cohort of an advanced practice registered nurse education degree program successfully completing the certification examination on first attempt in a calendar year.

Pass Rate (RN Licensure)—the percentage of students from a cohort taking the National Council licensure examination-registered nurse (NCLEX-RN) and passing the test on the first attempt in a calendar year.

* * *

Preceptorship Experience—an individualized learning experience in which an undergraduate and/or graduate nursing student participates in clinical nursing practice while assigned to a preceptor.

Program Head—Repealed.

Program Length—the published amount of time to complete the undergraduate and graduate nurse education degree programs in a part-time or full-time enrollment status.

Recommendation—specific statement based upon program assessment as to the suggested course of action put forth by the Board of Nursing that should be implemented for compliance.

Requirement—a specific statement based upon program assessment as to the required course of action put forth by the Board of Nursing that shall be implemented for compliance.

Shall—denotes mandatory compliance in contrast to should or may which reflect possible variation.

* * *

Simulation—activities in classroom or clinical settings that mimic the reality of a clinical environment and are designed to demonstrate procedures, decision-making and critical thinking through techniques such as role-playing and the use of devices such as interactive videos or mannequins. A simulation may be very detailed and closely simulate reality, or it can be a grouping of components that are combined to provide some semblance of reality.

* * *

Student Nurse—an individual who is enrolled in an approved undergraduate or graduate nurse education degree program preparing for licensure as a registered nurse and/or preparing any licensed registered nurse for APRN licensure.

Survey—the collection of information by the board for its review in granting, continuing or denying approval of a nursing education degree program.

Systematic Plan for Evaluation—a written plan for systematic review and evaluation of an undergraduate and/or graduate nurse education degree program(s) used for continuous program improvement; involves the process of determining whether the various parts and the entire program are achieving the mission/philosophy, goals and outcomes.

Under the Guidance of an Approved Preceptor—guidance by a licensed APRN, physician, dentist, or person approved by the board within the same or related practice role, population or specialty.

Year—a period of time consisting of 365 days or 366 in leap year, in a 12-month period.

1. *Calendar Year*—beginning on January 1 and ending on December 31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:913 and R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:184 (April 1977), amended LR 10:1023 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 17:1208 (December 1991), LR 24:1293 (July 1998), LR 26:2789 (December 2000), repromulgated LR 27:851 (June 2001), amended LR 42:876 (June 2016).

§3505. Approval of Undergraduate and Graduate Nursing Education Degree Programs

A. All undergraduate and graduate nursing education degree programs and clinical experiences in the state of Louisiana preparing persons for licensure, as a registered nurse and/or certification as an advanced practice registered nurse shall be approved by the board. The authority of the board is contained in R.S. 37:911 et seq., as amended.

B. Current status of the school's approval by the Louisiana State Board of Nursing must be reflected on the school's website, printed material and verbal communications with students and community.

1. - 3. Repealed.

C. Notwithstanding any other provisions of this Chapter, the board shall collect, in advance, fees for education services as follows:

1. initial program approval and site visit—$500;
2. program site visit (requested or board mandated)—$500;
3. out-of-state clinical approval—$250;
4. school annual report fee—$100.

D. On-site visits shall be made at the discretion of the board, or upon the request of the undergraduate and/or graduate nursing education degree program(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:185 (April 1977), amended LR 10:1024 (December 1984), repromulgated by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), amended LR 26:83 (January 2000), LR 28:1979 (September 2002), LR 42:878 (June 2016).

§3507. Purposes of Approval of Undergraduate and Graduate Nursing Education Degree Programs

A. To promote the safe practice of nursing by establishing standards for undergraduate and graduate nurse education degree programs preparing individuals seeking licensure as registered nurses and/or advanced practice registered nurses in Louisiana.

B. To grant legal recognition to undergraduate and graduate nursing education degree–programs, which upon survey and evaluation are determined by the board to have met the standards.

C. To assure graduates of undergraduate and graduate nursing education degree programs meet the educational and legal requirements for admission to licensing examinations

and to facilitate their endorsement to other states and countries.

D. To assure continuous evaluation and improvement of undergraduate and graduate nursing education degree programs preparing candidates for registered nurse and/or advanced practice registered nurse licensure.

E. To assure the public and prospective students that undergraduate and graduate nursing education degree programs approved by the board meet the standards established by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:185 (April 1977), amended LR 10:1024 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, repromulgated LR 24:1293 (July 1998), amended LR 42:878 (June 2016).

§3509. Types of Approval of Undergraduate and Graduate Nursing Education Degree Programs

A. Initial. Initial approval is granted to a new undergraduate and graduate nurse education degree program, which is determined by the board to be eligible to admit students to the nursing education degree program upon application by the parent institution and after survey and board evaluation (refer to §3533).

1. Initial approval shall not be continued for more than two consecutive one year periods following the undergraduate and graduate nurse education degree programs' eligibility to apply for full approval.

2. Repealed.

B. Full. Full approval is granted to an undergraduate and graduate nurse education degree program that meets all standards established by the board (refer to §3533, §3535).

C. Probation. An undergraduate or graduate nursing education degree program shall be placed on probation when the board has determined that it fails to meet one or more of the established standards.

1. Probation shall not be granted for more than three calendar years in any five calendar year period (refer to §3533).

2. An undergraduate and graduate nurse education degree program on probation for three calendar years in any five calendar year period shall not admit new students and shall initiate a phase-out of the program as outlined in §3531, §3533.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:185 (April 1977), amended LR 8:65 (February 1982), LR 10:1024 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 14:532 (August 1988), repromulgated LR 24:1293 (July 1998), amended LR 42:879 (June 2016).

§3511. Standards and Requirements for Undergraduate and Graduate Nursing Education Degree Programs: Mission/Philosophy and Goals

A. The undergraduate and graduate nursing education degree program shall have a clear statement of mission/philosophy, consistent with the mission of the parent institution and congruent with current concepts in nursing education.

B. The undergraduate and graduate nursing education degree program shall use an identified set of professional standards congruent with the mission/philosophy and from which the goals are developed. The standards shall be consistent with the Legal Standards of Nursing Practice, LAC 46:XLVII.Chapter 39.

C. Expected competencies of the undergraduate and graduate nursing education degree program shall be clearly delineated.

D. Distance education is consistent with the mission and goals of undergraduate and graduate nursing education degree program and the parent institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:185 (April 1977), amended LR 10:1024 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1146 (September 1993), repromulgated LR 24:1293 (July 1998), amended LR 26:2789 (December 2000), repromulgated LR 27:851 (June 2001), amended LR 42:879 (June 2016).

§3513. Administration, Organization, Control of Undergraduate and Graduate Nursing Education Degree Programs

A. There shall be a governing body which has legal authority to conduct undergraduate and/or graduate nursing education degree program(s), determine general policy and provide financial support.

B. The undergraduate and graduate nursing education degree programs shall be in a regionally accredited college or university which offers an undergraduate degree with a major in nursing or a graduate degree with a concentration in the advanced practice registered nurse role and population as defined in R.S. 37:913(1).

C. The parent institution shall hold active regional accreditation from an accrediting body approved by the U.S. Department of Education.

D. The undergraduate and graduate nursing education degree programs shall be accredited by a national nursing accrediting body approved by the U.S. Department of Education.

1. An undergraduate and graduate nursing education degree program shall be accredited by a national nursing accrediting body within one year post-full approval.

2. An undergraduate and graduate nurse education degree program not accredited by a national nursing accrediting body within one year post-full approval may petition the board for a one year extension.

3. Following the one year extension, an undergraduate and graduate nurse education degree program failing to achieve national accreditation shall immediately cease admission of students and begin termination of the program (refer to §3531).

4. An undergraduate and graduate nurse education degree program that loses national nursing accreditation shall immediately be placed on probation with the Louisiana State Board of Nursing.

E. The parent institution shall have an organizational chart which delineates the lines of responsibility and authority.

F. The undergraduate and graduate nursing education degree programs shall notify the board in writing, immediately and provide written communication within five business days when there has been a change in the control of the institution, chief nurse administrator of the program, or

the accreditation status of the parent institution and/or the nursing education degree program (s).

1. - 3. Repealed.

G. The chief nurse administrator shall have the authority and responsibility to administer the undergraduate and/or graduate nursing education degree program(s) in respect to:

1. the instructional program;
2. budget planning and management; and
3. faculty, staff, and students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:186 (April 1977), amended LR 10:1025 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), repromulgated LR 24:1293 (July 1998), amended LR 42:879 (June 2016).

§3515. Faculty and Faculty Organization of Undergraduate and Graduate Nursing Education Degree Programs

A. Faculty Body. There shall be qualified faculty adequate in numbers to provide a safe, effective faculty/student/client ratio as defined in (§3533, §3543, §3545) and to implement the undergraduate and/or graduate nurse education degree program in nursing in relation to its stated mission, goals, and expected program outcomes.

B. Qualifications

1. The chief nurse administrator and each nurse faculty member shall hold an active license to practice as a registered nurse in Louisiana and shall be appointed in compliance with state and federal laws.

2. The chief nurse administrator of a baccalaureate program shall hold a minimum of a graduate degree in nursing, an earned doctorate, and shall have a minimum of three years' experience in the areas of nursing education and three years in clinical practice.

3. The chief nurse administrator of an associate degree or diploma program shall hold a minimum of a graduate degree in nursing and shall have a minimum of three years' experience in the areas of nursing education and three years in clinical practice.

4. The nurse faculty shall hold a graduate degree in nursing as follows.

a. The APRN faculty member shall hold a minimum of a graduate degree in nursing. APRN nursing faculty teaching advanced practice role and population content must be licensed in advanced practice in that advanced practice or related role and population.

b. Other credentialed providers may be utilized to provide content relevant to the advanced practice role and population in support courses.

c. The educational component of the APRN program shall be coordinated by a lead faculty member who is educated and nationally certified in the same role and population area and licensed as an APRN in the state of Louisiana.

5. …

6. Nurse faculty shall be sufficient in number to accomplish the mission, goals and program outcomes.

7. Undergraduate nurse faculty shall maintain current knowledge and skills in areas of responsibility and provide documentation of same.

a. - b. Repealed.

8. APRN faculty must demonstrate competence in clinical practice and teaching, which includes continued national certification or continuing education requirements.

9. Exceptions to the academic qualifications for undergraduate nurse faculty shall be justified and approved under board established guidelines. The number of active faculty exceptions shall not exceed 20 percent of the number of full-time nurse faculty employed (not FTE) in the undergraduate nursing education degree program at any given time. Exceptions, if granted by the board shall be:

a. baccalaureate in nursing-prepared individuals who are not enrolled in a graduate program in nursing are limited to a maximum two calendar years after which they must be enrolled in a graduate nursing program; and

b. baccalaureate in nursing-prepared individuals who are enrolled in a graduate program in nursing at the master's and/or doctoral level shall be initially approved for two years in accordance with current board guidelines. Exceptions may be granted to each individual for a maximum of four years.

C. A faculty turn-over rate that exceeds 25 percent of the full-time nurse faculty employed (not FTE) at any given time by each undergraduate and/or graduate nursing education degree program(s) shall be reported to the board in writing within five business days and justified in the annual school report.

D. - E. …

1. qualifications for the position; and
2. contract or letter of appointment to delineate terms of appointment, functions and responsibilities of the position.
3. Repealed.

F. …

G. A nurse faculty organization shall be established consistent with the parent institution and shall have clearly delineated bylaws/governance documents.

H. …

I. Nurse faculty shall select, teach, guide and evaluate all learning experiences in the classroom, labs, simulation, and clinical facilities.

J. Nurse faculty shall be within the clinical facility during the learning experiences of students unless the students are observing only or engaged in a community-based or a preceptorship experience (refer to §3543 and §3545).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:186 (April 1977), amended LR 10:1025 (December 1984), LR 12:678 (October 1986), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), repromulgated LR 24:1293 (July 1998), amended LR 26:2789 (December 2000), repromulgated LR 27:851 (June 2001), amended LR 33:1123 (June 2007), LR 36:1245 (June 2010), LR 42:880 (June 2016).

§3517. Student Policies and Services: Undergraduate and Graduate Nursing Education Degree Programs

A. Admission standards for entry into the undergraduate and graduate nursing education degree programs shall be established and published and shall reflect ongoing involvement by appropriate faculty.

B. …

C. Placement and advisement in the undergraduate and graduate nursing education degree programs, by examinations, previous education, or both, shall be consistent with the parent institution.

D. Progression, transfer, termination, dismissal and graduation policies shall be established and published and shall reflect ongoing involvement by the appropriate faculty.

E. Information on the approval and accreditation status of the undergraduate and graduate nursing education degree programs, policies on tuition/fees and financial assistance, health care and counseling services shall be in writing and published on the website.

F. Accurate information about the undergraduate and graduate nursing education degree programs, including current approval and accreditation status, shall be presented in recruitment and related activities.

G. Students shall be provided opportunity for input into the undergraduate and graduate nursing education degree programs.

H. Students' records shall be safeguarded and their confidentiality shall be maintained according to state and federal regulations.

I. Students shall not be eligible to enroll in a clinical nursing course based on evidence of grounds for denial of licensure in accordance with R.S. 37:921, LAC 46:XLVII.3324, 3331 and 3403.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:187 (April 1977), amended LR 10:1025 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), LR 23:962 (August 1997), LR 24:1293 (July 1998), LR 26:2790 (December 2000), repromulgated LR 27:852 (June 2001), amended LR 42:880 (June 2016).

§3519. Facilities, Resources, Services for Undergraduate and Graduate Nursing Education Degree Programs

A. - C. ...

D. Storage space for safeguarding student and faculty records, for equipment and instructional materials shall be provided to meet the needs of the undergraduate and graduate nursing education degree programs.

E. …

F. Administrative and support services shall be provided to meet the needs of the undergraduate and graduate nursing education degree programs.

G. Clinical facilities shall be available in sufficient numbers and variety to meet the needs of the undergraduate and graduate nursing education degree programs (refer to §3529).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:187 (April 1977), amended LR 10:1025 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1147 (September 1993), repromulgated LR 24:1293 (July 1998), amended LR 26:2790 (December 2000), repromulgated LR 27:852 (June 2001), amended LR 42:881 (June 2016).

§3521. Curriculum: Undergraduate and Graduate Nursing Education Degree Programs

A. The faculty shall periodically review, evaluate and revise as appropriate the mission/philosophy, and goals of the undergraduate and/or graduate nursing education degree program(s); the goals and program outcomes shall be consistent with the mission of the nursing education degree program and flow from the mission of the institution.

B. The mission/philosophy, goals and program outcomes shall be used by the faculty in planning, implementing and evaluating the total undergraduate and/or graduate nursing education degree program(s).

C. Graduate and Undergraduate Curriculum Content

1. Undergraduate Curriculum

a. Undergraduate curriculum shall include, but not be limited to, content from the behavioral, biological, mathematical, nursing and physical sciences.

b. Credit hours earned for clinical nursing courses shall be no less than three hours and no more than four hours of clinical contact hours per academic credit hour per semester.

c. Opportunities shall be provided for the application of the nursing process throughout the curriculum and in a variety of settings that includes care across the lifespan and population health.

d. Simulated laboratory experiences may also be utilized as a teaching strategy in classroom and clinical settings to meet outcomes and may be counted as either classroom or clinical hours for the purpose of calculating the hours in the curriculum.

e. Provision shall be made for learning experiences with clients having nursing care needs across the lifespan and stages of the health-illness continuum as appropriate to the role expectations of the graduate.

2. Graduate Curriculum

a. The curriculum shall include, but not be limited to separate courses in advanced pathophysiology, advanced pharmacology, advanced assessment and diagnostic reasoning, and management of health care status courses and shall evidence appropriate course sequencing.

b. The APRN role and population shall have supervised experiences in accordance with accreditation, certification, and education requirements and standards.

i. Specialty roles and populations that provide care to multiple age groups and care settings will require additional hours as distributed in a way that represents the populations served.

ii. Dual role and population APRN programs shall include and address content and clinical experiences for both roles and populations. Each role and population shall have documented clinical hours in accordance with certification agency requirements. The population foci of the dual roles and populations will determine the extent to which overlap may occur. Overlapping clinical hours between roles and populations must be documented and addressed as to the preparation for the two areas of practice.

c. Simulated laboratory experiences may also be utilized as a teaching strategy in classroom and clinical settings to meet outcomes and may be counted as either

classroom or clinical hours for the purpose of calculating the hours in the curriculum.

d. There shall be provisions for the recognition of prior learning and advanced placement in the curriculum for those individuals who hold a master's or practice doctorate (APRN) in nursing and are seeking to qualify for recognition in a different APRN role and population. Post-graduate nursing students must complete the requirements of a master's or practice doctorate (APRN) program through a formal graduate level certificate or master's or practice doctorate level APRN role and population in the desired functional role. Post-graduate students must master the same outcome criteria as master's or practice doctorate level students. Post-graduate APRN students shall have supervised experiences in the role and population in accordance with accreditation, certification, and education requirements and standards.

D. Undergraduate and graduate distant nursing education degree programs leading to licensure must meet the standards and requirements of Louisiana undergraduate and graduate education degree programs contained in LAC 46:XLVII.Chapter 35.

E. Undergraduate and graduate distance nursing education degree programs leading to licensure and utilizing Louisiana agencies must be approved by the board at a regularly scheduled meeting (refer to §3539).

F. Undergraduate and graduate student learning outcomes of the course and content shall reflect society's concern with the bioethical and legal parameters of health care and professional practice.

G. The undergraduate and graduate nursing courses shall provide for classroom and clinical laboratory instruction that shall be under the supervision of a faculty member of the nursing program.

1. The faculty to student ratio per clinical experience shall not exceed 1 to 10 (1:10) per clinical day for undergraduate clinical instruction unless the students are engaged in a board-approved preceptorship experience, which permits a maximum of 1 to 15 (1:15) faculty to undergraduate student ratio and 1 to 9 (1:9) faculty to APRN student ratio per clinical day.

2. Repealed.

H. …

I. The undergraduate and graduate curriculum shall be arranged to provide opportunities for upward career mobility for students who have completed other nursing programs and have met appropriate requirements for licensure as follows.

1. Mechanisms for the recognition of prior learning and advanced placement in the undergraduate and graduate curriculum shall be in place.

2. Any formalized agreements between programs to facilitate the transfer of credit between undergraduate and graduate nursing education degree programs shall be identified and described.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:188 (April 1977), amended LR 10:1026 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1148 (September 1993), LR 24:1293 (July 1998), LR 26:2790 (December 2000), repromulgated LR 27:852 (June 2001), amended LR 42:881 (June 2016).

§3523. Major/Substantive Changes: Undergraduate and Graduate Nursing Education Degree Programs (Formerly §§3525 and 3537)

A. Undergraduate and/or graduate nursing education degree program(s) shall notify the board of major/substantive changes (refer to §3503).

1. - 9. Repealed.

B. The undergraduate and/or graduate nursing education degree program(s) shall submit to the board two paper copies and one electronic copy of the following:

1. alteration, other than editorial, in undergraduate and/or graduate nursing education degree program(s') mission/philosophy and outcomes as follows:

a. letter of intent with timeline for proposed change;

b. rationale for proposed change;

c. evidence of approval by institution and/or accreditation agencies;

d. concise presentation of current mission/philosophy, and outcomes to proposed change;

e. planned method for evaluation for proposed change;

f. discussion of potential impact of proposed change on current students;

g. copy of reports submitted to the accreditation agencies; and

h. copy of action by accreditation agencies;

2. change in legal status of the undergraduate and/or graduate nursing education degree program(s) as follows:

a. letter of notification with timeline for change;

b. discussion of potential impact of change of legal status on program and students;

c. copy of reports submitted to the accreditation agencies; and

d. copy of action by accreditation agencies;

3. change in status with regulatory, governmental or institutional accreditation on the undergraduate and/or graduate nursing education degree program(s) as follows:

a. letter of notification with timeline for change in regulation, government or institutional accreditation;

b. discussion of potential impact of change in regulation, governmental or institution accreditation on program and current students;

c. copy of reports submitted to the accreditation agencies; and

d. copy, if action by accreditation agencies;

4. reduction in resources impacting the sustainability of the undergraduate and/or graduate program(s) as follows:

a. letter of notification and identification of resources reduced;

b. discussion of potential impact of reduction of resources on sustainability of program and current students;

c. action plan to address impact of reduction in resources impacting sustainability of the program;

d. copy of reports submitted to the accreditation agencies; and

e. copy of action by accreditation agencies;

5. reduction in faculty size exceeding 25 percent and in faculty exceptions exceeding 20 percent of full-time faculty employed as follows:

a. letter of notification of faculty turnover greater than 25 percent or faculty exceptions greater than 20 percent of full time faculty;

b. of contributing factors for excessive turn over and requirement for exceptions to faculty qualification;

c. discussion of potential impact on program and current students;

d. plan for improvement;

e. copy of reports submitted to the accreditation agencies; and

f. copy of action by accreditation agencies;

6. addition or deletion of clinical role/population preparing APRNs in an approved graduate nursing education degree program as follows:

a. addition of clinical role/population preparing APRNs in an approved graduate nursing education degree program as follows:

i. letter of request for approval of addition of APRN role/population;

ii. copy of the mission/philosophy, goals and outcomes;

iii. curriculum course sequencing, lists all courses required within the program of study;

iv. course syllabus for the course/clinical experience(s) to be offered, which specifies the related outcomes of the offering;

v. current electronic copy of school catalog;

vi. evidence of meetings or communications with chief nurse administrators of approved Louisiana graduate nurse education degree programs;

vii. timeline for implementation of a clinical role/population preparing APRN's;

viii. copy of reports submitted to the accreditation agencies; and

ix. copy of action by accreditation agencies;

b. deletion of clinical role/population preparing APRNs in an approved graduate nursing education degree program as follows:

i. a letter of intent for deletion of APRN role/population;

ii. rationale for deletion of APRN role/population;

iii. timeline for phase out of APRN role/population;

iv. method of notification of student;

v. discussion of potential impact on nursing education degree program and current students;

vi. copy of reports submitted to the accreditation agencies; and

vii. copy of action by accreditation agencies;

7. implementation of innovative strategies in undergraduate and/or graduate nursing education degree program(s) with a focus to include but not limited to student enrollment, retention, and graduation rates; test previous models of nursing education and develop and test new models of nursing education as follows:

a. pilot study of innovative strategy as follows:

i. letter of request to pilot innovative strategy;

ii. rational for planned innovative strategy;

iii. outline of plan for innovative strategies to include timeframe, goals, expected outcomes and method of evaluation;

iv. discussion of potential impact on program and current students;

v. copy of reports submitted to the accreditation agencies; and

vi. copy of action by accreditation agencies;

b. post-completion of pilot as follows:

i. evaluation report of pilot;

ii. request for full implementation to include timeline and impact on program and current students; or

iii. notification of intent to not initiate and rationale;

8. addition or deletion of more than 10 percent of the semester credit hours from the undergraduate and/or graduate nursing education degree program(s) of studies as follows:

a. letter of intent for proposed change in credit hours;

b. rationale proposed change in credit hours;

c. mission/philosophy, program goals and student learning outcomes;

d. course outcomes and course outlines;

e. concise presentation of current and proposed curriculum;

f. time table for implementation of the change in curriculum;

g. explanation of the anticipated effect on currently enrolled students; to include a phase out plan and transition to new curriculum;

h. planned method for evaluating the results of the change;

i. method of notification of current students affected by the changes;

j. copy of reports submitted to the accreditation agencies; and

k. copy of action by accreditation agencies;

9. change in student enrollment, achievement, completion rates, graduation rates, pass rates for NCLEX-RN and certification as follows:

a. letter of notification of changes in student enrollment, achievement, completion rates, graduation rates, pass rates for NCLEX-RN and certification;

b. evaluation of contributing factors;

c. action plan for improvement to include timeline;

d. copy of reports submitted to the accreditation agencies; and

e. copy of action by accreditation agencies; and

10. addition or deletion of a major clinical facility providing students' clinical experiences in undergraduate and/or graduate nursing education degree program(s) as follows:

a. letter of notification to include impact on the program;

b. action plan for additional clinical placement;

c. copy of reports submitted to the accreditation agencies; and

d. copy of action by accreditation agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:188 (April 1977), LR 10:1026 (December 1984), amended by the Department

of Health and Hospitals, Board of Nursing, LR 15:1081 (December 1989), LR 19:1148 (September 1993), LR 24:1293 (July 1998), LR 26:2790 (December 2000), repromulgated LR 27:852 (June 2001), amended LR 42:882 (June 2016).

§3525. Continuous Quality Improvement: Undergraduate and Graduate Nursing Education Degree Programs (Formerly §3523)

A. The undergraduate and/or graduate nursing education degree program(s) has a systematic plan for continuous program improvement and assessment and documents the use of (evidence) in decision making for program development, improvement, and revision which includes the following but not be limited to:

1. mission/philosophy, program outcomes of the curriculum;
2. teaching/learning experiences;
3. expected competencies of the graduate;
4. student(s) evaluations of courses;
5. faculty evaluations of students;
6. performance of graduates on the National Council licensure examinations (NCLEX-RN) and/or appropriate graduate certifications;
7. follow-up studies of the graduate surveys;
8. employer satisfaction of the graduates; and
9. evaluation of faculty performance.

B. The continuous program improvement plan shall document that the curriculum prepares graduates to meet the standards for practice and licensure as a registered nurse and advanced practice registered nurse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:188 (April 1977), amended LR 10:1026 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), LR 42:884 (June 2016).

§3527. Records and Reports: Undergraduate and Graduate Nursing Education Degree Programs

A. The undergraduate and graduate nursing education degree programs and the parent institution shall develop and implement a systematic plan for maintaining student records in accordance with the retention policy of the institution.

1. Student Records

a. Each student's records include an application, terminal clinical evaluations from each course, and graduation forms, which are kept on file for a minimum of one year after graduation or three years after termination from the program if the student does not graduate.

b. The application and final transcript are kept on file permanently.

c. Graduate clinical transcripts shall be maintained permanently.

2. Faculty Records. Faculty records shall be on file in the nursing education degree program and/or in the parent institution and shall be in compliance with existing federal, state and institutional requirements.

3. Other records shall be kept on file and shall include:

a. a current program bulletin;
b. current budget and fiscal reports;
c. current contracts with clinical affiliations;
d. minutes from nurse faculty committee meetings;
e. graduates' performance on NCLEX-RN;
f. follow-up studies of the graduates; and
g. program self-evaluation studies.

B. The nursing education degree program submits to the board the following reports:

1. annual report on the form provided by the board;
2. interim reports on the form provided by the board;
3. self-study report as provided to the accrediting body; and
4. other reports as deemed necessary by the board.

C. - D.4. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1026 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1148 (September 1993), repromulgated LR 24:1293 (July 1998), amended LR 42:884 (June 2016).

§3529. Selection and Use of Clinical Facilities: Undergraduate and Graduate Nursing Education Degree Programs

A. Hospitals used for clinical experiences shall be licensed by the state of Louisiana and certified by the appropriately designated agency for Medicare/Medicaid. In addition, hospitals and other health care agencies should be accredited or approved by a recognized accrediting or approving agency as appropriate.

B. Board approval shall be secured using the clinical facility survey form at a minimum four weeks prior to the time an agency is utilized for student clinical experience.

C. …

D. Formal agreements between the undergraduate and/or graduate nursing education degree program(s) and the agency shall be in writing, shall state rights and responsibilities of each party to include liability insurance coverage, shall contain a termination clause and shall be reviewed according to institution policy.

E. …

1. a written mission which gives direction to nursing care;
2. registered nurses to insure the safe care of patients and to serve as role models for students;
3. a sufficient number of patients/clients to provide learning experiences to meet the objectives of courses' student learning outcomes;

4. - 7. …

8. available evidence of nursing quality improvement programs;

9. …

10. a planned orientation program for faculty and students;
11. means of communication between faculty and agency administrative personnel and between faculty of all undergraduate and graduate nursing education degree programs that use the agency;
12. evidence that the agency's personnel understand their relationship between faculty and students and that the responsibility for coordination is specifically identified; and
13. designated areas on, or in close proximity to clinical learning sites for faculty/student interactions.

F. The chief nurse administrator shall notify the board in writing when a clinical agency being used for students'

clinical practice loses accreditation or approval status; loss of accreditation/approval shall mandate that students will not utilize the clinical agency for clinical experiences.

G. Advanced practice registered nursing students shall perform advanced practice nursing functions under the guidance of a qualified instructor or preceptor (as defined in LAC 46:XLVII.4505) as part of their program of study.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:189 (April 1977), amended LR 10:1026 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing LR 15:1080 (December 1989), LR 16:133 (February 1990), LR 19:1149 (September 1993), repromulgated LR 24:1293 (July 1998), amended LR 26:2791 (December 2000), repromulgated LR 27:852 (June 2001), amended LR 32:1240 (July 2006), LR 42:884 (June 2016).

§3531. Procedure for Terminating Undergraduate and Graduate Nursing Education Degree Programs

A. Voluntary Termination

1. The board shall be notified when a decision has been made to close an undergraduate and/or graduate nursing education degree program(s).

2. The undergraduate and/or graduate nursing education degree program(s) shall provide a written plan of termination to include evidence that all of the board's standards shall be maintained until all students have transferred to another program or have graduated. A plan to phase out the existing nursing program shall include:

a. a dateline for final admission of students to the existing program;

b. a plan for the normal progression of students in the existing program;

c. a contingency plan for students who cannot follow the normal progression sequence in the existing program (i.e., failures, illness, etc.); and

d. the projected date of graduation for the final class of the existing program.

3. All students shall have assistance with transfers to the new nursing program or to another program of choice. A list of the names of these students shall be submitted to the board.

4. The board shall be notified of the arrangements for safe storage of the permanent records of the undergraduate and/or graduate nursing education degree program(s) and its students' records.

a. - d. Repealed.

5. The following records shall be retained:

a. student's application to the program;

b. student's financial academic transcripts;

c. graduate clinical transcript;

d. each curriculum plan offered; and

e. a list of each graduating class and date of graduation.

B. Involuntary Termination

1. Involuntary termination occurs when the board has determined that the undergraduate and/or graduate nursing education degree program(s) has not met one or more standards and the program shall be required to initiate termination.

2. The undergraduate and/or graduate nursing education degree program(s) shall provide a written plan of termination to include evidence that all of the board's standards shall be maintained until all students have transferred to another program or have graduated. A plan to phase out the existing nursing program shall include:

a. documentation of final admission date of students in the existing program;

b. a plan for the progression of students during phase out of the existing program;

c. a contingency plan for students who cannot follow the normal progression sequence in the existing program (i.e., failures, illness, etc.); and

d. the projected date of graduation for the final class of the existing program.

3. All students shall have assistance with transfers to the new nursing program or to another program of choice. A list of the names of these students shall be submitted to the board.

4. The board shall be notified of the arrangements for safe storage of the permanent records of the undergraduate and/or graduate nursing education degree program(s) and its students' records.

5. The following records shall be retained:

a. student's application to the program;

b. student's final academic transcripts;

c. graduate clinical transcript;

d. each curriculum plan offered; and

e. a list of each graduating class and date of graduation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:190 (April 1977), amended LR 10:1027 (December 1984), repromulgated by the Department of Health and Hospitals, Board of Nursing, LR 24:1293 (July 1998), amended LR 42:885 (June 2016).

§3533. Procedure for Establishing a New Undergraduate or Graduate Education Degree Program

A. Step I: Letter of Intent and Feasibility Study

1. A written notice of intent to establish a new undergraduate and/or graduate nursing education degree program(s) stating the purpose and type of program must be submitted to the board in two paper copies and one electronic copy as follows:

a. notice of intent shall include:

i. documented evidence of approval from the parent institution and the appropriate governing board to award the appropriate degree and a copy of the current bulletin or catalog;

ii. documentation of approval from Board of Regents for state and proprietary schools; and

iii. documentation of regional accreditation;

b. report of a feasibility study documenting a need for the program. The study shall include evidence of:

i. nurse manpower studies which validate need for the program as it relates to total state resources and nursing education in the state;

ii. documentation of communication with Louisiana nursing education degree programs on a form provided by the board regarding the potential impact on other undergraduate nursing education degree programs within a geographical area of 100 miles or the impact on other graduate nursing programs within the state;

iii. availability of qualified nurse faculty and support faculty;

iv. adequate academic and clinical facilities to meet the needs of the program;

v. adequate financial resources for planning, implementing and continuing the program;

vi. commitment of administration to support the program;

vii. community support;

viii. a proposed time schedule for initiating and expanding the program; and

ix. an available pool of potential students.

c. - c.viii. Repealed.

2. …

a. supplementary information is needed; or

b. the notice of intent and feasibility study to establish a new program is accepted and the parent institution may continue with the plan to establish the program; however, public announcements and preadmission of students shall not occur prior to the receipt of initial board approval after step II; or

c. the letter of intent is not accepted, the reasons thereof, and all planning must cease.

d. Repealed.

B. Step II: Initial Approval of the Undergraduate and/or Graduate Nursing Education Degree Program(s)

1. If step I is accepted and if the parent institution is allowed by the board to proceed with the development of the program, a qualified chief nurse administrator shall be employed a minimum of 12 months prior to the admission of the first class of students.

2. The chief nurse administrator shall have the authority and responsibility to develop:

a. - b. …

c. bylaws;

d. - f. …

g. a plan for the use of clinical and cooperating agencies and clinical preceptors;

h. a sample contractual/affiliation agreement with clinical and cooperating agencies and clinical preceptors; and

i. …

3. The chief nurse administrator shall have previous teaching experience in a registered nursing education degree program.

a. - c. Repealed.

4. The chief nurse administrator shall appoint a sufficient number of full-time nurse faculty with a minimum of two years clinical nursing practice at least six months prior to admission of students.

5. Nursing faculty with previous teaching experience in a nursing education degree program of the same academic level as the proposed program and experience in curriculum design are preferred.

a. - h. Repealed.

6. The nurse faculty shall develop the proposed program and plan for its implementation. They shall write:

a. mission/philosophy, goals; program and student learning outcomes;

b. a curriculum plan;

c. course outcomes;

d. course outlines;

e. evaluation plan and methods;

f. admission, progression and graduation criteria;

g. policies for protecting students' rights, their safety and welfare, and for academic guidance and advising; and

h. plan for utilization of clinical facilities, cooperating agencies and clinical preceptors.

7. Upon completion of this phase of the development of the proposed undergraduate and/or graduate nursing education degree program(s), the chief nurse administrator shall request that the board staff conduct initial site visit.

8. Report on site visit will be presented to the board by board staff representative at a regularly scheduled board meeting for initial approval. Based on its review, the board shall give written notification to the parent institution that:

a. supplementary information is needed; or

b. initial approval is granted; or

c. initial approval is denied.

9. After initial approval is granted, public announcements may be issued and students may be admitted to the undergraduate and/or graduate nursing education degree program(s).

10. Initial approval shall not be continued for more than two consecutive one-year periods following the undergraduate and/or graduate nursing education degree program(s') eligibility to apply for full approval.

11. An undergraduate and/or graduate nursing education degree program(s) remaining ineligible for full approval after two consecutive one-year periods following the nursing program's eligibility to apply for full approval, shall not admit new students and shall initiate a phase-out of the program in accordance with §3531.

C. Step III: Full Approval of Undergraduate and/or Graduate Nursing Education Degree Program(s)

1. Full approval shall be requested after members of the first class of graduates write and receive the results of the first licensing or certification examination. Additionally, an on-site visit is required and upon presentation of evidence that standards of the board have been met, full approval may be granted to the program. Undergraduate and/or graduate nursing education degree program(s) shall achieve national nursing accreditation within one year of being granted full approval.

a. A program not accredited by a national nursing accrediting body within one year post-full approval may petition the board for a one-year extension.

b. Following the one-year extension, a program failing to achieve national accreditation shall immediately cease admission of students and begin termination.

c. A program that loses national nursing accreditation shall immediately be placed on probation.

C.2. - E.3.b.iv. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:190 (April 1977), amended LR 10:1027 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 14:532 (August 1988), repromulgated LR 24:1293 (July 1998), amended LR 26:2791 (December 2000), repromulgated LR 27:853 (June 2001), amended LR 38:2549 (October 2012), LR 42:885 (June 2016).

§3534. Procedure for Restructuring an Existing Program into/within Higher Education

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 16:690 (August 1990), amended LR 24:1293 (July 1998), LR 26:2791 (December 2000), repromulgated LR 27:853 (June 2001), repealed LR 42:887 (June 2016).

§3535. Procedure of Continuing Full Approval: Undergraduate and Graduate Nursing Education Degree Programs

A. Undergraduate and/or graduate nursing education degree program(s) must present evidence of compliance with all standards and requirements contained in LAC 46:XLVII.Chapter 35.

B. The undergraduate nursing education degree program shall have a pass rate of 80 percent or greater achieved by the candidates taking the licensure examination for the first time in any one January to December calendar year, or the program shall be placed on probation.

1. - 3. Repealed.

C. Undergraduate and/or graduate nursing education degree program(s) holding full approval for a minimum of five consecutive calendar years and full national accreditation recognized by the board shall inform board of impending accreditation site visit six months prior to visit.

1. The board shall agree to accept national accreditation reports and not perform site visits unless there is a complaint, a sanction, or evidence that the institution is in violation of standards.

2. The board shall perform site visits if there is a complaint, a sanction, or evidence that the institution is in violation of standards. The undergraduate and/or graduate nursing education degree program(s) may request to have on-site visits coordinated with national accreditation visits. Following receipt of the official request by the program, the date of initiation of this process for the program shall be determined by the board.

a. An on-site visit shall be conducted by an authorized staff representative of the board during or within six months following the national accreditation visit.

b. To meet the self-study requirements, the national self-study report and the addendum required by the board shall be submitted to the board at least 21 days prior to the scheduled on-site visit regardless of board participation.

c. A copy of any national accreditation correspondence concerning accreditation and interim reports shall be forwarded to the board within two weeks of receipt.

D. A written report of the on-site visit is sent to the administrative officer of the parent institution, to the chief nurse administrator, and to all board members.

E. The chief nurse administrator may submit a response to the board staff regarding the report of the on-site visit and also be present when the board reviews and acts upon the report.

F. Action relevant to the approval status of the undergraduate and/or graduate nursing education degree program(s) is taken by the board after an evaluation of:

1. the on-site survey self-study documents; or

2. - 3. …

G. The board shall provide for an evaluation and hearing to determine if a program has met or has failed to meet the standards and requirements by executing the following actions:

1. giving written notice that the standards have been met and continues full approval or restores approval; or

2. giving written notice of specified deficiency(ies) and placing the program on probation.

H. An undergraduate and/or graduate nursing education degree program(s) has the right at any time to present evidence to the board that the deficiency(ies) has/have been corrected and may petition the board to restore full approval to the program.

I. No later than 12 months from the date the undergraduate and/or graduate nursing education degree program(s) was placed on probation, the program shall submit a written report to the board with evidence that the standard(s) has/have been met, and may petition the board to restore full approval.

J. If a deficiency(ies) cannot be corrected in 12 months, the undergraduate and/or graduate nursing education degree program(s) shall file a plan for meeting the standard(s) and may petition the board to continue the probationary status.

K. Probationary status is not granted to an undergraduate and/or graduate nursing education degree program(s) for more than three calendar year periods in any five calendar year period.

L. At any time during the probationary period, the board may determine that the undergraduate and/or graduate nursing education degree program(s) must cease admission of students and begin involuntary termination.

M. Failure to meet standards after graduation of all enrolled students will result in involuntary termination of the undergraduate and/or graduate nursing education degree program(s) (refer to §3531).

N. The right to appeal the board's decision is afforded any undergraduate and/or graduate nursing education degree program(s) in accordance with R.S. 37:918 and the Administrative Procedure Act, R.S. 49:965, appeals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1027 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1149 (September 1993), LR 24:1293 (July 1998), LR 42:887 (June 2016).

§3536. Approval for Nursing Education Programs whose Administrative Control is Located in Another State Offering Programs, Courses, and/or Clinical Experience in Louisiana

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1145 (September 1993), amended LR 23:962 (August 1997), LR 24:1293 (July 1998), LR 26:2791 (December 2000), repromulgated LR 27:853 (June 2001), repealed LR 42:887 (June 2016).

§3537. Procedure for Restructuring an Existing Undergraduate or Graduate Nursing Education Degree Program into/within Higher Education (Formerly §3534)

A. Phasing-out an Existing Nursing Program (refer to §3531)

1. Notification of intent for restructuring an existing undergraduate and/or graduate nursing education degree program(s). A letter of intent shall be submitted to the board to phase out an existing undergraduate and/or graduate nursing education degree program and phase in a new nursing program not less than one year prior to the planned implementation date. Two copies of the letter are to be submitted.

2. Termination of an Existing Undergraduate and/or Graduate Nursing Education Degree Program(s)

a. A plan shall be submitted to the board to phase out the existing undergraduate and/or graduate nursing education degree program(s) to include:

i. a dateline for final admission of students to the existing program;

ii. a plan for the normal progression of students in the existing program;

iii. a contingency plan for students who cannot follow the normal progression sequence in the existing program (i.e., failures, illness, etc.); and

iv. the projected date of graduation for the final class of the existing program.

b. All board's standards shall be maintained by the existing undergraduate and/or graduate nursing education degree program(s) until all students have transferred to another program or graduated.

c. All students shall have assistance with transfers to the new nursing programs or to another program of choice. A list of the names of these students shall be submitted to the board.

d. The undergraduate and/or graduate nursing education degree program(s) and the parent institution shall develop and implement a systematic plan for maintaining student records in accordance with retention policy of the institution.

e. The following records of the existing undergraduate and/or graduate nursing education degree program(s) shall be retained:

i. students' applications to the program (when applicable);

ii. students' final academic transcripts;

iii. graduate clinical transcripts;

iv. all curricula plans offered, including catalog course descriptions; and

v. rosters of all graduation classes and dates of graduations.

f. The board shall be notified of the arrangements for the administrative control and safe storage of the permanent program and student records.

B. Phasing-in a new nursing program (refer to §3533).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 16:690 (August 1990), amended LR 24:1293 (July 1998), LR 26:2791 (December 2000), repromulgated LR 27:853 (June 2001), amended LR 42:888 (June 2016).

§3539. Procedure for Approval for Undergraduate and Graduate Nursing Education Degree Programs whose Administrative Control is Located in Another State Offering Programs, Courses, and/or Clinical Experience in Louisiana (Formerly §3536)

A. Program of Studies. To receive approval by the board for a total undergraduate and/or graduate nursing education degree program(s) of study by undergraduate and graduate nursing education degree programs with physical presence in Louisiana, but whose administrative control is located in another state, the following criteria shall be met.

1. New programs must follow the procedure to establish new programs as specified in §3533.

2. Programs must present evidence of compliance with all standards and requirements contained in LAC 46:XLVII.Chapter 35. Upon full approval, the program will be reviewed under the requirements for continued approval, as specified in §3535.

B. Course/Clinical Offerings. Out-of-state undergraduate and/or graduate nursing education degree program(s) offering courses/clinical experiences in Louisiana are expected to maintain the standards required of Louisiana-based programs. The board reserves the right to withdraw the approval of such offerings if adherence to these standards is not maintained. To receive approval by the Board of Nursing for course/clinical offerings in Louisiana by nursing programs whose administrative control is located in another state, the following criteria shall be met.

1. Approval/Accreditation Requirements. The following evidence of approval/accreditation of the undergraduate and/or graduate nursing education degree program(s) shall be submitted to the board as stipulated.

a. The nursing program sponsoring the offering shall hold current approval by the Board of Nursing and/or other appropriate approval bodies in the state in which the parent institution is located.

b. Regional accreditation shall be held by the parent institution.

c. National nursing accreditation recognized by the board is required.

d. The nursing program sponsoring the course/clinical offering must provide the Board of Nursing with the following materials for review at least six months prior to the scheduled initiation of the offering:

i. a letter of request for approval to provide the course/clinical offering, which indicates the time-frame during which the offering will be conducted and the clinical agency(ies)/the clinical unit(s) will be utilized;

ii. a copy of the mission/philosophy, goals and outcomes;

iii. a curriculum course sequencing, which lists all courses by semester/quarter required within the program of study;

iv. a course syllabus for the course/clinical experience(s) to be offered, which specifies the related outcomes of the offering; and

v. a current electronic copy of school catalog.

e. Request for preceptorship learning experiences shall include evidence of compliance with §3543.

2. Coordination with other undergraduate and/or graduate nursing education degree program(s) as follows:

a. evidence of meetings or communications with representatives of the clinical agency and the out-of-state nursing program;

b. evidence of meetings or communications with program heads of approved Louisiana undergraduate and/or graduate nursing education degree program(s);

c. meetings or communications of respective representatives from undergraduate and/or graduate nursing education degree program(s) and clinical agency shall occur minimally on an annual basis, or on a semester basis as deemed necessary by any involved party; and

d. a "clinical facility survey" form shall be submitted by the undergraduate and/or graduate nursing education degree program(s).

3. Students

a. All students shall be in good academic standing in the undergraduate and/or graduate nursing education degree program(s).

b. Students shall not be eligible to enroll in a clinical nursing course based on evidence of grounds for denial of licensure in accordance with R.S. 37:921 and LAC 46:XLVII.3331 and 3403.

c. Undergraduate performance on the licensure examination (NCLEX-RN) shall be maintained at an 80 percent or higher pass rate for each January through December calendar year. Upon initial request for approval, NCLEX-RN performance by undergraduates for the past two calendar years shall be submitted to the board.

d. Graduate performance on certification examination for the past two calendar years shall be submitted to the board for each role and population requesting approval.

4. Faculty

a. A "faculty qualification" form provided by the board shall be submitted for each faculty member providing instruction within the state of Louisiana.

b. Each faculty member shall hold a current license to practice as a registered nurse and/or advanced practice registered nurse in Louisiana.

c. Each faculty member shall hold a graduate degree in nursing and a minimum of two years of nursing practice in a clinical setting.

d. Clinical faculty shall be present for student supervision while students are assigned to clinical areas unless the students are engaged in a board-approved preceptorship experience.

e. Clinical faculty for undergraduate and graduate precepted clinical experiences are expected to confer with the preceptor and student at least weekly and visit the site at least once in a semester/quarter.

f. The faculty to student ratio per clinical experience shall not exceed 1 to 10 (1:10) per clinical day for undergraduate clinical instruction unless the students are engaged in a board-approved preceptorship experience which permits a maximum of 1 to 15 (1:15) faculty to undergraduate student ratio per clinical day and 1 to 9 (1:9) faculty to APRN student ratio per clinical day.

5. Approval

a. Course/clinical offerings by out-of-state nursing programs may be approved for a period of three years, at which time program representatives may petition for renewal of approval for each additional three-year period.

b. Request for out-of-state clinical re-approval form, which provides updated and current data relevant to the undergraduate and/or graduate nursing education degree program(s) program, shall be submitted as a component of the petition for renewal as specified in §3539.B.1-5.

c. Failure to comply with the requirements established by the board shall result in the immediate withdrawal of the board's approval of course/clinical offerings.

6. Post-Approval

a. A copy of the executed contractual agreement between the academic institution and the clinical facility/agency shall be maintained by the institution.

b. Undergraduate student approval application shall be submitted 60 days prior to the date of enrollment in the clinical nursing course.

c. Graduate student clinical experience spreadsheet provided by the board shall be submitted within two weeks of initiation of experience.

d. Faculty qualification forms must be submitted to the board within two weeks of hire.

e. The undergraduate and/or graduate nursing education degree program(s) shall keep the board informed of any changes to approval and accreditation status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:1145 (September 1993), amended LR 23:962 (August 1997), LR 24:1293 (July 1998), LR 26:2791 (December 2000), repromulgated LR 27:853 (June 2001), amended LR 42:888 (June 2016).

§3541. Procedure for Submitting Required Reports and Compliance Forms by Undergraduate and Graduate Nursing Education Degree Programs (Formerly §3539)

A. Annual Report. The undergraduate and/or graduate nursing education degree program(s) shall submit two paper copies and one electronic copy of an annual report, on a form provided by the board, on the designated date, accompanied by one electronic copy of the current school catalog.

B. Compliance Forms

1. Undergraduate and/or graduate nursing education degree program(s) shall submit a faculty qualification form within two weeks of the time each new faculty member is employed.

2. Undergraduate and/or graduate nursing education degree program(s) requesting approval of new clinical facilities needed for students' clinical practice areas shall submit a clinical facility survey form and shall be secured in accord with §3529 prior to the time students are assigned to the new facility.

3. Any undergraduate and/or graduate nursing education degree program(s) required to submit a regional or a national nursing accreditation interim report shall submit a copy of the report to the board.

C. Self-Study

1. A self-study shall be submitted to the board 21 days prior to the scheduled on-site visit of the undergraduate and/or graduate nursing education degree program(s).

2. The national accreditation self-study report and the addendum required by the board may be submitted to meet the self-study requirements of the board (refer to §3535).

D. Students

1. The undergraduate student approval application shall be submitted 60 days prior to the date of enrollment in the first clinical nursing course (refer to §3324).

2. The graduate student clinical experience spreadsheet provided by the board shall be submitted within two weeks of initiation of experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1028 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1150 (September 1993), LR 21:803 (August 1995), LR 24:1293 (July 1998), LR 26:2791 (December 2000), repromulgated LR 27:853 (June 2001), amended LR 42:889 (June 2016).

§3542. Community-Based Learning Experiences

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 21:803 (August 1995), amended LR 24:1293 (July 1998), LR 26:2791 (December 2000), repromulgated LR 27:853 (June 2001), repealed LR 42:890 (June 2016).

§3543. Preceptorship Learning Experiences (Formerly §3541)

A. Nurse faculty shall retain the responsibility for selecting and guiding all undergraduate and/or graduate student learning experiences and the evaluation of student performances with input from preceptors.

B. Preceptors shall be selected according to written criteria jointly developed by faculty and nursing administration in the clinical facility, and in accordance with guidelines established by the board.

C. A faculty member shall be available to preceptors while students are involved in a preceptorship experience.

D. The faculty member shall confer with each preceptor and student at least weekly during the precepted experience.

E. Preceptor Learning Experiences

1. Undergraduate

a. Preceptor experiences for undergraduate students shall only occur during the last two academic semesters of a baccalaureate degree program and during one of the last two semesters of a diploma or associate degree program.

b. The total preceptorship experience for undergraduate students shall be limited to a maximum of 25 percent of the total clinical weeks in the program of study.

2. Graduate

a. The APRN role and population shall have supervised experiences in accordance with accreditation, certification, and education requirements and standards.

b. Faculty are responsible for all advanced practice registered nurse students in the clinical area whether supervision is direct or indirect.

i. Direct supervision occurs when advanced practice registered nurse program faculty function as on-site clinical preceptors.

ii. Indirect supervision has three components:

(a). to supplement the clinical preceptor's teaching;

(b). to act as a liaison to a community agency; and

(c). to evaluate the student's progress.

F. Preceptor Ratios

1. Undergraduate

a. The undergraduate nursing education degree program shall maintain a ratio of not more than 1 faculty to 15 undergraduate students (1:15) for the preceptorship experience.

b. There shall be one preceptor for each student.

2. Graduate

a. The graduate nursing education degree program shall maintain a ratio of not more than 1 faculty to 9 APRN students (1:9) for the preceptorship experience.

b. A preceptor shall not supervise more than two graduate APRN students during any given clinical experience.

G. Preceptor Qualifications

1. All preceptors must have an active unencumbered RN and/or APRN Louisiana license.

2. Undergraduate

a. The preceptor shall have at least a minimum of one year as a RN in the clinical area in which the preceptorship experience occurs.

b. Preceptors shall hold a minimum of a baccalaureate degree in nursing.

c. An individual RN, who does not possess a BSN, may be utilized as a preceptor provided that the RN has had no less than three years' experience as an RN with a minimum of one year in the clinical area in which the experience occurs and has the requisite skills to guide the student to meet the desired course outcomes for the specific clinical experiences.

3. Graduate

a. The majority of clinical experiences shall be under a preceptor with an active unencumbered APRN license and certification in the population focused area of practice of primary and/or acute care as appropriate.

b. A mix of clinicians may be used to provide direct clinical teaching to students appropriate to the range of clinical experiences required to meet the program outcomes and enhance their inter-professional experiences.

c. The majority of the clinical experiences must occur with preceptors from the same population focused area in primary and/or acute care as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1028 (December 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 17:1207 (December 1991), LR 24:1293 (July 1998), LR 26:2791 (December 2000), repromulgated LR 27:853 (June 2001), amended LR 42:890 (June 2016).

§3545. Undergraduate Community-Based Learning Experiences (Formerly §3542)

A. "Community-based experiences" involve the community as a whole, exclusive of acute care facilities, with nursing care of individuals, families, and groups being provided within the context of promoting and preserving the health of the community.

B. Non-health-care related agencies utilized for community-based learning experiences for students must have an identifiable sponsoring agency with a clearly defined purpose(s).

C. Nurse faculty shall retain the responsibility for the selection and guidance of student community-based learning experiences and for the evaluation of student performance.

D. Community-Based Agency Experience Supervision

1. Direct Faculty Supervision

a. The undergraduate nursing education degree program shall maintain a ratio of not more than 1 faculty member to 10 students (1:10).

b. Students may participate in invasive or complex nursing activities in a community setting with the direct supervision of a faculty member.

2. Preceptorship

a. The undergraduate nursing education degree program shall maintain a ratio of not more than 1 faculty member to 15 students (1:15) for the preceptorship experience.

b. A preceptor shall not be allowed to supervise more than three students at one time in any given community clinical site.

c. Students may participate in invasive or complex nursing activities in a community setting with the direct supervision of an approved RN preceptor.

d. A faculty member shall be available for preceptors while students are involved in a preceptorship experience. The faculty member shall confer with each preceptor and student(s) at least weekly during said learning experience.

e. Preceptors shall be selected according to written criteria jointly developed by faculty and nursing administration in the clinical facility, and in accordance with guidelines established by the board.

3. Community Agency Supervision

a. There shall be qualified faculty available to provide a safe, effective faculty/student/client ratio not to exceed 1 faculty member to 15 students (1:15).

b. Students, under the overall direction of a faculty member, may participate in noninvasive or noncomplex nursing activities in structured community nursing settings where RN's are present (e.g., out-patient clinics). Students shall have the skills appropriate to the experiences planned.

c. Students, under the verbal direction of a faculty member, may participate in basic care activities, such as, assessment of vital signs and collection of data. They also may assist with activities of daily living in community settings where a registered nurse is not present. Students shall have the skills appropriate to the experiences planned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 21:803 (August 1995), amended LR 24:1293 (July 1998), LR 26:2791 (December 2000), repromulgated LR 27:853 (June 2001), amended LR 42:890 (June 2016).

§3547. Undergraduate and Graduate Nursing Education Degree Programs not Leading to Additional Licensure or APRN Certification

A. Undergraduate and/or graduate nursing education degree programs not leading to licensure and/or an additional APRN certification do not require approval by the board.

B. Non-licensure undergraduate and/or graduate nursing education degree program(s) offering courses/clinical experiences in Louisiana are expected to maintain the following standards required of approved programs:

1. approval of program from parent institution;
2. national nursing accreditation;
3. approval from Louisiana Board of Regents;
4. faculty and preceptors supervising post-licensure students in Louisiana clinical agencies must have active unencumbered Louisiana licensure;
5. post-licensure students in Louisiana clinical agencies must have active, unencumbered Louisiana registered nurse licensure; and
6. adherence to Louisiana nursing education articulation model is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 42:891 (June 2016).

Chapter 45. Advanced Practice Registered Nurses

§4509. Educational Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals. Board of Nursing, LR 27:726 (May 2001), amended LR 31:2017 (August 2005), repealed LR 42:891 (June 2016).

Karen C. Lyon
Executive Director

1606#011

RULE

Department of Health
Board of Pharmacy

Compounding for Office Use for Veterinarians
(LAC 46:LIII.2535)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended §2535 of Chapter 25, Prescriptions, Drugs, and Devices, of its rules, to allow pharmacies to compound medications for office use, but only for veterinarians.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter C. Compounding of Drugs

§2535. General Standards

A. Compounding Practices. Compounded medications may be prepared using prescription medications, over-the-counter medications, chemicals, compounds, or other components.

1. …

2. All compounding shall be accomplished utilizing accepted pharmacy techniques, practices, and equipment, as

well as the Federal Food, Drug and Cosmetic Act of 1938 as subsequently amended, most recently in November 2013 (FDCA), the 2016 edition of title 21 of the *Code of Federal Regulations* (CFR), and all relevant chapters of the 2014 edition of the *United States Pharmacopeia-National Formulary* (USP 37-NF 32).

A.2.a. - D. …

E. Veterinarian-Administered Compounds, also referred to as Pharmacy-Generated Drugs

1. Upon receipt of a valid non-patient-specific medical order from a licensed veterinarian, the pharmacy may compound a preparation intended for administration to an animal patient by the veterinarian.

2. These preparations may not be distributed to any other third party by the pharmacy, nor may these preparations be further re-sold or distributed by the veterinarian ordering the preparation from the pharmacy.

3. This authorization is primarily intended to facilitate the preparation of medications needed for emergency use in a veterinary office practice. Given the limited application of this authorization, which allows these products to be prepared using less rigorous standards applicable to compounding as opposed to the more rigorous standards applicable to manufacturing processes, the compounding pharmacy preparing these products shall be limited in the amount of such products they can prepare.

a. No Louisiana-licensed pharmacy may distribute any amount of practitioner-administered compounds in excess of 5 percent of the total amount of drug products dispensed and/or distributed from their pharmacy.

b. The 5 percent limitation shall be calculated on a monthly basis and shall reference the number of dosage units.

c. For those Louisiana-licensed pharmacies located outside Louisiana, the total amount distributed and/or dispensed shall reference the pharmacy's total business within the state of Louisiana.

4. The provisions of this Subsection E notwithstanding, pharmacists intending to engage in the compounding of veterinary preparations pursuant to non-patient-specific medical orders from veterinarians should be aware that federal law or rule may not permit such activity by a licensed pharmacy, and further, such pharmacists should be aware that the board's rules cannot legitimize an activity that is not permitted under federal law or rule, and further, such pharmacists should be aware that while this activity is permitted by the board, pharmacists engaging in this activity remain subject to the full force and effect of federal law enforcement.

F. Compounding Commercial Products not Available. A pharmacy may prepare a copy of a commercial product when that product is not available as evidenced by either of the following:

1. products appearing on a website maintained by the American Society of Health-System Pharmacists (ASHP);

2. products temporarily unavailable from manufacturers, as documented by invoice or other communication from the distributor or manufacturer.

G. Labeling of Compounded Preparations

1. For patient-specific compounded preparations, the labeling requirements of R.S. 37:1225, or its successor, as well as §2527 of this Chapter, or its successor shall apply.

2. For veterinarian administered compounds, the label shall contain, at a minimum, the following data elements:

a. pharmacy's name, address, and telephone number;

b. veterinarian's name;

c. name of preparation;

d. strength and concentration;

e. lot number;

f. beyond use date;

g. special storage requirements, if applicable;

h. identification number assigned by the pharmacy; and

i. name or initials of pharmacist responsible for final check of the preparation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 23:1316 (October 1997), amended LR 29:2105 (October 2003), effective January 1, 2004, LR 41:97 (January 2015), amended by the Department of Health, Board of Pharmacy, LR 42:891 (June 2016).

Malcolm J. Broussard
Executive Director

1606#039

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Administrative Procedures
Tribal Consultation Process
(LAC 50:I.105)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:I.105 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 1. General Provisions
Chapter 1. Administrative Procedures
§105. Tribal Consultation Process

A. Pursuant to §1902(a)(73) and §2107(e)(I) of the Social Security Act, the Medicaid Program hereby establishes a process to seek advice on a regular, ongoing basis from designees of the state's federally-recognized Indian tribal organizations and Indian health programs about Medicaid and Children's Health Insurance Program matters that may have a direct impact on Indian health programs and tribal organizations.

B. The department shall comply with the technical requirements for providing verification of the tribal consultation process to the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) when changes to the Medicaid Program are submitted through:

1. state plan amendments;

2. waivers, including:
   a. newly proposed submissions;
   b. amendments;
   c. extensions;
   c. renewals; and
   d. waiver terminations.

C. In accordance with the approved Medicaid State Plan governing the tribal consultation process, the Medicaid Program will periodically provide a summary, which includes the changes being made by the Medicaid Program, to the federally-recognized Louisiana tribal organizations to initiate the tribal consultation process.

1. Tribal organizations will have 30 days to respond with any comments, unless the date for submission of the changes to CMS becomes critical and needs to be expedited. Expedited submissions will have a 7-day comment period. This notification and comment period applies to all State Plan and waiver submissions.

2. If comments are received, they will be forwarded to the state Medicaid director, or his/her designee, for further consideration. If no comments are received within the 30- or 7-day time frame, the Medicaid Program will make the assumption the tribes agree with the provisions in the proposed state plan and waiver documents and proceed accordingly.

D. The tribal comment period must expire prior to the submission of state plan and waiver documents to CMS.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:892 (June 2016).

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

Rebekah E. Gee MD, MPH
Secretary

1606#067

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Direct Service Worker Registry (LAC 48:I.Chapter 92)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 48:I.Chapter 92 as authorized by R.S. 37:1031-1034 and R.S. 40:2179-2179.1. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 92. Direct Service Worker Registry
Subchapter A. General Provisions
§9201. Definitions

* * *

Activities of Daily Living (ADLs)—the functions or tasks which are performed by an individual in a typical day, either independently or with supervision/assistance. Activities of daily living may include, but are not limited to, bathing, dressing, eating, grooming, walking, transferring and toileting.

Assistance with Activities of Daily Living—services that provide assistance with activities of daily living. Such assistance may be the actual performance of the task for the individual, or may provide hands-on assistance with the performance of the tasks, or may be include supervision and prompting to allow the individual to self-perform such tasks.

* * *

DAL—Division of Administrative Law or its successor.

Department—the Louisiana Department of Health and Hospitals (DHH).

Direct Service Worker (DSW)—an unlicensed person who provides personal care or other services and support to persons with disabilities or to the elderly to enhance their well-being, and who is involved in face-to-face direct contact with the person. Functions performed may include, but are not limited to, assistance and training in activities of daily living, personal care services, and job-related supports. Examples of direct service workers employed or contracted in a licensed and/or certified health care setting include, but are not limited to:

1. patient care technicians;
2. hospital aides;
3. unlicensed assistive personnel (UAPs);
4. home health aides;
5. hospice aides;
6. direct care workers;
7. mental health technicians;
8. mental health aides;
9. mental health orderlies;
10. nursing aides or hospital orderlies;
11. nursing assistants;
12. patient care aides; and/or
13. any persons hired as unlicensed direct care staff that meet the provisions of this Chapter.

Note: Those persons who are listed on the Certified Nurse Aide Registry and who are employed as certified nurse aides in a licensed and/or certified nursing facility and/or a skilled nursing facility within a hospital are not included under these provisions as a direct service worker.

Disability—a physical or mental impairment which substantially limits one or more of the major life activities of an individual or who has a history of such impairment or who is regarded as having such impairment; having a condition (such as an illness or an injury) that damages or limits a person's physical or mental abilities, either temporarily or on a permanent basis.

Elderly—any adult over 75 years old or individuals over 65 years old who have functional impairments.

Employed—performance of a job or task for compensation, such as wages or a salary. An employed person may be one who is contracted or one who is directly hired for an on staff position.

* * *

Exploitation—the illegal or improper use or management of the funds, assets or property of an adult with disabilities or who is elderly, or the use of the power-of-attorney or

guardianship of an adult with disabilities or who is elderly for one's own profit or advantage.

* * *

Finding—allegations of abuse, neglect, exploitation or extortion that are placed on the registry by the department for the following reasons:

1. after a final decision by an administrative law judge or a court of law, after all appeal delays afforded by law are exhausted; or
2. failure by the accused to timely request an appeal in accordance with the provisions of this Rule.

Health Care Provider—any health care facility, agency, or entity licensed and/or certified by DHH. Such entities may be referred to in other laws, statutes and regulations as providers, agencies, clinics, residential care units, homes or facilities. Health care providers include, but are not limited to, the following:

1. nursing facilities;
2. hospice providers;
3. hospitals;
4. intermediate care facilities;
5. adult residential care providers;
6. adult day health care centers;
7. home health agencies;
8. behavioral health providers;
9. dialysis units; or
10. home and community based services providers.

Health Standards Section (HSS)—the section of the Department of Health and Hospitals responsible for the licensing and/or certification of health care providers.

* * *

Independent Living Environment—Repealed.

Major Life Activities—functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

* * *

Person-Specific Training—a set of knowledge, skills, training and abilities that address the client's strengths, restrictions relative to aging, disabilities, health care needs and related factors in order to meet the unique needs of the person receiving care.

Plan of Care—a plan that describes the assistance or services required to be provided to a person receiving home and community-based services, as defined herein. The plan also describes who shall provide the assistance and the frequency and/or duration of the services that shall be provided.

Provider—

1. an entity that furnishes care and services to consumers and has been licensed and/or certified by the department to operate in the state;
2. in the case of an authorized departmental self-directed program, provider shall be the entity or individual as specified by the program employing or contracting the direct service worker.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2058 (November 2006), amended LR 33:95 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3175 (December 2012), LR 42:893 (June 2016).

§9202. Introduction

A. The Department of Health and Hospitals (DHH) shall maintain a registry of individuals for whom specific findings of abuse, neglect, exploitation or extortion have been substantiated by the department, an administrative law judge, or a court of law.

B. - B.6. ...

C. Licensed and/or certified health care providers shall access the registry to determine if there is a finding that a prospective hire or currently employed or contracted direct service worker has been determined to have committed abuse or neglect of an individual being supported, or misappropriated the individual's property or funds. If there is such a finding on the registry, the prospective employee shall not be hired nor shall a current employee have continued employment with the licensed and/or certified health care provider.

D. All provisions of this Chapter, except Subchapter D, §§9241-9261, Medication Administration and Noncomplex Tasks in Home and Community-Based Settings, applies to any licensed and/or certified health care provider who employs or contracts direct service workers who provide personal care or other services and support to persons with disabilities or to the elderly to enhance their well-being, and who is involved in face-to-face direct contact with the person.

1. Exception. Home and community-based services providers are required to meet all provisions of this Chapter, inclusive of Subchapter D, §§9241-9261, if the HCBS provider employs or contracts direct service workers who perform medication administration and noncomplex medical tasks in the HCBS setting.

E. The provisions of this Chapter shall apply to direct service workers who are compensated, regardless of the setting, and specifically do not apply to those direct service workers listed on the Certified Nurse Aide Registry established under rules promulgated by the Department of Health and Hospitals.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2059 (November 2006), amended LR 33:95 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3176 (December 2012), LR 42:894 (June 2016).

Subchapter C. Provider Participation

§9231. Health Care Provider Responsibilities

A. Prior to hiring any direct service worker or trainee, the licensed and/or certified health care provider shall:

1. assure that the individual is at least 18 years of age, and that they have the ability to read, write and comprehend the English language; and
2. access the registry in accordance with the provisions of §9202.C.

B. The health care provider shall have a written process to check the registry every six months to determine if any currently employed or contracted direct service worker or trainee has been placed on the registry with a finding that

he/she has been determined to have committed abuse or neglect of an individual being supported or misappropriated the individual's property or funds.

1. The provider shall follow the agency's process in demonstration of compliance with this procedure.

2. If there is such a finding on the registry, the employee shall not have continued employment with the licensed and/or certified health care provider in accordance with the provisions of §9202.C.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:97 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3176 (December 2012), LR 42:894 (June 2016).

Subchapter D. Medication Administration and Noncomplex Tasks in Home and Community-Based Settings

§9243. General Requirements for the Performance of Medication Administration and Noncomplex Tasks in Home and Community-Based Settings

A. ...

1. be employed or contracted by an agency licensed and/or certified by the Health Standards Section or employed as part of an authorized departmental self-directed program; and

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3177 (December 2012), amended LR 42:895 (June 2016).

§9245. Training Requirements for the Performance of Medication Administration and Noncomplex Tasks in Home and Community-Based Settings

A. - C. ...

D. Any direct service worker currently employed or contracted to perform the procedures authorized by this Chapter shall complete the training required by this Subchapter no later than 12 months after promulgation of this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3177 (December 2012), amended LR 42: 42:895 (June 2016).

§9253. Registered Nurse Responsibilities

A. - A.6. ...

7. completing and submitting the required documentation to the licensed and/or certified agency employing or contracting the direct service worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3178 (December 2012), amended LR 42:895 (June 2016).

§9257. Liability

A. …

B. Any physician licensed to practice medicine by the Louisiana State Board of Medical Examiners, whether or not the physician developed the person's plan of care, including but not limited to the prescribed medical regime, who is rendering professional medical care services shall not be liable for any civil damages as a result of any negligent or intentional act or omission of the direct service worker or licensed and/or certified agency.

C. Notwithstanding any other provision of law, licensed and/or certified agencies that employ or contract direct service workers shall be liable for acts or omissions of the direct service worker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3179 (December 2012), amended LR 42:895 (June 2016).

§9261. Violations and Noncompliance

A. ...

B. In accordance with §9259.A.2, authorization for a direct service worker to perform any of the tasks specified in R.S. 37:1032 shall be terminated if the registered nurse certifies that the direct service worker can no longer perform the prescribed tasks safely and the direct service worker shall immediately cease performing such procedures.

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1031-1034.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3180 (December 2012), amended LR 42:895 (June 2016).

Subchapter E. Violations

§9273. Allegations of Direct Service Worker Wrong-Doing

A. The department, through the Division of Administrative Law, or its successor, provides a process for the review, investigation, and appeal of all allegations of wrong-doing by direct service workers. Direct service workers and trainees shall not:

1. - 2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:98 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3180 (December 2012), LR 42:895 (June 2016).

§9275. Notice of Violation

A. When there are substantiated allegations against the direct service worker, either through oral or written evidence, the department will notify the individual(s) implicated in the investigation of the following:

1. - 2. ...

3. the right to request from HSS an informal discussion (informal dispute resolution process); and

4. the right to request from the Division of Administrative Law an administrative hearing (appeal).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:98 (January 2007), LR 42:895 (June 2016).

§9277. Informal Dispute Resolution

A. When a direct service worker feels that he/she has been wrongly accused, the following procedure shall be followed:

1. The direct service worker may request an informal dispute resolution (IDR) within 15 calendar days of the receipt of the department's notice of violation. The request for an IDR shall be made to the HSS in writing.

2. The IDR is designed:

a. to provide an opportunity for the direct service worker to informally discuss the allegations that make the basis for placement of the finding;

b. - c. ...

3. An IDR session will be arranged within 20 days of receipt of the written request.

4. During the IDR, the direct service worker will be afforded the opportunity to:

a. talk with agency personnel assigned to the IDR;

b. - e. ...

5. Notice of the results of the IDR decision will be forwarded to the DSW in writing. Such written notice will include any further opportunities for appeal, if necessary and/or appropriate.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2061 (November 2006), amended LR 33:98 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3180 (December 2012), LR 42:895 (June 2016).

Subchapter F. Administrative Hearings

§9285. General Provisions

A. ...

1. The request for an administrative hearing shall be made in writing to the Division of Administrative Law, or its successor.

2. The request shall contain a statement setting forth the specific allegations which the direct service worker disputes and the reasons for this dispute.

A.3. - B. ...

1. - 1.c. Repealed.

C. The administrative hearing shall be conducted by an administrative law judge from the Division of Administrative Law, or its successor, as authorized by R.S. 46:107 and according to the Administrative Procedure Act.

1. - 9. Repealed.

D. If there is a final and binding administrative hearing decision to place a finding on the DSW Registry against the direct service worker, the department shall place the direct service worker's name and the adverse findings on the DSW Registry. The occurrence and findings will remain on the DSW Registry permanently.

D.1. - H. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2062 (November 2006), amended LR 33:98 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3180 (December 2012), LR 42:896 (June 2016).

§9287. Preliminary Conferences

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2062 (November 2006), amended LR 33:99 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3180 (December 2012), repealed LR 42:896 (June 2016).

§9293. Failure to Appear at Administrative Hearings

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:2063 (November 2006), amended LR 33:100 (January 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3181 (December 2012), repealed LR:42:896 (June 2016).

Rebekah E. Gee MD, MPH
Secretary

1606#068

RULE

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

Home and Community-Based Services Waivers
Children's Choice Waiver—Unit of Reimbursement
(LAC 50:XXI.12101)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.12101 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services Waivers
Subpart 9. Children's Choice

Chapter 121. Reimbursement

§12101. Unit of Reimbursement

A. ...

B. Direct service providers shall be reimbursed according to the following unit of reimbursement approach. Actual rates will be published in the Children's Choice Waiver provider manual, and will be subsequently amended by direct notification to the affected providers. For services provided by a subcontractor agency, the enrolled direct service provider shall coordinate and reimburse the subcontractor according to the terms of the contract and retain the administrative costs.

1. Family support, crisis support, center-based respite, aquatic therapy, art therapy, music therapy, sensory integration and hippotherapy/therapeutic horseback riding services shall be reimbursed at a flat rate per 15-minute unit of service and reimbursement shall not be made for less than

15-minute (one quarter-hour) of service. This covers both service provision and administrative costs.

a. Up to two participants may choose to share family support services if they share a common provider of this service.

b. Up to two participants may choose to share crisis support services if they share a common provider of this service.

c. There is a separate reimbursement rate when these services are shared.

2. - 3. ...

4. Direct Support Professionals Wages

a. The minimum hourly rate paid to providers for full-time equivalent (FTE) direct support professionals shall be the federal minimum wage in effect at the time.

B.4.b. - D.1.c. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), LR 36:2280 (October 2010), LR 37:2157 (July 2011), LR 39:2504 (September 2013), LR 40:68 (January 2014), LR 41:128 (January 2015), LR 42:896 (June 2016).

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

Rebekah E. Gee MD, MPH
Secretary

1606#069

RULE

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

Home and Community-Based Services Waivers
Community Choices Waiver
Unit of Reimbursement
(LAC 50:XXI.9501)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services have amended LAC 50:XXI.9501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services Waivers
Subpart 7. Community Choices Waiver
Chapter 95. Reimbursement
§9501. Unit of Reimbursement

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the participant. One quarter hour (15 minutes) is the standard unit of service, which covers both the service provision and administrative costs for the following services, and reimbursement shall not be made for less than one quarter hour (15 minutes) of service:

1. personal assistance services (except for the "a.m. and p.m." service delivery model);

a. up to three participants may share personal assistance services if they live together and share a common provider of these services; and

b. there is a separate reimbursement rate for shared personal care services;

c. Repealed.

A.2. - B.3. …

4. transition expenses (not to exceed the maximum lifetime limit set by OAAS); and

B.5. - E. …

F. The following services shall be reimbursed on a per-visit basis:

1. certain nursing and skilled maintenance therapy procedures; and

2. personal assistance services furnished via "a.m. and p.m." delivery method.

G. The following services shall be reimbursed on a per-visit basis:

1. certain environmental accessibility adaptations; and

2. certain nursing, and skilled maintenance therapy procedures.

H. …

I. - L.1. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3525 (December 2011), amended LR 39:322 (February 2013), LR 39:508 (March 2013), repromulgated LR 39:1048 (April 2013), amended LR 39:1779 (July 2013), LR 40:793 (April 2014), LR 42:897 (June 2016).

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

Rebekah E. Gee MD, MPH
Secretary

1606#070

RULE

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

Home and Community-Based Services Waivers
New Opportunities Waiver
Unit of Reimbursement
(LAC 50:XXI.14301)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.14301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services Waivers
Subpart 11. New Opportunities Waiver
Chapter 143. Reimbursement
§14301. Unit of Reimbursement

A. Reimbursement for services shall be a prospective flat rate for each approved unit of service provided to the participant. One quarter hour (15 minutes) is the standard unit of service and reimbursement shall not be made for less than 15 minutes (one quarter hour) of service. This covers both service provision and administrative costs for the following services:

1. ...
2. community integration development:

a. up to three participants may choose to share community integration development if they share a common provider of this service;

b. there is a separate reimbursement rate for community integration development when these services are shared;

3. - 4. ...
5. individualized and family support-day and night:

a. up to three participants may choose to share individualized and family support services if they share a common provider;

b. there is a separate reimbursement rate for individualized and family support when these services are shared;

6. ...
7. skilled nursing services:

a. up to three participants may choose to share skilled nursing services if they share a common provider;

b. there is a separate reimbursement rate for skilled nursing services when these services are shared;

c. ...

d. - e. Repealed.

A.8. - E. ...

F. Remote assistance is paid through an hourly rate.

1. - 10.d. Repealed

G. Direct Support Professionals Wages. The rate paid to direct support professionals shall be the federal minimum wage in effect at the time.

G.1. - L. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1209 (June 2004), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:252 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1851 (September 2009), amended LR 36:1247 (June 2010), LR 37:2158 (July 2011), LR 39:1049 (April 2013), LR 40:80 (January 2014), LR 42:898 (June 2016).

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

Rebekah E. Gee MD, MPH
Secretary

1606#071

RULE

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

Home and Community-Based Services Waivers
Rate Methodology
(LAC 50:XXI.Chapter 7)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services have amended LAC 50:XXI.701 and adopted §703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services Waivers
Subpart 1. General Provisions
Chapter 7. Reimbursement Methodology
§701. Cost Reporting Requirements

A. Effective July 1, 2012, the department shall implement mandatory cost reporting requirements for providers of home and community-based waiver services who provide personal care services (including personal care services, personal care attendant services, community living supports services, attendant care services, personal assistance services, in-home respite, and individual and family support services). The cost reports will be used to verify expenditures and to support rate setting for the services rendered to waiver recipients.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:509 (March 2013), amended LR 42:898 (June 2016).

§703. Rate Methodology

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service that is provided to the recipient:

1. personal care services;
2. personal care attendant services;
3. community living supports services;
4. attendant care services;
5. personal assistance services;
6. in-home respite; and
7. individual and family support services, collectively referred to as reimbursable assistance services.

B. One quarter hour (15 minutes) shall be the standard unit of service. Reimbursement shall not be paid for the provision of less than one quarter hour (15 minutes) of service.

C. Effective July 1, 2016, a rate validation process will occur to determine the sufficiency of reimbursement rates. This process will be repeated at a minimum of every two years thereafter. The rate validation process will involve the comparison of current provider reimbursement rates to reimbursement rates established using the department's reimbursement methodology.

1. The department's reimbursement methodology will establish an estimated reimbursement rate through the summation of the following two rate component totals:

a. adjusted staff cost rate component; and

b. other operational cost rate component.

2. The adjusted staff cost rate component will be determined in the following manner.

a. Direct service worker wage expense, contract labor expense, and hours worked for reimbursable assistance services will be collected from provider cost reports.

i. Collected wage and contract labor expense will be divided by collected hours worked, on an individual cost report basis, to determine a per hour labor rate for direct service workers.

ii. The individual cost report hourly labor rates will be aggregated for all applicable filed cost reports, outliers will be removed, and a simple average statewide labor rate will be determined.

b. A blended direct service worker labor rate will be calculated by comparing the simple average statewide labor rate to the most recently available, as of the calculation of the department's rate validation process, average personal care aide wage rate from the *Louisiana Occupational Employment and Wages* report for all Louisiana parishes published by the Louisiana Workforce Commission (or its successor).

i. If the simple average statewide labor rate is less than the wage rate from the *Louisiana Occupational Employment and Wages* report, a blended wage rate will be calculated using 50 percent of both wage rates.

ii. If the simple average statewide labor rate is equal to or greater than the wage rate from the *Louisiana Occupational Employment and Wages* report, the simple average statewide labor rate will be utilized.

c. An employee benefit factor will be added to the blended direct service worker wage rate to determine the unadjusted hourly staff cost.

i. Employee benefit expense allocated to reimbursable assistance services will be collected from provider cost reports.

ii. Employee benefit expense, on an individual cost report basis, will be divided by the cost report direct service wage and contract labor expense for reimbursable assistance services to calculate employee benefits as a percentage of labor costs.

iii. The individual cost report employee benefit percentages will be aggregated for all applicable filed cost reports, outliers will be removed, and a simple average statewide employee benefit percentage will be determined.

iv. The simple average statewide employee benefit percentage will be multiplied by the blended direct service worker labor rate to calculate the employee benefit factor.

d. The department will be solely responsible for determining if adjustments to the unadjusted hourly staff cost for items that are underrepresented or not represented in provider cost reports is considered appropriate.

e. The unadjusted hourly staff cost will be multiplied by a productive hours adjustment to calculate the hourly adjusted staff cost rate component total. The productive hours' adjustment allows the reimbursement rate to reflect the cost associated with direct service worker time spent performing required non-billable activities. The productive hours' adjustment will be calculated as follows.

i. The department will determine estimates for the amount of time a direct service worker spends performing required non-billable activities during an eight hour period. Examples of non-billable time include, but are not limited to: meetings, substitute staff, training, wait-time, supervising, etc.

ii. The total time associated with direct service worker non-billable activities will be subtracted from eight hours to determine direct service worker total billable time.

iii. Eight hours will be divided by the direct service worker total billable time to calculate the productive hours adjustment.

3. The other operational cost rate component will be calculated in the following manner.

a. Capital expense, transportation expense, other direct non-labor expense, and other overhead expense allocated to reimbursable assistance services will be collected from provider cost reports.

b. Capital expense, transportation expense, supplies and other direct non-labor expense, and other overhead expense, on an individual cost report basis, will be divided by the cost report direct service wage and contract labor expense for reimbursable assistance services to calculate other operational costs as a percentage of labor costs.

c. The individual cost report other operational cost percentages will be aggregated for all applicable filed cost reports, outliers will be removed, and a simple average statewide other operational cost percentage will be determined.

d. The simple average other operational cost percentage will be multiplied by the blended direct service

worker labor rate to calculate the other operational cost rate component.

4. The calculated department reimbursement rates will be adjusted to a one quarter hour unit of service by dividing the hourly adjusted staff cost rate component and the hourly other operational cost rate component totals by four.

5. The department will be solely responsible for determining the sufficiency of the current reimbursement rates during the rate validation process. Any reimbursement rate change deemed necessary due to rate validation process will be subject to legislative budgetary appropriation restrictions prior to implementation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 42:899 (June 2016).

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

Rebekah E. Gee MD, MPH
Secretary

1606#072

RULE

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

Home and Community-Based Services Waivers
Residential Options Waiver
Unit of Reimbursement
(LAC 50:XXI.16901 and 16903)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.16901 and §16903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services Waivers
Subpart 13. Residential Options Waiver
Chapter 169. Reimbursement
§16901. Unit of Reimbursement

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the waiver participant. One quarter hour (15 minutes) is the standard unit of service and reimbursement shall not be made for less than one quarter hour of service. This covers both the service provision and administrative costs for these services:

A.1. - J. ...

K. - L.1.d. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:1049 (April 2013), LR 41:2168, 2169 (October 2015), LR 42:63 (January 2016), LR 42:900 (June 2016).

§16903. Direct Support Professional Wages

A. The minimum hourly rate paid to direct support professionals shall be the federal minimum wage in effect at the time.

1. - 6. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:2169 (October 2015), LR 42:900 (June 2016).

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

Rebekah E. Gee MD, MPH
Secretary

1606#073

RULE

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

Home and Community-Based Services Waivers
Supports Waiver
Unit of Reimbursement
(LAC 50:XXI.6101)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.6101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services Waivers
Subpart 5. Supports Waiver
Chapter 61. Reimbursement
§6101. Unit of Reimbursement

A. The reimbursement for all services will be paid on a per claim basis. The reimbursement rate covers both service provision and administration. Services which utilize a

prospective flat rate of one quarter hour (15 minutes) will not be paid for the provision of less than one quarter hour of service.

B. - G. …

H. Direct Support Professionals Wages. The minimum hourly rate paid to direct support professionals shall be the federal minimum wage in effect at the time.

1. - 9.d. Repealed.

I. …

J. - L.1. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:2281 (October 2010), LR 37:2158 (July 2011), LR 39:1050 (April 2013), LR 40:82 (January 2014), LR 40:2587 (December 2014), LR 42:900 (June 2016).

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

Rebekah E. Gee MD, MPH
Secretary

1606#074

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Medicaid Eligibility
Asset Verification Program
(LAC 50:III.Chapter 3)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:III.Chapter 3 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 1. General Administration
Chapter 3. Asset Verification Program
§301. General Provisions

A. Pursuant to §7001(d) of the Supplemental Appropriations Act of 2008 (P.L. 110-252) and §1940 of the Social Security Act, the department hereby establishes provisions to implement an Asset Verification Program (AVP) for Louisiana Medicaid.

B. The department will provide for the verification of assets for the purposes of determining or redetermining (renewing) Medicaid eligibility for aged, blind and disabled Medicaid applicants and recipients of Medicaid using an asset verification system (AVS) which meets the following requirements.

1. The request and response system will be an electronic system and meet the following criteria.

a. Verification inquiries will be sent electronically via the internet or similar means from Medicaid to the financial institution (FI).

b. The system will not be based on mailing paper-based requests.

c. The system will have the capability to accept responses electronically.

C. The system will be secure, based on a recognized industry standard of security.

D. The system will establish and maintain a database of the FIs that will participate in the department's AVS as mandated by federal requirements.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:901 (June 2016).

Rebekah E. Gee MD, MPH
Secretary

1606#075

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Medicaid Eligibility
Recipient Appeals and Fair Hearing Requests
(LAC 50:III.101)

The Department of Health and Hospitals, Bureau of Health Services Financing has repealed and replaced the provisions of section T-100 of the *Medicaid Eligibility Manual* governing fair hearings which was promulgated in the May 20, 1996 Rule, and has adopted LAC 50:III.101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 1. General Administration
Chapter 1. General Provisions
§101. Fair Hearings

A. Every applicant for, and enrollee of, Medicaid Program benefits has the right to appeal an agency action or decision, and has the right to request a fair hearing in the presence of an impartial hearing officer.

1. *Action*—a termination, suspension or reduction of Medicaid eligibility or covered services. This includes terminations by skilled nursing facilities and nursing facilities to transfer or discharge residents and adverse determinations made by a state (Medicaid Program) with regard to the preadmission screening and annual resident review requirements of §1917(e)(7) of the Social Security Act.

2. Exception. Enrollees are not entitled to a fair hearing if the sole issue is a federal or state law requiring an

automatic change adversely affecting some or all Medicaid recipients.

3. Applicants and enrollees shall be informed in writing of the right to request a fair hearing and of the procedure to do so.

B. The Medicaid Program may delegate the responsibility for conducting fair hearings to another state agency. Any agency with delegated authority to conduct fair hearings on behalf of the Medicaid Program shall comply with the federal notice and fair hearing requirements pursuant to 42 CFR 431, subpart E, and all other Medicaid Program and state regulations governing fair hearings.

C. Applicants and enrollees must request a fair hearing within 30 days of the date of the adequate and/or timely decision notice issued by the Medicaid Program or its designee.

D. Maintenance of Services Pending a Fair Hearing Request

1. If the Medicaid Program sends a notice to the recipient as required under 42 CFR 431.211 or §431.214, and the recipient requests a hearing before the date of action, the recipient's services will not be terminated or reduced by the Medicaid Program until a decision is rendered after the hearing unless:

a. it is determined at the hearing that the sole issue is one of federal or state law or policy; and

b. the recipient is promptly informed by Medicaid, in writing, that the services are to be terminated or reduced pending the hearing decision.

2. If the Medicaid Program's action is sustained by the hearing decision, recovery procedures may be instituted against the applicant/recipient to recoup the cost of any services furnished, to the extent they were furnished solely by reason of this §101.D.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:901 (June 2016).

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

Rebekah E. Gee MD, MPH
Secretary

1606#076

RULE

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

Personal Care Services—Long-Term
(LAC 50:XV.Chapter 129)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services have amended LAC 50:XV.Chapter 129 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12901. General Provisions

A. - F.1.b. …

2. The functions of a responsible representative are to:

a. assist or represent, as needed, the recipient in the assessment, care plan development and service delivery processes; and

F.2.b. - G.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:911 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2577 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2450 (November 2009), LR 39:2506 (September 2013), LR 41:540 (March 2015), LR 42:902 (June 2016).

§12902. Participant Direction Option

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2507 (September 2013), repealed LR 42:902 (June 2016).

§12903. Covered Services

A. *Personal care services* are defined as those services that provide assistance with the distinct tasks associated with the performance of the activities of daily living (ADLs) and the instrumental activities of daily living (IADLs). Assistance may be either the actual performance of the personal care task for the individual or supervision and prompting so the individual performs the task by him/herself. ADLs are those personal, functional activities required by the recipient. ADLs include tasks such as:

1. - 4. ...

5. *transferring*—the manner in which an individual moves from one surface to another (excludes getting on and off the toilet, and getting in and out of the tub/shower);

A.6. - C. ...

1. If transportation is furnished, the participant must accept all liability for their employee transporting them. It is the responsibility of the participant to ensure that the employee has a current, valid driver's license and automobile liability insurance.

a. Repealed.

D. ...

E. For participants receiving LT-PCS with the Adult Day Health Care (ADHC) Waiver, personal care services may be provided by one worker for up to three long-term personal care service recipients who live together, and who have a common direct service provider.

F. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2507 (September 2013), LR 42:902 (June 2016).

§12905. Eligibility Criteria

A. Personal care services shall be available to recipients who are 65 years of age or older, or 21 years of age or older and have a disability. Persons with a disability must meet the disability criteria established by the Social Security Administration.

B. - B.3.c. …

C. Persons designated as the responsible representative of an individual receiving services under LT-PCS may not be the paid direct service worker of the individual they are representing.

D. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2507 (September 2013), LR 42:903 (June 2016).

§12907. Recipient Rights and Responsibilities

A. Recipients who receive services under the Long-Term Personal Care Services Program have the right to actively participate in the development of their plan of care and the decision-making process regarding service delivery. Recipients also have the right to freedom of choice in the selection of a provider of personal care services and to participate in the following activities:

1. - 6. ...

7. changing the personal care worker assigned to provide their services;

A.8. - B. ...

* * *

C. - C.13. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2508 (September 2013), LR 42:903 (June 2016).

§12910. La POP Standards for Participation

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2508 (September 2013), repealed LR 42:903 (June 2016).

§12911. Staffing Requirements

A. All staff providing direct care to the recipient must meet the qualifications for furnishing personal care services per the licensing regulations. The direct service worker shall demonstrate empathy toward the elderly and persons with disabilities, an ability to provide care to these recipients, and the maturity and ability to deal effectively with the demands of the job.

B. - B.1.f. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2508 (September 2013), LR 42:903 (June 2016).

§12912. Training

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2580 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2509 (September 2013), repealed LR 42:903 (June 2016).

§12913. Service Delivery

A. ...

B. The provision of services outside of the recipient's home does not include trips outside of the borders of the state without approval of OAAS or its designee.

C. Participants are not permitted to live in a home or property owned, operated, or controlled by an owner, operator, agent, or employee of a licensed provider of long-term care services, and providers are prohibited from providing and billing for services under these circumstances. Participants may not live in the home of a direct support worker unless the direct support worker is related by blood or marriage to the participant.

1. ...

D. Place(s) of service must be documented in the plan of care and service logs.

E. It is permissible for an LT-PCS recipient to use his/her approved LT-PCS weekly allotment flexibly provided that it is done so in accordance with the recipient's preferences and personal schedule and is properly documented in accordance with OAAS policy.

F. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended LR 30:2833 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581

(December 2008), amended by the Department of Health and Hospitals, Bureau of Health Financing and the Office of Aging and Adult Services, LR 39:2509 (September 2013), LR 42:903 (June 2016).

§12917. Unit of Reimbursement

A. Reimbursement for personal care services shall be a prospective flat rate for each approved unit of service that is provided to the recipient. One quarter hour (15 minutes) is the standard unit of service for personal care services. Reimbursement shall not be paid for the provision of less than one quarter hour (15 minutes) of service. Additional reimbursement shall not be available for transportation furnished during the course of providing personal care services.

B. The minimum hourly rate paid to personal care workers shall be at least the current federal minimum.

B.1. - I. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1901 (September 2009), LR 36:1251 (June 2010), LR 37:3267 (November 2011), LR 39:1780 (July 2013), LR 42:904 (June 2016).

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

Rebekah E. Gee MD, MPH
Secretary

1606#077

RULE

Department of Health
Emergency Response Network

LERN Destination Protocol: TRAUMA (LAC 48:I.19121)

The Louisiana Emergency Response Network Board has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and codified LAC 48:I.Chapter 191, Section 19121, a protocol adopted and promulgated on December 10, 2015, by the Louisiana Emergency Response Network Board for the transport of trauma and time sensitive ill patients, adopted as authorized by R.S. 9:2798.5 (to replace the protocol adopted on November 10, 2014, codified in LR 41:950 (May 20, 2015) as LAC 48:I.Chapter 191, Section 19119).

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 15. Emergency Response Network
Chapter 191. Trauma Protocols
§19121. LERN Destination Protocol: TRAUMA

A. On December 10, 2015, the Louisiana Emergency Response Network Board [R.S. 40:2842(1) and (3)] adopted and promulgated "LERN Destination Protocol: TRAUMA", which replaces the "LERN Destination Protocol: TRAUMA" found in §19121 adopted and promulgated November 20, 2014, as follows.

1. Call LERN communication center at (866) 320-8293 for patients meeting the following criteria.

• Unmanageable airway • Tension pneumothorax • Traumatic cardiac arrest • Burn patient without patent airway • Burn patient > 40 percent BSA without IV	Yes→	**Closest ED/Trauma Center**
No ↓		
Measure vital signs and level of consciousness		
• GCS ≤13 • SBP <90mmHg • RR <10 or >29 breaths per minute, or need for ventilator Support (<20 in infant aged <1 year)	Yes→	**Transport to Trauma Center/ Trauma Program** These patients should be transported to the highest level of care within the defined trauma system. This is a Level 1 or a Level 2 Trauma Center or Trauma Program. ** If distance or patient condition impedes transport to trauma facility, consider transport to most appropriate resourced hospital.*
No ↓		
Assess anatomy of injury		
• All penetrating injuries to head, neck, torso, and extremities proximal to elbow or knee • Chest wall instability or deformity (e.g. flail chest) • Two or more proximal long-bone fractures • Crushed, degloved, mangled, or pulseless extremity • Amputation proximal to wrist or ankle • Pelvic fractures • Open or depressed skull fracture • Paralysis • Fractures with neurovascular compromise (decreased peripheral pulses or prolonged capillary refill, motor or sensory deficits distal to fracture)	Yes→	Transport to Trauma Center/ Trauma Program These patients should be transported to the highest level of care within the defined trauma system. This is a Level 1 or a Level 2 Trauma Center or Trauma Program. ** If distance or patient condition impedes transport to trauma facility, consider transport to most appropriate resourced hospital.*
No ↓		
Assess mechanism of injury and evidence of high-energy impact		
• **Falls** - Adults: >20 feet (one story is equal to 10 feet) - Children: >10 feet or two or three times the height of the child • **High-risk auto crash** - Intrusion, including roof: > 12 inches occupant site;	Yes→	**Transport to Trauma Center/Trauma Program** which, depending upon the defined trauma system, need not be the highest level trauma center/program. If no Trauma Center/Trauma Program in the region, LCC may route to the most appropriate resourced hospital.

> 18 inches any site - Ejection (partial or complete) from automobile - Death in the same passenger compartment - Vehicle telemetry data consistent with a high risk of injury • **Auto vs. pedestrian/bicyclist/ATV thrown, run over, or with significant (>20 mph) impact** • **Motorcycle crash >20mph**		
No ↓		
Assess special patient or system considerations		
• **Older Adults** - Risk of injury/death increases after age 55 years - SBP <110 may represent shock after age 65 - Low impact mechanisms (e.g. ground level falls) may result in severe injury • **Children** - Should be triaged preferentially to pediatric capable trauma centers • **Anticoagulants and bleeding disorders** - Patients with head injury are at high risk for rapid deterioration • **Burns** - With trauma mechanism: triage to trauma center • **Pregnancy >20 weeks** • Hip Fractures (hip tenderness, deformity, lateral deviation of foot) excluding isolated hip fractures from same level falls • Major joint dislocations (hip, knee, ankle, elbow) • Open Fractures • EMS provider judgment	Yes→	**Transport to Trauma Center/Trauma Program** or hospital capable of timely and thorough evaluation and initial management of potentially serious injuries. Consider consultation with medical control.
No ↓		
Multi/Mass Casualty Incident	No→	Transport according to protocol

2. When in doubt, transport to a trauma center.

B. This protocol was published at LR 42:169 (January 2016).

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:2798.5 and R.S. 40:2846(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network, LR 42:904 (June 2016).

Paige Hargrove
Executive Director

1606#030

RULE

Department of State
Business Services Division

Business Entities (LAC 19:V.Chapters 1-13)

The secretary of State, pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 49:222 and R.S. 36:742, has adopted a Rule to authorize the use of an optional secure business filings (SBF) service designed to discourage fraudulent business filings in Louisiana through geauxBIZ.

Title 19
CORPORATION AND BUSINESS
Part V. Secretary of State
Chapter 1. Domestic Corporations
§100. Secure Business Filings Service

A. The Department of State has developed and now offers an optional secure business filings (SBF) service designed to discourage fraudulent business filings in Louisiana. The service will notify a corporation via email whenever amendments are submitted on the corporation through geauxBIZ. The corporation will have the opportunity to review the filing and approve or reject further processing by the Department of State.

B. Any person who has a geauxBIZ account with a verified email address can enroll in the optional SBF service. The enrollment application must be authorized by a person who is a named officer, director, member, manager, or partner of record (the authorizing authority). The identity of the authorizing authority must be verified by completing a secure business filing service enrollment application authorization which must be verified by a licensed notary public in the state where the authorizing authority resides. A copy of the authorization form can be found on the department's website. The authorization application is required for all SBF applicants, even if the applicant is the approval authority.

C. Business entities will have an opportunity to review the filing and approve or reject further processing by the Department of State. To approve a filing, the corporation must provide the PIN assigned to the corporation within five days of receiving notification of a pending file. If the corporation rejects a filing or if five days passes with no action performed, the filing will not be processed by the Department of State.

D. The corporation is responsible for PIN usage and security. The Department of State will not be responsible for unauthorized usage of the PIN or changes made to the corporation's business record as a result of an unauthorized user entering the correct PIN. The department reserves the right to cancel the SBF service, change the PIN, remove an SBF enrollee, change the SBF service terms and conditions, or act to prevent or prosecute fraudulent activity at any time.

E. The service has a one-time enrollment fee of $35. An enrollment does not expire; however, it can be cancelled by the enrollee, by another authorized applicant, or by the Department of State. Enrollments are non-transferrable. A new SBF enrollment application must be completed to

reinstate a cancelled enrollment or to change the SBF enrollment to a different geauxBIZ user. Once the enrollment application is approved by the department, the department will provide the corporation with a personal identification number (PIN) that will be unique to the corporation. The corporation can give the PIN to any person filing amendments on the corporation's behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 42:905 (June 2016).

Chapter 5. Nonprofit Corporations

§500. Secure Business Filings Service

A. The Department of State has developed and now offers an optional secure business filings (SBF) service designed to discourage fraudulent business filings in Louisiana. The service will notify a corporation via email whenever amendments are submitted on the corporation through geauxBIZ. The corporation will have the opportunity to review the filing and approve or reject further processing by the Department of State.

B. Any person who has a geauxBIZ account with a verified email address can enroll in the optional SBF service. The enrollment application must be authorized by a person who is a named officer, director, member, manager, or partner of record (the authorizing authority). The identity of the authorizing authority must be verified by completing a secure business filing service enrollment application authorization which must be verified by a licensed notary public in the state where the authorizing authority resides. A copy of the authorization form can be found on the department's website. The authorization application is required for all SBF applicants, even if the applicant is the approval authority.

C. Business entities will have an opportunity to review the filing and approve or reject further processing by the Department of State. To approve a filing, the corporation must provide the PIN assigned to the corporation within five days of receiving notification of a pending file. If the corporation rejects a filing or if five days passes with no action performed, the filing will not be processed by the Department of State.

D. The corporation is responsible for PIN usage and security. The Department of State will not be responsible for unauthorized usage of the PIN or changes made to the corporation's business record as a result of an unauthorized user entering the correct PIN. The department reserves the right to cancel the SBF service, change the PIN, remove an SBF enrollee, change the SBF service terms and conditions, or act to prevent or prosecute fraudulent activity at any time.

E. The service has a one-time enrollment fee of $35. An enrollment does not expire; however, it can be cancelled by the enrollee, by another authorized applicant, or by the Department of State. Enrollments are non-transferrable. A new SBF enrollment application must be completed to reinstate a cancelled enrollment or to change the SBF enrollment to a different geauxBIZ user. Once the enrollment application is approved by the department, the department will provide the corporation with a personal identification number (PIN) that will be unique to the corporation. The corporation can give the PIN to any person filing amendments on the corporation's behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 42:906 (June 2016).

Chapter 7. Foreign Corporations

§700. Secure Business Filings Service

A. The Department of State has developed and now offers an optional secure business filings (SBF) service designed to discourage fraudulent business filings in Louisiana. The service will notify a corporation via email whenever amendments are submitted on the corporation through geauxBIZ. The corporation will have the opportunity to review the filing and approve or reject further processing by the Department of State.

B. Any person who has a geauxBIZ account with a verified email address can enroll in the optional SBF service. The enrollment application must be authorized by a person who is a named officer, director, member, manager, or partner of record (the authorizing authority). The identity of the authorizing authority must be verified by completing a secure business filing service enrollment application authorization which must be verified by a licensed notary public in the state where the authorizing authority resides. A copy of the authorization form can be found on the department's website. The authorization application is required for all SBF applicants, even if the applicant is the approval authority.

C. Business entities will have an opportunity to review the filing and approve or reject further processing by the Department of State. To approve a filing, the corporation must provide the PIN assigned to the corporation within five days of receiving notification of a pending file. If the corporation rejects a filing or if five days passes with no action performed, the filing will not be processed by the Department of State.

D. The corporation is responsible for PIN usage and security. The Department of State will not be responsible for unauthorized usage of the PIN or changes made to the corporation's business record as a result of an unauthorized user entering the correct PIN. The department reserves the right to cancel the SBF service, change the PIN, remove an SBF enrollee, change the SBF service terms and conditions, or act to prevent or prosecute fraudulent activity at any time.

E. The service has a one-time enrollment fee of $35. An enrollment does not expire; however, it can be cancelled by the enrollee, by another authorized applicant, or by the Department of State. Enrollments are non-transferrable. A new SBF enrollment application must be completed to reinstate a cancelled enrollment or to change the SBF enrollment to a different geauxBIZ user. Once the enrollment application is approved by the department, the department will provide the corporation with a personal identification number (PIN) that will be unique to the corporation. The corporation can give the PIN to any person filing amendments on the corporation's behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222 and R.S. 36:742.

ISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 42:906 (June 2016).

Chapter 9. Special Corporations

§900. Secure Business Filings Service

A. The Department of State has developed and now offers an optional secure business filings (SBF) service designed to discourage fraudulent business filings in Louisiana. The service will notify a corporation via email whenever amendments are submitted on the corporation through geauxBIZ. The corporation will have the opportunity to review the filing and approve or reject further processing by the Department of State.

B. Any person who has a geauxBIZ account with a verified email address can enroll in the optional SBF service. The enrollment application must be authorized by a person who is a named officer, director, member, manager, or partner of record (the authorizing authority). The identity of the authorizing authority must be verified by completing a secure business filing service enrollment application authorization which must be verified by a licensed notary public in the state where the authorizing authority resides. A copy of the authorization form can be found on the department's website. The authorization application is required for all SBF applicants, even if the applicant is the approval authority.

C. Business entities will have an opportunity to review the filing and approve or reject further processing by the Department of State. To approve a filing, the corporation must provide the PIN assigned to the corporation within five days of receiving notification of a pending file. If the corporation rejects a filing or if five days passes with no action performed, the filing will not be processed by the Department of State.

D. The corporation is responsible for PIN usage and security. The Department of State will not be responsible for unauthorized usage of the PIN or changes made to the corporation's business record as a result of an unauthorized user entering the correct PIN. The department reserves the right to cancel the SBF service, change the PIN, remove an SBF enrollee, change the SBF service terms and conditions, or act to prevent or prosecute fraudulent activity at any time.

E. The service has a one-time enrollment fee of $35. An enrollment does not expire; however, it can be cancelled by the enrollee, by another authorized applicant, or by the Department of State. Enrollments are non-transferrable. A new SBF enrollment application must be completed to reinstate a cancelled enrollment or to change the SBF enrollment to a different geauxBIZ user. Once the enrollment application is approved by the department, the department will provide the corporation with a personal identification number (PIN) that will be unique to the corporation. The corporation can give the PIN to any person filing amendments on the corporation's behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 42:907 (June 2016).

Chapter 11. Limited Liability Companies

§1100. Secure Business Filings Service

A. The Department of State has developed and now offers an optional secure business filings (SBF) service designed to discourage fraudulent business filings in Louisiana. The service will notify a limited liability company via email whenever amendments are submitted on the limited liability company through geauxBIZ. The limited liability company will have the opportunity to review the filing and approve or reject further processing by the Department of State.

B. Any person who has a geauxBIZ account with a verified email address can enroll in the optional SBF service. The enrollment application must be authorized by a person who is a named officer, director, member, manager, or partner of record (the authorizing authority). The identity of the authorizing authority must be verified by completing a secure business filing service enrollment application authorization which must be verified by a licensed notary public in the state where the authorizing authority resides. A copy of the authorization form can be found on the department's website. The authorization application is required for all SBF applicants, even if the applicant is the approval authority.

C. Business entities will have an opportunity to review the filing and approve or reject further processing by the Department of State. To approve a filing, the limited liability company must provide the PIN assigned to the limited liability company within five days of receiving notification of a pending file. If the limited liability company rejects a filing or if five days passes with no action performed, the filing will not be processed by the Department of State.

D. The limited liability company is responsible for PIN usage and security. The Department of State will not be responsible for unauthorized usage of the PIN or changes made to the limited liability company's business record as a result of an unauthorized user entering the correct PIN. The department reserves the right to cancel the SBF service, change the PIN, remove an SBF enrollee, change the SBF service terms and conditions, or act to prevent or prosecute fraudulent activity at any time.

E. The service has a one-time enrollment fee of $35. An enrollment does not expire; however, it can be cancelled by the enrollee, by another authorized applicant, or by the Department of State. Enrollments are non-transferrable. A new SBF enrollment application must be completed to reinstate a cancelled enrollment or to change the SBF enrollment to a different geauxBIZ user. Once the enrollment application is approved by the department, the department will provide the limited liability company with a personal identification number (PIN) that will be unique to the limited liability company. The limited liability company can give the PIN to any person filing amendments on the limited liability company's behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 42:907 (June 2016).

Chapter 13. Partnerships

§1300. Secure Business Filings Service

A. The Department of State has developed and now offers an optional secure business filings (SBF) service designed to discourage fraudulent business filings in Louisiana. The service will notify a partnership via email whenever amendments are submitted on the partnership through geauxBIZ. The partnership will have the opportunity to review the filing and approve or reject further processing by the Department of State.

B. Any person who has a geauxBIZ account with a verified email address can enroll in the optional SBF service. The enrollment application must be authorized by a person who is a named officer, director, member, manager, or partner of record (the authorizing authority). The identity of the authorizing authority must be verified by completing a secure business filing service enrollment application authorization which must be verified by a licensed notary public in the state where the authorizing authority resides. A copy of the authorization form can be found on the department's website. The authorization application is required for all SBF applicants, even if the applicant is the approval authority.

C. Business entities will have an opportunity to review the filing and approve or reject further processing by the Department of State. To approve a filing, the partnership must provide the PIN assigned to the partnership within five days of receiving notification of a pending file. If the partnership rejects a filing or if five days passes with no action performed, the filing will not be processed by the Department of State.

D. The partnership is responsible for PIN usage and security. The Department of State will not be responsible for unauthorized usage of the PIN or changes made to the partnership's business record as a result of an unauthorized user entering the correct PIN. The department reserves the right to cancel the SBF service, change the PIN, remove an SBF enrollee, change the SBF service terms and conditions, or act to prevent or prosecute fraudulent activity at any time.

E. The service has a one-time enrollment fee of $35. An enrollment does not expire; however, it can be cancelled by the enrollee, by another authorized applicant, or by the Department of State. Enrollments are non-transferrable. A new SBF enrollment application must be completed to reinstate a cancelled enrollment or to change the SBF enrollment to a different geauxBIZ user. Once the enrollment application is approved by the department, the department will provide the partnership with a personal identification number (PIN) that will be unique to the partnership. The partnership can give the PIN to any person filing amendments on the partnership's behalf.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:222 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Business Services Division, LR 42:907 (June 2016).

Tom Schedler
Secretary of State

1606#040

RULE

Department of Wildlife and Fisheries
Office of Fisheries

Reef Fish—Harvest Regulations (LAC 76:VII.335)

The Wildlife and Fisheries Commission has amended a Rule (LAC 76:VII.335) modifying existing reef fish harvest regulations. The changes decrease the daily trip limit of commercially harvested greater amberjack from 2,000 pounds to 1,500 pounds and increase the recreational minimum size limit of greater amberjack from 30 to 34 inches fork length. Authority for amendment of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), 56:320.2, 56:326.1, and 56:326.3 to the Wildlife and Fisheries Commission.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§335. Reef Fish—Harvest Regulations

A. - D.7. …

8. Commercial trip limits shall include those limits listed below. For the purposes of this rule, a *trip* is defined as a fishing trip, regardless of the number of days duration, that begins with departure from a dock, berth, beach, seawall or ramp and that terminates with return to a dock, berth, beach, seawall or ramp.

Species or Group	Trip Limit
a. Gray Triggerfish	12 fish
b. Greater Amberjack	1,500 pounds

E. Recreational and commercial minimum and maximum size limits, unless otherwise noted.

Species	Minimum Size Limits
1. Red snapper	16 inches total length (Recreational) 13 inches total length (Commercial)
2. Gray, yellowtail, and cubera snapper	12 inches total length
3. Lane snapper	8 inches total length
4. Mutton snapper	16 inches total length
5. Vermilion snapper	10 inches total length
6. Red grouper	20 inches total length (Recreational) 18 inches total length (Commercial)
7. Yellowfin grouper	20 inches total length
8. Gag grouper	22 inches total length
9. Black grouper	22 inches total length (Recreational) 24 inches total length (Commercial)
10. Scamp	16 inches total length
11. Greater amberjack	34 inches fork length (Recreational) 36 inches fork length (Commercial)
12. Hogfish	12 inches fork length
13. Banded rudderfish and lesser amberjack	14 inches fork length (minimum size) 22 inches fork length (maximum size)
14. Gray triggerfish	14 inches fork length

F. - J. …

AUTHORITY NOTE: Promulgated in accordance with R.S.56:6(25)(a), R.S. 56:320.2(C), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:1156 (June 2007), repromulgated LR 33:1397 (July 2007), amended LR 34:2209 (October 2008), LR 34:2682 (December 2008), LR 36:1791 (August 2010), LR 38: 2383 (September 2012), LR 39:330 (February 2013), LR 40:95

(January 2014), repromulgated LR 40:1116 (June 2014), LR 40:2281 (November 2014), amended by the by the Department of Wildlife and Fisheries, Office of Fisheries, LR 42:908 (June 2016).

Bart Yakupzack
Chairman

1606#022

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Alligator Farms (LAC 76:V.701)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby promulgate rules for the slaughter of farm alligators and have amended the rules for the alligator farm facility requirements in the alligator regulations.

Title 76
WILDLIFE AND FISHERIES
Part V. Wild Quadrupeds and Wild Birds
Chapter 7. Alligators
§701. Alligator Regulations

A. - A.1. …

2. Definitions. The following words and phrases for purposes of these regulations shall have the meaning ascribed to them in this Section, unless the context wherein the particular word or phrase is used clearly indicates a different meaning.

* * *

Pithing—insertion of a rod into the foramen magnum of the alligator followed by four to six circular motions of such rod to destroy the brain.

* * *

Slaughter—killing farm-raised alligators for the purpose of harvesting commodities such as meat, hides, or parts.

* * *

3. - 14.k. …

15. Alligator Farm Facility Requirements

a. - a.iv. …

v. all controlled-temperature alligator sheds (environmental chambers) shall be of a design acceptable to the department. Each shed shall maintain a minimum water and air temperature of 80° Fahrenheit.

b. - c. …

d. All alligator farmers possessing alligator hatchlings shall house hatchlings in controlled environmental chambers which maintain a minimum temperature of 80° Fahrenheit year-round containing wet areas of sufficient surface area to permit all alligators to partially submerge in water. All alligators 48" or less in length shall be housed in environmental chambers unless a special permit is issued by the department to move them to outside growth areas. Violation of this Subparagraph is a class three violation as described in Title 56.

e. Alligator farmers shall house alligators of different lengths into at least three groups, providing separation for all alligators less than two feet in length, two to four feet in length, and over four feet in length. Violation of this Subparagraph is a class three violation as described in Title 56.

f. - g. …

h. Any alligator egg or alligator raised on an alligator farm shall be cared for under conditions that do not threaten the survival of such egg and alligator as determined by the biological staff of the Coastal and Nongame Resources Division. In making such determination, Coastal and Nongame Resources Division biologists shall take into consideration sanitary conditions, temperature control, feeding, overcrowding and other conditions which affect the survival of alligator eggs and alligators. If the biological staff of the Coastal and Nongame Resources Division determines that the survival of any alligator egg or alligator is threatened due to the conditions on an alligator farm, the department shall notify the alligator farmer and shall provide the farmer with 60 days to take corrective action. If the farmer fails to take corrective action within 60 days, the department shall have the authority to confiscate any alligator egg or alligator which remains under conditions that threaten the survival of such alligator egg or alligator and to dispose of such alligator egg or alligator as the department deems necessary. Violation of this Subparagraph is a class four violation as described in Title 56.

16. Farm-Raised Alligator Slaughter Methods

a.i. Legal methods for the slaughter of farm-raised alligators are as follows:

(a). penetrating captive bolt;

(b). non-penetrating captive bolt;

(c). spinal cord severance followed immediately by pithing the brain; and

(d). other slaughter methods may be acceptable if they are approved in writing by the Department after review and consultation with a trained veterinarian; any slaughter method presented for review must quickly inflict severe damage to the brain, be humane and not pose a high risk to administering personnel.

ii. Selected slaughter method must be administered properly so as to cause a rapid loss of consciousness and death.

iii. Violation of this Subparagraph is a class three violation as described in Title 56.

17. Exceptions

a. The department or an authorized representative of the department may take by any means and possess alligators, alligator eggs, or parts of alligators while in the performance of official duties.

b. These regulations shall not prohibit a person from killing an alligator in immediate defense of his or her life or the lives of others. Alligators killed under this provision must be reported to the department within 24 hours.

18. Penalty for Violation

a. In order to facilitate greater control over alligator trafficking, the Louisiana Department of Wildlife and Fisheries finds that public welfare imperatively requires emergency action when the provisions of these regulations are violated.

b. In addition to all penalties set forth herein, violators may be subject to criminal prosecution under provisions of the *Louisiana Revised Statutes*, particularly titles 14 and 56 and under federal law.

c. In addition to all other penalties provided by these rules and by statute, violation of any part of these regulations may result in the suspension and/or revocation of any or all alligator licenses/permits held by the violator and, as further penalty, for serious, repeat, or multiple violations, the department shall have the right to deny a violator any and all licenses/permits relating to alligators for a period not to exceed three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263 and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), LR 28:1996 (September 2002), LR 30:2338 (October 2004), LR 30:2878 (December 2004), LR 31:2267 (September 2005), LR 33:677 (April 2007), LR 35:690 (April 2009), LR 37:2421 (August 2011), LR 39:2291 (August 2013), LR 42:909 (June 2016).

Edwin "Pat" Manuel
Chairman

1606#043

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Honey Bees, Apiaries and Fire Ants
(LAC 7:XV.Chapters 5 and 7)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Agriculture and Forestry ("department") intends to amend LAC 7:XV.501-519 regarding honey bees and apiaries. The proposed Rule also seeks to repeal in its entirety LAC 7:XV.701-725 regarding fire ants. The rules regarding honey bees and apiaries have not been amended since they were promulgated in 1985. It is the intent of these amendments to make the rules easier to read and to remove redundancies and strike language that is restated from R.S. 3:2301-2311.

Title 7
AGRICULTURE AND ANIMALS
Part XV. Plant Protection and Quarantines
Chapter 5. Honey Bees and Apiaries
(Formerly LAC 7:XXI.Chapter 25)

§501. Definitions
(Formerly LAC 7:XXI.2501)

A. For purposes of this Chapter, the following terms shall have the meaning hereafter ascribed to them, unless the context clearly indicates otherwise.

Agent—an authorized representative of the state entomologist and/or the Department of Agriculture and Forestry.

Apiary or *Yard*—the assembly of one or more colonies of bees at a single location.

Apiary Law and Regulation—the provisions in title 3 of the *Louisiana Revised* Statutes regulating apiaries and the regulations promulgated in Title 7 of the *Louisiana Administrative Code* regulating apiaries.

Beekeeper—an individual, firm or corporation, who owns or has under his control one or more colonies of bees.

Certificate of Inspection—a document issued after authorized personnel have inspected bees or regulated articles prior to, and for the purpose of, the movement of such bees or regulated articles.

Colony or *Hive*—an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times many drones; including brood, combs, honey, and the receptacles inhabited by the bees.

Comb Package—a package of bees shipped or moved on a comb containing honey and/or brood, with or without a queen.

Combless Package—a package of bees shipped or moved without comb, with or without a queen.

Commissioner—the commissioner of agriculture and forestry.

Department—the Louisiana Department of Agriculture and Forestry.

Disease or *Pest*—any infectious condition of bees which is detrimental to the honey bee industry, including, but not limited to, American foulbrood.

Frame—a wooden or plastic case for holding honeycomb.

Infested—the presence of any disease or pest of bees.

Nucleus—bees, brood, combs and honey in or inhabiting a small hive or portion of a standard hive or other dwelling place.

Permit—a registration certificate issued by the department to a beekeeper upon registration in accordance with the apiary laws and regulations.

Person—an individual, firm, corporation or other legal entity.

Quarantine—an official act of the state entomologist which prohibits or limits movement of bees or regulated articles when necessary to control, eradicate or prevent the introduction, spread or dissemination of any and all diseases of bees and all other pests of bees. A quarantine is local when it covers specific apiaries, colonies, bees or regulated articles, or another specific location. A quarantine is geographic when it covers a general area.

Quarantine Area—any area of the state designated by the state entomologist as having regulated articles which are or may be infected by a disease and/or infested with a pest, which presents a danger to other colonies of bees.

Queen—a fully developed female bee, capable of being fertilized.

Regulated Areas—geographical areas outside of the state of Louisiana which have been designated by the U.S. Department of Agriculture, Louisiana Department of Agriculture and Forestry or local governmental officials as infested states or counties. Any state or county which fails to conduct annual inspections in accordance with inspection standards adopted by the Louisiana Department of Agriculture and Forestry shall be presumed to be a regulated area.

Regulated Articles—colonies of bees, nuclei, comb or combless packages of bees, queens, used or second-hand beekeeping fixtures or equipment, and anything that has been used in operating an apiary.

State Entomologist—the entomologist of the Louisiana Department of Agriculture and Forestry.

Super—a standard frame hive body (all depths).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2302 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:928 (May 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§503. Restrictions on Movement of Bees or Regulated Articles into Louisiana (Formerly LAC 7:XXI.2511)

A. Movement of bees or regulated articles from regulated areas into Louisiana may require prior written authorization issued by the commissioner, state entomologist or department.

B. If the state entomologist or his agents find that any bees and/or regulated articles have been brought into this state in violation of any laws and/or regulations governing apiaries, the bees and/or regulated articles may be immediately placed under stop order until released by the commissioner or state entomologist. Upon inspection, the bees or regulated articles may be placed under quarantine. Any violation of stop order or quarantine shall constitute a violation of the apiary law and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2308 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:929 (May 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§505. Interstate Movement of Supers and Frames Used in Shipping Honey (Formerly LAC 7:XXI.2513)

A. Class A permit holders, by written authorization of the commissioner or state entomologist, may move supers filled with frames and/or honey into and out of the state provided that each such super is moved free of bees and under a bee proof enclosure. Each load of supers must bear a brand or label containing the name, address and telephone number of the shipper or mover.

B. The department shall be notified, either in advance of or at the time of arrival, of the number of such supers filled with frames and/or honey being moved into the state. The department shall also be provided the name, address and telephone number of the recipient of each super if the recipient is not the class A permit holder to whom written authorization was issued.

C. All such supers filled with frames and/or honey shall be subject to inspection by authorized department personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:930 (May 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§507. Annual Registration and Designation of Class A and B Permits (Formerly LAC 7:XXI.2503)

A. Beekeepers will be designated as class A or class B permit holders. To be eligible for a class A permit, an applicant must either:

1. be domiciled in this state; or

2. have held a class B permit for three consecutive violation-free years. If violations are incurred at any time during this three-year period, the class B permit holder will automatically be placed back at year one, pending payment of any fines levied against him by the commissioner.

B. The holder of a class A permit may do the following:

1. keep or move bees within Louisiana in new or used beekeeping equipment;

2. apply to the department for an inspection for the purpose of moving bees;

3 move bees out of Louisiana upon receiving a certificate of inspection from the department; and

4. move bees into Louisiana as long as bees are accompanied by an inspection certificate from the state of origin.

C. The holder of a class B permit may do the following:

1. keep or move bees within Louisiana as long as the bees or equipment are established in Louisiana and are obtained from a beekeeper registered with the department;

2. keep or move bees obtained as a combless package that have been certified from the state of origin into Louisiana and move new, but not used, beekeeping equipment into Louisiana; and

3. apply to the department for a certificate of inspection for the purpose of determining the general health of the bees and to establish that the bees are not in violation of any apiary laws or regulations. This certificate of inspection will not confer authority on a class B permit holder to move bees.

D. The holder of a class B permit shall do the following:

1. maintain his yard or apiary a minimum of two miles from any other bee yard or apiary for three consecutive violation-free years. The holder of a class B permit must be able to demonstrate that he made reasonable efforts to ascertain and ensure that his bee yard or apiary would not be set up within a two-mile radius of an existing bee yard or apiary. The holder of a class B permit may move his yard or apiary within two miles of an existing yard or apiary if the owner of the existing apiary gives written permission;

2. provide the department with a map and the GPS coordinates of his bee yard or apiary every year at the time when the bees are registered with the department; and

3. apply for an inspection of the bees and be inspected for three consecutive years and be found free of any regulated pests of diseases during those years.

E. Permits issued for registration shall not allow the holder to move bees or regulated articles as is provided for with a certificate of inspection.

F. Failure to register colonies of bees in the state of Louisiana is a violation of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2305 and R.S. 2:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:930 (May 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§509. Authority to Enter Premises (Formerly LAC 7:XXI.2505)

A. For the purpose of ascertaining whether bees or regulated articles may have been or are being transported in violation of the apiary law or regulations, authorized personnel may enter onto property in the state where apiaries, bees or regulated articles are located, or are reasonably believed to be located, to determine if colonies or apiaries located on the property have been registered and are in compliance with all other apiary laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2308 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:930 (May 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§511. Applications for Inspection (Formerly LAC 7:XXI.2507)

A. Beekeepers who desire certificates of inspection authorizing the movement of bees and/or regulated articles shall make application for inspection on a form that will be furnished by the department prior to moving the bees and/or regulated articles.

B. The applicant must furnish the department with a map showing the location of the bees and/or regulated articles to be moved. If the bees or regulated articles are at one or more apiaries, then a map showing each apiary where the bees or regulated articles are located must be submitted along with the application. Any relocation of any bees or regulated articles that are scheduled to be moved shall be provided to the department prior to or as soon as possible after the relocation.

C. The intrastate relocation of bees or regulated articles shall not require a certificate of inspection unless the bees or regulated articles are located in an area under a geographic or local quarantine or are under stop order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2307 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:930 (May 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§513. Issuance and Use of Certificates of Inspection (Formerly LAC 7:XXI.2509)

A. No certificate of inspection shall be issued by the department for the movement of bees or regulated articles unless the bees or regulated articles come from apiaries that:

1. are not under a geographic or local quarantine or a stop order;
2. have been inspected at least once in the twelve months prior to the date of application for a certificate of inspection;
3. are free of American foulbrood infection; and
4. have effective control of any other disease or pest, if such an infestation is present.

B. Certificates of inspection shall not be issued to cover the shipment or movement of bees and/or regulated articles from an area that has been quarantined on account of American foulbrood infection until it has been determined by state entomologist that the American foul-brood infestation has been destroyed.

C. The issuance of a certificate of inspection by the department is discretionary if the applicant is not registered with the department, the colony or apiary to be inspected is not registered with the department, the applicant owes outstanding fines or fees to the department, the apiaries are not properly marked, or if the applicant is otherwise not in compliance with the apiary laws and regulations.

D. No certificate of inspection issued by the department shall be used to move bees or regulated articles from any apiary or other location not listed on the certificate of inspection.

E. All hives shall have removable tops and frames allowing inspection at all depths.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2306, R.S. 3:2303, and R.S. 3:2307.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:931 (May 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§515. Quarantines (Formerly LAC 7:XXI.2515)

A. As an exercise of the full and plenary power granted by statute to deal with all diseases and pests of bees the commissioner or the state entomologist may declare and enforce a geographic quarantine of any area of the state or from any regulated area when necessary to control, eradicate, or prevent the introduction, spread, or dissemination of a disease or pest.

1. A geographic quarantine shall contain a concise statement of the facts supporting the declaration of quarantine, the geographical area of quarantine, the date the quarantine is to begin, the objectives of the quarantine, the prohibitions and restrictions imposed by the quarantine, and any other special provisions.
2. The movement of bees or regulated articles from any quarantined area into non-quarantined areas of the state is prohibited except as provided by the terms of the geographic quarantine or by special permit of the commissioner or the state entomologist obtained prior to movement.
3. A geographic quarantine may be amended, lifted, or modified by written declaration of the commissioner or state entomologist.
4. A geographic quarantine and any amendment, lifting, or modification of such quarantine shall go into effect immediately upon being declared unless a later effective date is stated.
5. A geographic quarantine and any amendment to or lifting or modification of a geographic quarantine shall be published in the next available edition of the *Louisiana Register*.

B. The commissioner or the state entomologist may impose a local quarantine on specific apiaries, colonies, bees or regulated articles, or other specific location when necessary to control, eradicate, or prevent the introduction, spread, or dissemination of a disease or pest.

1. A local quarantine shall contain a concise statement of the facts supporting the declaration of quarantine, the beekeeper, the specific apiaries, colonies, bees or regulated articles, or location being quarantined, the date the quarantine is to begin, the prohibitions and restrictions imposed by the quarantine, and any other special provisions.
2. The movement of bees or regulated articles into or out of any apiary or location subject to a local quarantine is prohibited except as provided by the terms of the local quarantine or by special permit of the commissioner or the state entomologist obtained prior to movement.

3. A local quarantine may be amended, lifted, or modified by written declaration of the commissioner or state entomologist.

4. A local quarantine and any amendment, lifting, or modification of such quarantine shall go into effect immediately upon being declared unless a later effective date is stated.

5. A local quarantine and any amendment, lifting, or modification of such quarantine does not need to be published in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2308, R.S. 3:2304 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:931 (May 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§517. Eradication Measures
(Formerly LAC 7:XXI.2517)

A. All persons who know of or suspect an infestation or infection of any bees or regulated articles with any disease or pest shall immediately report such information to the department.

B. All colonies of bees infected with American foulbrood shall be destroyed by burning the frames, bees and combs in the presence of or by an agent or specialist of the department. Hive bodies and top and bottom boards saved from infected colonies shall be moved from the yard during the burning process or by a time prescribed by agents of the department and are to be scorched or properly treated to remove possible sources of reinfestation before re-use. Failure to adhere to this requirement shall result in destruction of all infected equipment including hive bodies, top and bottom boards.

C. Nuclei exposed to American foulbrood infection by the transfer of combs with brood or bees from an infected colony or yard shall be destroyed by burning.

D. If any apiary or yard of bees has 4 percent or less American foulbrood infestation, as noted below, the infected colony(ies) shall be burned immediately and a stop order issued. This shall mean that a second inspection shall be made within 21-30 days to insure control of the disease. Where a second inspection is required, colonies shall not be moved except under special permit issued by the state entomologist.

Colonies in Apiary or Yard	AFB Infected Colony
01-25	1
26-50	2
51-75	3
75 or more	4

1. If over 4 percent of the colonies, but not more than four colonies in the case of over 100 colonies, in an apiary or yard are found to be infested with American foulbrood, the colonies shall be burned immediately and the apiary or yard shall be placed under a 21-30 day quarantine, during such time no drugs will be allowed to be fed to the bees. If after 21-30 days an inspection shows that the apiary or yard is found free from American foulbrood infestation, the quarantine shall be lifted. However, if American foulbrood is again found, an additional 21-30 day quarantine period shall be enforced and infested colonies shall be burned immediately. An additional 60-day quarantine shall be enforced on any quarantined apiary or yard found to be treated with drugs to mask the infection.

E. All colonies of bees found infected with European foulbrood shall be requeened or treated within 30 days after infection is found. European foulbrood found in excess of 4 percent upon second inspection shall be quarantined until the disease is under control.

F. All other bee diseases and/or pests found that are considered detrimental to the honeybee industry shall be treated as prescribed by the state entomologist or his designee for the control of same. Bees or regulated articles infested with any pest or infected with any disease shall be subject to being placed under a quarantine and treated as determined by the commissioner and state entomologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2308, R.S. 3:2304 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:931 (May 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§519. Penalties and Adjudicatory Proceedings
(Formerly LAC 7:XXI.2519)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2310 and R.S. 3:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:932 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

Chapter 7. Control of Fire Ants
(Formerly LAC 7:XXI.Chapter 27)

§701. Authority
(Formerly LAC 7:XXI.2701)

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:932 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§703. Definitions of Words, Terms and Phrases
(Formerly LAC 7:XXI.2703)

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:932 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§705. Scouting, Inspection, Control and Eradication Authority
(Formerly LAC 7:XXI.2705)

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:932 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§707. Quarantined Area (Formerly LAC 7:XXI.2707)

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2353 and R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:933 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§709. Regulated Products (Formerly LAC 7:XXI.2709)

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2353 and R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:933 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§711. Conditions Governing Movement of Regulated Products (Formerly LAC 7:XXI.2711)

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:933 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§713. Conditions Governing the Issuance of Certificates, Limited Permits and Dealer-Carrier Agreements (Formerly LAC 7:XXI.2713)

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:934 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§715. Assembly of Articles for Inspection (Formerly LAC 7:XXI.2715)

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:934 (May 2014 repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§717. Cancellation of Certificates or Limited Permits (Formerly LAC 7:XXI.2717)

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:934 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§719. Waiver of Liability (Formerly LAC 7:XXI.2719)

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:934 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§721. Shipments for Scientific Purposes (Formerly LAC 7:XXI.2721)

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:934 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§723. Penalties (Formerly LAC 7:XXI.2723)

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2354 and R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:934 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

§725. Effective Date (Formerly LAC 7:XXI.2725)

Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 3:2351.

HISTORICAL NOTE: Adopted by the Department of Agriculture, June 1960, repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:934 (May 2014), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;

4. family earnings and family budget;

5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Ansel Rankins, Director of the Horticulture and Quarantine Programs, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3002, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on August 3, 2016. No preamble is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Honey Bees, Apiaries and Fire Ants

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed changes to Rules 501, 503, 505, 507, 509, 511, 513(A), 513(C), 517, and 519 will not have a direct material effect on revenues or expenditures for state or local governmental units. The proposed rule changes are technical in nature and meant to clarify and streamline existing regulations regarding honeybees and apiaries. The entirety of Chapter 7, regarding the control of fire ants, will be repealed.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is not anticipated to have a direct material effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is not anticipated to have a direct material effect on economic costs and/or an economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to have a direct material effect on competition and employment.

Dane Morgan	Evan Brasseaux
Assistant Commissioner	Staff Director
1606#047	Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agro-Consumer Services
Agricultural Commodities Commission

Agricultural Commodity Dealer and Warehouse Law
(LAC 7:XXVII.Chapter 1)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Agriculture and Forestry ("department") and the Agricultural Commodities Commission ("commission") intend to amend LAC 7:XXVII.101-111, 115, 119, 123, 128, 129, adopt §114 and repeal §§157 and 161. The proposed rules amend Chapter 1 by removing the language "bond" and replacing it with "security." This is necessary because bonds are not the only type of security accepted by the commission. The proposed rules also remove language and requirements already set forth in title 3 of the *Revised Statutes*. Proposed §114 is new and sets forth guidelines for the temporary storage of commodities. Finally, the proposed amendments to §128 add a new service of vomitoxin testing and an associated fee.

Title 7
AGRICULTURE AND ANIMALS
Part XXVII. Agricultural Commodity Dealer and Warehouse Law
Chapter 1. Louisiana Agricultural Commodities Commission
Subchapter A. General Provisions
§101. Definitions

Adjudicatory Proceeding—an open public hearing by the commission to determine whether violations of R.S. 3401-3425 or the regulations contained in this Part have occurred. Such proceedings are conducted in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.).

* * *

Scale Ticket—the document issued to a producer when agricultural commodities are delivered to a warehouse or grain dealer.

Security—any financial instrument or document issued for the benefit of or given to the commission by a licensee or participant in any self-insurance fund program authorized by R.S. 3:3402 et seq., as assurance for the fulfillment of the obligations imposed on the licensee by applicable law or regulations.

Spot or *Spot Sale*—a transaction where title to agricultural commodities passes from the producer to the buyer on the day of delivery, in which transaction the producer is paid promptly at the market price established on the day of delivery.

Storage—the physical possession by a warehouse, in any manner and/or under any type of fee arrangement, of agricultural commodities belonging to any person other than the owner of the warehouse. The term storage does not apply to a transaction in which title passes from the seller to the buyer upon delivery.

Temporary Storage—storage of a commodity for a temporary period of time in a space approved by the commission which does not meet standard requirements for conventional storage.

Warehouse—any building, structure, or any other protected enclosure required to be licensed by the commission in which agricultural commodities or farm products are stored for the public for a fee. The term includes facilities which commingle commodities belonging to different owners and facilities which preserve the separate identities of different lots of agricultural commodities.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3402 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agricultural, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:284 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), LR 19:1300 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:494 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:

§103. Administration of the Affairs of the Commission

A. The officers of the commission shall be a chairman and a vice-chairman, who shall serve for terms concurrent with the commissioner, but may be elected for an indefinite number of terms.

B. After the initial election of officers, the chairman and vice-chairman shall be elected at the commission's regular meeting during the first quarter of each year.

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

D. The commission shall hold at least one regular meeting during each quarter of the year, but may meet more frequently upon the call of the chairman.

E. Meetings of the commission shall normally be held in its domicile but may be held at other locations upon the determination of the chairman or the will of the commission.

F. There shall be no voting by proxy.

G. The chairman shall designate a hearing officer, who may or may not be a member of the commission, to preside at all adjudicatory proceedings of the commission. The chairman may, if he so desires, serve as hearing officer at any adjudicatory proceeding.

H. The commission shall serve as the hearing body in all adjudicatory proceedings and shall make the final determination with regard to the disposition of all matters coming to adjudication.

I. The director shall provide clerical and other support services as may be required by the commission and shall maintain and distribute appropriate minute records of the commission.

J. No member of the commission shall participate in any discussion or vote concerning any matter before the commission in which such member has a personal or commercial interest.

K. No member of the commission or the staff shall disclose any financial information pertaining to any licensee or applicant for license.

L. The commission may, from time to time, delegate any of its responsibilities to subcommittees appointed by the chairman. Such subcommittees may perform such specific duties as may be assigned by the chairman but all actions of such subcommittees shall be subject to ratification by the full commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agricultural, Agricultural Commodities Commission, LR 9:287 (May 1983), amended 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:494 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:

Subchapter B. Application for Warehouse, Grain Dealer and Cotton Merchant Licenses

§107. Application for License (Initial and Renewal); Time for Filing; Contents; Fees; Style of Document

A. Applications for renewal of warehouse, cotton merchant and grain dealer licenses shall be received no later than April 30 of each year. Applications for initial license may be filed at any time during the year. For both initial and renewal licenses, the following information shall be furnished on the application form provided by the commission:

1. - 14.e. …

15. security status of the applicant:

a. amount of security posted;

b. name and address of issuing company providing the security;

c. period for which the security is written;

16. - 24. …

B. - C. ….

D. Each applicant shall also provide the following information, in addition to completing the required application form and providing a financial statement:

1. evidence of security which meets the requirements set forth in §115 of this Part (warehouse license applicants), §123.G of this Part (grain dealer license applicants) or R.S. 3:3411.1 (cotton merchant license applicants);

2. evidence of provisional stock insurance which meets the requirements set forth in §117 of this Part (warehouses) or §123 of this Part (grain dealers);

3. copy of scale ticket. Applicants who do not use scale tickets in their business operations shall certify to that effect in lieu of filing a scale ticket;

4. applicants who apply under corporate status shall provide evidence of compliance with Louisiana's corporation laws.

E. …

F. All licenses shall signify on the face the following information:

1. name and address of licensee;

2. if a cotton merchant or grain dealer, the location of the principal place of business;

3. if a warehouse, the licensed capacity of the location covered by the license;

4. amount of security;

5. term of license.

G. - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3408, R.S. 3:3409, R.S. 3:3410, R.S. 3:3411 and R.S. 3:3411.1.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:289 (May 1983), amended LR 10:75 (February 1984), LR 11:229 (March 1985), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), LR 19:1300 (October 1993), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:624 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:497 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:

§109. Grounds for Refusal to Issue or Renew a Warehouse, Cotton Merchant, or Grain Dealer License

A. - A.4. …

5. the applicant has not or cannot provide the security required by R.S. 3:3401-3425;

A.6. - B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3412.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:293 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:625 (April 1998), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:499 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:

Subchapter C. Warehouse Licenses

§111. Requirements Applicable to All Warehouses

A. - I. …

J. The warehouse shall meet all security and insurance requirements set forth in §§115 and 117 of this Part prior to issuance of the license. Failure to maintain the required security and insurance in full force and effect for the license period shall subject the licensee to revocation of its license.

K. - M. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3409, R.S. 3:3410 and R.S. 3:3420.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:294 (May 1983), amended LR 11:229 (March 1985), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1301 (October 1993), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:499 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:

§114. Temporary Storage Facilities

A. Temporary storage facilities may be approved by the commission on a case by case basis. Temporary storage may only be operated in conjunction with an existing, licensed warehouse and the capacity to be approved shall be compatible with the warehouseman's operational and financial capabilities.

B. A warehouseman who desires to store commodities in temporary storage shall make written application to the commission for approval of temporary storage prior to placing any commodity in temporary storage. The warehouseman shall advise the commission of his intent to use temporary storage, with an application indicating location, construction, quantity to be stored and estimated time of storage.

C. Application for approval of temporary storage shall be made only after completion of the temporary storage structure. All temporary storage structures approved by the commission must comply with each of the following.

1. Rigid, self-supporting sidewalls shall be used.

2. An asphalt or concrete floor or other suitable hard surface shall be used to preserve the quality and quantity of commodities.

3. Proper covering shall be provided which shall preclude exposure of the commodities to normal exposure of all weather conditions.

4. The space shall have necessary equipment such as a leg, conveyers, portable augers, or vaculators for handling, receiving, and loading out of the commodities. All storage units shall have either empty storage space to turn and condition the commodities or be equipped with proper ventilation such as air ducts and ventilation fans to keep the commodities from going out of condition.

5. The space shall be immobile.

D. Any warehouseman approved to use temporary storage must comply with all of the following:

1. meet inspection, security, net worth and insurance requirements required for a conventional warehouse license;

2. maintain a separate record of total commodities stored in temporary space in addition to accounting for the commodities in the daily position record;

3. make the space intended for use as temporary storage accessible for examination by the commission, the department, or their designees.

a. If ready access for inspection purposes is not available to the temporary structure, the warehouseman at the examiner's discretion shall remove the covering or any part of it as required by the examiner to determine quality, condition, and quantity of the commodities in storage.

b. If the warehouseman and the examiner are not in agreement as to the quality of the commodities, the examiner with the assistance of the warehouseman shall take samples of the mass, agreeable to both, and submit at the warehouseman's expense to the nearest GIPSA or GIPSA-designated or delegated office for grading.

c. The examiner shall issue written notice to the warehouseman for any temporary storage facility which no longer meets requirements. Failure of the warehouseman to place the facility in a suitable condition within a reasonable length of time shall result in the facility being eliminated from coverage from the warehouse approval.

E. All commodities shall be removed from temporary storage by the following June 1, except as provided in this Subsection. Failure to remove commodities by June 1 shall constitute a violation of this Part unless an extension is granted as provided in this Subsection.

1. A warehouseman may continue to store commodities in temporary facilities beyond June 1, provided:

a. application to continue use of temporary storage shall be made in writing by the warehouseman by May 1 or 30 days before the expiration of any extension. The commission or its designee shall inspect the temporary storage facility prior to granting the extension;

i. based on a visual examination of the temporary structure and observation of the commodities for quantity and quality, the examiner shall report to the commission his findings and recommendation regarding continued approval and/or detailing problems that shall be considered before an extension is granted. Adverse conditions shall be reported by telephone to the commission within 24 hours and in writing within three business days;

b. the time granted on any extension shall not exceed six months;

c. any approved extension shall be in writing, provide the date the extension shall end and be signed by the warehouseman.

2. If the warehouse chooses to continue using the temporary storage for company-owned commodities after June 1, the warehouse operator shall:

a. remove that quantity of the commodity from the warehouse's official records;

b. not use the commodity to cover the storage or warehouse receipted obligations of the warehouse; and

c. agree that the quantity will not be included in any warehouse examination conducted by CCC.

F. The licensing of a temporary storage space in no way relieves the warehouseman of any other obligations for warehousemen set forth in R.S. 3:3401 et seq., or LAC 7:XXVII.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3409.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:

§115. Security Required for Warehouse License; Provisions Relative to Licensed Capacities

A. Each applicant shall execute and file security, on forms provided by the commission, which security shall be issued by a company authorized to do business in Louisiana prior to issuance of the license.

B. The security shall be conditioned upon:

1. the faithful performance of all duties and obligations to patrons of the warehouse; and

2. compliance with all requirements of R.S. 3:3401-3425 and the regulations contained in this Part.

C. The amount of the security shall be established on the basis of the capacity of the warehouse to be licensed.

1. The commission shall establish capacity records for all licensed facilities. Whenever there is a discrepancy between the capacity claimed by the applicant and the commission's capacity figures for the applicant, the security to be required shall be determined by the commission's capacity figures. A licensee may, however, appeal the decision of the commission whenever it disagrees with the capacity figures established by the commission for its facility.

2. All facilities which commingle agricultural commodities shall secure 100 percent of their available capacity, subject to the exemptions contained in §115.C.5 and 6 of this Part.

3. Facilities which store identity-preserved commodities may, with the prior approval of the commission, secure 75 percent of their available capacity. In such event, the amount of the security shall be increased if commodities in storage exceed the licensed capacity.

4. All capacity under one roof shall be secured.

5. Outside tanks which are used solely for storage of company-owned commodities are not required to be secured.

6. Buildings which are used solely for storage of company-owned commodities are not required to be secured.

D. The amount of the security shall be as follows:

1. $0.20 per bushel for the first 1,000,000 bushels of licensed capacity—up to $200,000 for a licensed capacity of 2,000,000 bushels;

2. plus $0.15 per bushel for the second 1,000,000 bushels of licensed capacity—a total of $350,000 for a facility with a licensed capacity of 2,000,000 bushels;

3. plus $0.10 per bushel for all bushels over 2,000,000 bushels up to 3,500,000 million bushels of licensed capacity—a maximum of an additional $150,000.

E. The amount of security shall not be less than $25,000 for all facilities of 125,000 bushels or less licensed capacity.

F. Maximum security of $500,000 is required for all facilities of 3,500,000 or more bushels of licensed capacity.

G. All security shall be written for a period of one year, beginning on July 1, or for such other period of time as the commission may require.

H. All security shall provide for at least 90 days written notice to the commission prior to cancellation.

I. All security is subject to final approval by the commission and shall be so approved prior to issuance of the license.

J. Provisions for Security

1. The commission may accept security in an amount equal to 100 percent of the required security.

2. Security may be offered only by:

a. pledging of certificates of deposit;

b. filing of an irrevocable letter of credit, which shall be non-cancelable for a period of one year;

c. securing a first mortgage on immovable property which is located in Louisiana and which has an appraised value of at least 150 percent of the amount of the security.

The appraisal shall be made by an independent appraiser jointly designated by the commission and the applicant. The applicant shall provide a title insurance policy issued by a company authorized to do business in Louisiana in the amount of the required security with the commission being an insured under the policy. The applicant shall pay all fees involved in providing such security;

d. a bond.

3. Security is subject to the approval of the commission. Approval is required prior to issuance of a license.

4. All security instruments shall be assigned to the commission and maintained in the commission's office in Baton Rouge. Holders of certificates of deposit will continue to draw the interest thereon.

5. Whenever any warehouse ceases to operate as a licensed warehouse, the security shall be retained by the commission:

a. until public notice, as herein required, is made; and

b. until completion of a final audit, which final audit shall be completed in not more than 120 days. Public notice of the commission's intent to release the security shall be made by publication in a newspaper of general circulation in the area where the licensee is located, as follows:

i. if there is a daily newspaper in the area, such notice shall be published at least three times, beginning at least 15 days prior to the date on which the commission will release the security;

ii. if there is no daily newspaper in the area, such notice shall be published in a weekly newspaper and shall be published once each week for the three weeks preceding the date on which the commission will release the security.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and 3:3410.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:297 (May 1983), amended LR 10:75 (February 1984), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1301 (October 1993), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:500 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:

§119. Amendment to License Required When Change of Status Occurs

A. - C.4. …

D. Whenever the licensed capacity of a facility changes, the security required under §115 of this Part shall be changed within 45 days to conform to the new capacity. Failure to amend the security as required herein will subject the licensee to revocation of its license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3410.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 9:299 (May 1983), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 19:1301 (October 1993), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:501 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:

Subchapter D. Grain Dealers

§123. Requirements Applicable to All Grain Dealers

A. - F. …

G. The applicant shall execute and file security, on forms provided by the commission, which is written by a company authorized to do business in Louisiana. The security shall be in an amount of $50,000 and shall provide for 90 days written notice to the commission prior to cancellation. The security shall be conditioned upon:

1. the faithful performance of all duties and obligations to producers; and

2. compliance with all requirements of R.S. 3:3401-3425 and the regulations contained in this Part. The security is subject to the approval of the commission and shall be so approved prior to issuance of the license. Failure to keep the security in full force and effect shall subject the grain dealer to suspension or revocation of its license.

H. Security Required

1. Security may be offered only by:

a. pledging of certificates of deposit or other similar negotiable instruments; or

b. filing of an irrevocable letter of credit, which shall be non-cancelable for a period of one year; or

c. securing a first mortgage on immovable property which is located in Louisiana and which has an appraised value of at least 150 percent of the amount of the bond. The appraisal shall be made by an independent appraiser jointly designated by the commission and the applicant. The applicant shall provide a title insurance policy issued by a company authorized to do business in Louisiana in the amount of the required bond with the commission being an insured under the policy. The applicant shall pay all fees involved in providing such security; or

d. a bond.

2. All security instruments shall be assigned to the commission and will be maintained in the commission's office in Baton Rouge. Holders of certificates of deposit will continue to draw interest thereon.

3. Whenever any grain dealer ceases to operate as a licensed grain dealer, security shall be retained by the commission:

a. until public notice, as herein required, is made; and

b. until completion of a final audit, which final audit shall be completed in not more than 120 days. Public notice of the commission's intent to release the security shall be made by publication in a newspaper of general circulation in the area where the licensee is located as follows:

i. if there is a daily newspaper in the area, such notice shall be published at least three times, beginning at least 15 days prior to the date on which the commission will release the security;

ii. if there is no daily newspaper in the area, such notice shall be published in a weekly newspaper and shall be published once each week for the three weeks preceding the date on which the commission will release the security.

4. Security is subject to the approval of the commission and shall be approved prior to issuance of the license.

I. The applicant shall demonstrate a net worth which is reasonably sufficient to assure its ability to meet its obligations to producers. The commission shall be the final judge of the sufficiency of each applicant's net worth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3411.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:301 (May 1983), amended LR 10:75 (February 1984), LR 12:287 (May 1986), LR 35:2311 (November 2009), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:502 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:

Subchapter E. Assessments and Fees

§128. Fees: Amount, Time of Payment

A. - C.3. …

4. Official Services (including sampling except as indicated)

Online D/T sampling inspection service (sampling, grading and certification), per regular hour	$26
Overtime hourly rate, per hour	$39
Unit Inspection Fees:	
Aflatoxin Testing, per sample	$30
Rail Car, per car	$20.50
Truck/Trailer, per carrier	$10
Barge, per 1,000 bushels	$2.60
Submitted sample inspection	$12.30
Rail Car (per sample)	$10.30
Truck/Trailer (per sample)	$5.30
Barge (per sample)	$25.30
Factor only determination, per factor (not to exceed full grade fee)	$5.20
Probe Sampling Barge (per barge)	$100
On-Line Sampling Barge (per hour)	$20
Vomitoxin test (applicant supplies kit)	$25
Vomitoxin test (LDAF supplies kit)	$35

D. - D.7. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405, R.S. 3:3414.3 and R.S. 3:3422.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), amended LR 14:528 (August 1988), LR 19:889 (July 1993), LR 23:196 (February 1997), LR 27:815 (June 2001), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Agricultural Commodities Commission, LR 30:197 (February 2004), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:504 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:

Subchapter F. Scale Tickets

§129. Scale Tickets: Filing, Contents, Maintenance in Records

A. Immediately upon deposit with a licensed warehouse or a licensed grain dealer of any agricultural commodity or farm product regulated under R.S. 3:3401-3425, the warehouse or grain dealer shall issue a scale ticket to the depositor which conforms to the requirements of this rule. Warehouses licensed under the U.S. Warehouse Act may use scale tickets approved by the federal licensing agency.

B. Scale tickets shall be sequentially pre-numbered and shall be issued to depositors in numerical order. Different scale ticket books may be used for different scales.

C. Each scale ticket shall consist of an original and at least one copy. The original or a copy of the scale ticket shall be maintained in numerical order in the licensee's records and shall be available for examination by the commission at all times.

D. Whenever a scale ticket is voided, all copies shall be so marked, dated, and signed by an authorized agent of the warehouse or grain dealer, and all copies of the voided scale ticket shall be maintained in the warehouse or grain dealer's records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405 and R.S. 3:3415, and R.S. 3:3419.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Agricultural Commodities Commission, LR 9:304 (May 1983), amended by the Department of Agriculture and Forestry, Agricultural Commodities Commission, LR 37:504 (February 2011), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:

Subchapter M. Schedule of Inspections; Voluntary Inspection

§157. Prompt Payment for Rice

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3414.2 and R.S. 3:3405.

HISTORICAL NOTE: Promulgated the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:288 (May 1986), repealed by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 42:

§161. Agricultural Commodities Commission; Self-Insurance Fund

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3405.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Agriculture Commodities Commission, LR 19:1303 (October 1993); repealed LR 42:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Kyra Fitzgerald, Director of the Louisiana Agricultural Commodities Commission, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 5000, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on August 3, 2016. No preamble is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Agricultural Commodity Dealer and Warehouse Law

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in an indeterminable increase in SGR expenditures for the LA Dept. of Agriculture & Forestry (LDAF) to the extent that individuals or entities require vomitoxin testing. Revisions to the fee schedule outlined in Rule 128 include vomitoxin testing as an official service performed by LDAF. The department reports that the fee charged to perform vomitoxin testing will fund any associated expenditures.

Proposed Rule 114 outlines practices for temporary commodity storage facilities, including application, approval, certification, and inspection by personnel from the LA Dept. of Agriculture and Forestry. The department reports that provisions for temporary storage facilities fall under current practice for permanent storage facilities, and LDAF will undertake duties associated with the temporary storage facilities utilizing existing personnel and resources.

Revisions to Rule 101 add definitions. Revisions to Rules 103, 129, and 161 remove duplicative language that is presently included in statute. Revisions Rules 107, 109 111,115, 119, 123, and 128 remove references to "bonds" and instead replace them with references to "securities." The revisions to these rules are technical in nature and have no expenditure impact.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revisions to Rule 128 allow persons in the grain industry the option to request vomitoxin testing for a fee. The proposed rule may increase revenue for LDAF, as the proposed rules include a $35 fee associated with vomitoxin testing if the department supplies the testing kit and a $25 fee if the applicant supplies the kit. To the extent persons apply for vomitoxin testing, LDAF will see a net increase in revenues. Furthermore, removal of Starlink TM testing and re-inspection of grain samples as official services will have no revenue impact, as the department reports that these services are outdated and no longer performed. The remaining rule changes will not have an impact on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will only result in a cost for those in the industry that require the service of vomitoxin testing. Vomitoxin testing is not a required service but strictly a voluntary, requested service by certain agricultural production industries. The remaining rule changes will not result in costs or economic benefits for persons or non-governmental groups. Furthermore, revisions replacing references to "bonds" with references to "securities" will allow greater options for individuals who must post some form of security in their dealings with LDAF.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will only result in a cost for those in the industry that require the service of vomitoxin testing. Vomitoxin testing is not a required service but strictly a voluntary, requested service by certain agricultural production industries. The remaining rule changes will not result in costs or economic benefits for persons or non-governmental groups. Furthermore, revisions replacing references to "bonds" with references to "securities" will allow greater options for individuals who must post some form of security in their dealings with LDAF.

Dane Morgan	Evan Brasseaux
Assistant Commissioner	Staff Director
1606#048	Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Forestry

Indian Creek Recreation Area (LAC 7:XXXIX.Chapter 5)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through authority granted in accordance with Act 591 of 1970 and R.S. 3:4402, notice is hereby given that the Department of Agriculture and Forestry ("department"), through the Office of Forestry, intends to repeal LAC 7:XXXIX.501 and adopt LAC 7:XXXIX.501-543 in order to establish regulations for the use of the Indian Creek Recreation Area. The proposed rules also set forth the fees for use of the Indian Creek Recreation Area.

Title 7
AGRICULTURE AND ANIMALS
Part XXXIX. Forestry
Chapter 5. Indian Creek Recreation Area
§501. General Authority and Purpose

A. The following rules and regulations, procedures and fees replace, supersede and cancel all rules and regulations, procedures and fees adopted by the Department of Agriculture and Forestry prior to the effective date of these rules.

B. These rules and regulations are designed to provide the proper atmosphere for the enjoyment and protection of facilities and the safety of visitors.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§503. Park Property and Environment

A. The provisions of the *Louisiana Criminal Code* (R.S. 14:1 et seq.) shall be enforced at the Indian Creek Recreation Area.

B. No person shall intentionally remove, damage, disturb, or destroy any Indian Creek Recreation Area property or the property of another person, without the consent of the owner. "Property" shall include but is not limited to structures, watercraft, movables, signs, markers, natural features, cultural features, wildlife, and plants.

C. No person shall cut, destroy, or damage timber on any site, except as necessary to meet established management criteria, including insect control, public safety, and approved park construction. No timber cutting or removal may occur without the prior written permission of the commissioner of Agriculture and Forestry or his designee.

D. No building, structure, or other feature of any site may be altered, erected, or constructed without written consent of the commissioner of Agriculture and Forestry or his designee.

E. Smoking is prohibited in all enclosed structures.

F. No person shall excavate, remove, damage, or otherwise alter or deface any cultural or archaeological resource located on any site.

G. No person shall plant material or otherwise introduce plant material on any site without the written approval of the commissioner of Agriculture and Forestry or his designee.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§505. Vehicle Use

A. The provisions of the Louisiana Highway Regulatory Act (R.S. 32:1 et seq.) and any rules and regulations promulgated thereunder shall be enforced at the Indian Creek Recreational Area property.

B. Automobiles, trucks, motorcycles, bicycles, recreation vehicles, golf carts or any other wheeled vehicles must be operated only on those roads, lanes, or byways designated for vehicular traffic unless otherwise authorized by the site manager.

C. Vehicles, including recreational vehicles, motorcycles, golf carts and boat trailers, shall be parked only in designated parking areas unless otherwise authorized by the site manager.

D. No motor vehicle shall be operated without being properly licensed by the appropriate regulatory agencies. However, persons with mobility disabilities may use single-passenger, wheeled devices powered by electric motors wherever pedestrians are allowed.

E. No person shall clean, service and/or repair any vehicle on Indian Creek Recreational Area property except in emergency situations.

F. Vehicles will be considered abandoned if left unattended for more than three consecutive days unless the proper permit or advanced written approval is granted by the site manager.

G. No person shall move or remove any barrier to gain access to a restricted area.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§507. Watercraft

A. Federal, state, and local laws, rules and ordinances related to the use of watercraft shall be enforced. All watercraft located on or adjacent to any site must be operated in a careful and reasonable manner, and such operation is subject to the rules of safety imposed by the laws of Louisiana.

B. Every owner and operator of a motor boat, vessel or other watercraft shall comply with all flotation device requirements prescribed by state and federal law.

C. Boats shall be launched only from designated boat ramps or launching areas within a site.

D. A person renting a boat must return the boat to the original docking location after use, and secure the boat from unauthorized use. All paddles and life jackets shall be returned to the front office before closure.

E. No boat may be operated in a designated swimming area or in any other area designated as a non-boating area by signs or any area otherwise restricted from boat operation or docking.

F. Boats left docked and unattended must be properly secured in designated areas only. The Department of Agriculture and Forestry will not be responsible for any loss, theft or damage to boats, equipment, personal property or supplies left unattended.

G. Boats will be considered abandoned if left unattended for more than three consecutive days unless the proper permit or advanced written approval is granted by the site manager.

H. Water bodies or portions thereof adjacent to boat ramps, docks, swimming areas, boathouses, cabins, picnic pavilions, or other facilities shall be designated "no wake areas." Signs and/or buoys will mark the areas so designated. Violations of "no wake areas" shall be subject to citations.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§509. Livestock, Animals and Pets

A. Any pet brought on Indian Creek Reservation Area property must be current in vaccinations, shall have proof of rabies vaccination, and must be leashed, caged or crated. Leashes shall not exceed 6 feet in length. With the exception of service dogs, pets are not permitted within buildings or

other enclosed structures on site, nor are they allowed near designated swimming areas and in overnight facilities. Owners of pets shall be fully responsible for any injury and/or damage caused by their pet.

B. No person shall allow livestock to run or graze on any site, except as part of special programs or events approved in advance by the site manager.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§511. Litter, Sanitation and Health

A. All litter disposed of on site, shall be placed into a proper litter receptacle in such a manner that the litter is prevented from being carried away or deposited by the elements upon Indian Creek Recreation Area property or water bodies. *Disposal* means to throw, discard, place, deposit, discharge, dump, drop, eject, or allow the escape of a substance.

B. No person shall drain or dump refuse waste including grey water from any trailer or other vehicle except in places or receptacles provided for such uses.

C. No person shall clean fish or other food, or wash clothing or articles of household use except in designated areas. No person shall clean or field dress any harvested animal or animals on Indian Creek Recreation Area property.

D. No person shall discharge or allow to be discharged into any waters of the state any waste or substance of any kind that will tend to cause pollution of water used for human consumption or swimming.

E. All deposits of bodily wastes into or on any portion of a comfort station or other public structure must be made in receptacles provided for that purpose. No person shall deposit any bottles, cans, cloth, rags, metal, wood, stone, or any other non-approved substance into any of the fixtures in such stations or structures.

F. No person shall use refuse containers or other refuse facilities for dumping household or commercial garbage or trash brought to a site.

G. No person shall bury or burn garbage, litter or dead animals on Indian Creek Recreation Area property.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§513. Fires

A. Fires shall be built only in places specifically designated for that purpose by the site manager.

B. Burn bans declared by a local governing authority shall be observed at the parks within the jurisdiction of the local governing authority.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§515. Fishing, Hunting, Trapping, and the Use of Firearms or Fireworks

A. All wildlife in Indian Creek Recreational Area sites, including reptiles and amphibians, is under strict protection and must not be hunted, molested, disturbed, destroyed, fed or removed, except for scientific or management purposes when approved by the commissioner of Agriculture and Forestry or his designee.

B. Bringing or keeping any hunting dogs on Indian Creek Recreation Area property for the purpose of hunting inside or adjacent to Indian Creek Recreation Area is prohibited.

C. A person who lawfully possesses a firearm may possess or transport such firearm within the boundaries of Indian Creek Recreation Area.

D. No person shall possess, shoot, discharge or explode or cause to be shot, discharged, or exploded any fireworks or other explosives on Indian Creek Recreation Area property without prior written consent of the site manager.

E. A person fishing on Indian Creek Recreation Area property must adhere to all state and federal laws and criteria regarding fresh water fishing. The taking of fish by nets, traps or any means other than hook or line is prohibited.

F. Weapon-like toys (paintball maker, airsoft, etc.) that use compressed air or gases from any cartridge, canister or bottle and/or battery power to fire a projectile are prohibited from use at Indian Creek Recreation Area sites properties without prior written approval of the site manager.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§517. Swimming

A. Swimming is permitted only in designated areas, and at the swimmer's own risk. No lifeguards will be on duty.

B. All children under 12 years of age must be accompanied by an adult at any swimming area (deleted “or water playgrounds”).

C. The capacity of the beach areas is determined, regulated and enforced by the site manager.

D. Glass containers of any kind are prohibited within any perimeter boundaries of enclosed beach and swimming areas, water playgrounds and beach parks.

E. Swimming is prohibited between sunset and sunrise.

F. Proper swimming attire, as determined by the site manager or his designee, is required for those entering the water at all swimming areas and water playgrounds.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§519. Amplified Sound Equipment

A. No person shall play amplified musical instruments except when approved by the site manager.

B. No person shall play non-amplified musical instruments, radios, televisions, tape players and similar equipment in a manner that disturbs other visitors.

C. No person shall use any public address system, whether fixed, portable, or vehicle-mounted, without prior approval of the site manager.

D. Remote public broadcast activities must be approved by the site manager.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§521. Disorderly Conduct

A. Disorderly or boisterous conduct is forbidden.

B. The site manager and his designees are authorized to control the use and consumption of alcoholic beverages at a site. This includes the authority to prohibit the consumption of alcohol in designated areas within a site. The lawful consumption of alcoholic beverages may be allowed to the extent that such activity does not adversely affect the use and enjoyment of the site by other site users.

C. No person shall publicly display on his vehicle, campsite, clothing, person or otherwise:

1. any word or words, image, graphic or depiction that is obscene (as defined by R.S. 14:106);

2. denigrates any ethnic, racial, religious or minority group; or

3. promotes violence or illegal activity.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§523. Business Activities

A. No person may sell or offer for sale any merchandise or service without the written consent of the site manager.

B. No person may distribute, post, place, or erect any advertising device without the written consent of the site manager.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§525. Enforcement

A. Persons violating these rules and regulations are subject to administrative sanctions to include fines for each violation, eviction from the site, and/or restitution to the department for damages incurred. If a person is delinquent in paying for damage incurred, the department reserves the right to refuse privileges to that person pending receipt of such restitution.

B. No person shall enter a site:

1. when the site is closed; or

2. without proper registration.

C. Site visitors may be required to furnish specific information upon registration, including but not limited to, vehicle license plate number and a driver's license number.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§527. Overnight Use

A. General Provisions

1. Any use of a site requires a written permit or payment receipt. Proof of payment shall be presented to a Department employee upon request.

2. Permittee may not transfer or assign any use permit nor sublet any facility or part thereof.

3. The site manager has the authority to require the registration of every person occupying a campsite or overnight facility.

4. Any permit may be terminated by the site manager upon the violation of any established rule, regulation, or any condition of the permit.

5. Lock combinations on entrance gates are issued for the personal use of the permittee, who is prohibited from allowing others to use the lock combination, or otherwise making the facilities open so that others not covered by the permit may enter or leave the facility or area.

6. Established time schedules (check-in and check-out) are strictly enforced. Failure to comply without advanced approval of the site manager may result in additional charges and denial of any future use of the facility.

7. Overnight users must maintain a reasonably quiet facility between the hours of 10 p.m. and 7 a.m. No generators are allowed to be operational in the improved area of the Indian Creek Recreational Area between the aforementioned hours.

8. Overnight users shall not erect or display unsightly or inappropriate structures or features which, in the opinion of the site manager, may create a disturbing or otherwise unpleasant condition detrimental to the general site use.

9. No permittee may repair or install any site equipment or furnishings unless authorized and supervised by the site manager.

10. No person shall be permitted to reside at Indian Creek Recreation Area without written approval of the commissioner.

11. Parking for boat trailers and additional vehicles may be allowed at the discretion of the site manager or his designee, subject to individual site suitability for such purposes.

12. Permittees waive and release all claims against the state of Louisiana for any damage to person or property arising from the privileges granted by any use permit.

B. Camping

1. With the exception of a campground host and campsites reserved at the 30 day off-season rate, overnight camping is limited to 14 consecutive days. After 14 consecutive days of occupancy at a site, the visitor must vacate the site for seven consecutive days before occupancy may be resumed. During winter rental (November 1-February 28), a camper may occupy a site for 30 or more days at a time. However, at the site manager's discretion, and subject to availability, overnight camping may be extended on a weekly basis. No campsite may be vacated for longer than a 24-hour continuous period under any permit agreement.

2. Indian Creek Recreation Area is intended for tents and recreational vehicles only. The term “recreational vehicles” includes but is not limited to camper trailers, travel trailers and 5th wheel trailers but does not include ATVs.

3. Campsite occupancy is limited to six persons. At designated group camping areas occupancy limits are set by the site manager or his designee.

4. The following are to be used as general guidelines to define a camping unit by the site manager or his designee:

a. one camper with additional vehicle and one large tent or two small tents;

b. two vehicles and tent combinations not to exceed three tents.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§529. Fees and Emergency Closing

A. The use of Indian Creek Recreation Area is subject to charges which will be imposed by the manager according to the schedule of fees approved by the department. The manager or his agents are responsible for the collection and enforcement of these fees.

B. The commissioner or his authorized agent may direct the closing of Indian Creek Recreation Area to public use when or if any natural or man-made occurrence has affected, or is expected to affect, the operation and management of the site to a degree that normal public use and enjoyment are altered, or when such use may impair the health, safety, and well-being of the public or employees of the agency.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§531. Fees and Exemptions; Day-Use Fees

A. General Admission Day-Use Entrance Fees

1. The day-use fee at Indian Creek Recreational Area is $7 per vehicle.

2. A self-service fee system may be used to collect user fees.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§533. Fees and Exemptions; Miscellaneous Services and Facilities Fees

A. Boating

1. The standard rate for rental flat bottom boats with life jackets and two paddles is $30 per boat per day. Additional life jackets are available at a rental fee of $1 each per day.

2. Canoes may be rented for $30 per canoe, per day. Kayaks and paddle boats may be rented for $30 per vessel, per day. All fees include paddles and life jackets.

B. Group Rental Pavilions

1. Exclusive use of a group pavilion can only be made by a rental permit and payment of a rental fee. The group pavilion can be reserved in advance with payment of the rental fee.

2. The pavilion rental rate is $100 per day.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§535. Fees and Exemptions; Exemptions/Discounts

A. Veterans. A veteran of the armed forces of the United States who shows proof of same and any person(s) accompanying him in a single, private, non-commercial vehicle, may receive a 10 percent discount on and camp site rental fees. There is no discount on the general entrance fee, winter rates or other rental rates (kayaks, boats, etc.).

B. School Groups. Any child who is on a field trip conducted as part of the curriculum of the school and any classroom teacher, parent, bus driver and any other person accompanying a school child on such a field trip are exempt from paying the general admission charge to any site.

C. Senior Citizens. Any person age 50 or older may receive a 10 percent discount on camp site rental fees. There is no discount on the general entrance fee, winter rates or other rental rates (kayaks, boats, etc.).

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§537. Fees and Exemptions; Special Promotions

A. From time to time, as deemed appropriate by the commissioner of Agriculture and Forestry or his designee, special programs, occupancy regulations, discounts or waivers on user fees may be offered in order to encourage visitation. These special promotional offers must be reviewed and reauthorized annually.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§539. Fees and Exemptions; Overnight Use

A. Camping

1. Regular Campsite. A regular campsite rents for $18 per night during the winter season (November 1-February 28) and $22 per night during the summer season (March 1-October 31). A regular waterfront campsite rents for $22 per night during the winter season (November 1-February 28) and $28 per night during the summer season (March 1-October 31).

2. Pull-Thru Campsite. A pull-thru campsite consists of two sites.

a. Pull-Thru Non-Waterfront Single Campsite. A pull-thru single non-water front campsite rents for $18 per night during the winter season (November 1-February 28) and $22 per night during the summer season (March 1-October 31).

b. Pull-Thru Non-Waterfront Double Campsite. A pull-thru non-water front double campsite rented for use by a single tenant camper rents for $32 per night during the winter season (November 1-February 28) and $42 per night during the summer season (March 1-October 31).

c. Pull-Thru Waterfront Single Campsite. A pull-thru waterfront single campsite rented for use by a single tenant camper rents for $22 per night during the winter season (November 1-February 28) and $28 per night during the summer season (March 1-October 31).

d. Pull-Thru Waterfront Double Campsite (ultra pull-thru). A pull-thru waterfront double campsite rented for use by a single tenant camper rents for $42 per night during the winter season (November 1-February 28) and $54 per night during the summer season (March 1-October 31).

3. Full Hook-Up. A full hook-up campsite rents for $42 per night during the winter season (November 1-February 28) and $54 per night during the summer season (March 1-October 31).

4. Primitive Area. A primitive area campsite rents for $14 per tent per day.

B. Rally camping areas are those designated and reserved for use by organized groups of overnight campers in the primitive area of the campsite.

1. Fees—Rally Camping

a. A fee of $50 per night is assessed to the group for the exclusive use of an area. Rally camping is available for tent camping in the primitive area of the campsite only.

C. Thirty-Day Off-Season Rates (available November 1-February 28 only)

1. A fee of $270 is assessed for use of a non-waterfront single campsite for 30 days.

2. A fee of $375 is assessed for use of a single waterfront campsite for 30 days.

D. A fee of $5 per night is assessed for hook-up to the sewerage connection.

E. The fees set forth in this Section shall become effective October 1, 2016.

F. Online or telephone payments of the fees set forth in this Chapter may be subject to a credit card transaction fee.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§541. Reservation Policy

A. General Provisions

1. Reservations may be made for Indian Creek Recreational Area for an allotted number of campsites as determined by the site manager. A non-refundable service fee is charged for all reservations.

2. Reservations are accepted only from persons 18 years of age or older. All persons under 18 years of age must be accompanied by adults when using reserved facilities.

3. Payment must be made in full at the time the reservation is made.

4. Cancellation of a reservation initiated by the site user and made up to 48 hours prior to the date of arrival will incur a one night charge. No cancellations will be accepted 48 hours prior to the date of arrival. A transfer of reservation dates will be treated as a cancellation and a new reservation, and is therefore subject to the cancellation policy. There is no charge to transfer a reservation from one site to a different site on the same dates. Requests for waivers of the cancellation fee must be made in writing to the commissioner of Agriculture and Forestry or his designee and will be granted only in extreme circumstances.

5. In the event reservations must be canceled by LDAF staff (e.g., for maintenance or emergency reasons) the rental fee will be refunded in full.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

§543. Refunds

A. Refunds will not be issued to visitors evicted for enforcement or disciplinary reasons.

B. All reservation refunds must be issued through the Office of Management and Finance or through the online reservations system. No cash refunds will be issued.

C. Refunds of day use fees are not granted when a visitor, by his own choosing, leaves the site due to inclement weather. In the event of a declared state of emergency that directly affects Indian Creek Recreation Area, refunds may be issued to all campers.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;

2. the authority and rights of persons regarding the education and supervision of their children;

3. the functioning of the family;

4. family earnings and family budget;

5. the behavior and personal responsibility of children;

6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Wade Dubea, State Forester, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 6000, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on August 3, 2016. No preamble is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Indian Creek Recreation Area

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules LAC 7:XXXIX.501-543 will not result in any material savings or costs to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rules LAC 7:XXXIX.531, 533, 539, and 541, which modify and add fees for the Indian Creek Recreational Area, will result in a significant net increase in self-generated revenues due to patrons of the park paying higher rates annually from March 1 to October 31 for use of the recreational area. In addition, patrons will be allowed to pay reduced rates from November 1 to February 28 for use of the facilities. Proposed rule 533 adds fees for the use of flat bottom boats, kayaks, canoes, life jackets, and paddles at the park. Proposed rule 541 adds a non-refundable, undetermined service fee for all reservations and a cancellation fee equal to one night's stay at the reserved campsite for any canceled reservation to use the park's facilities. Cancellations must be made at least 48 hours prior to the reservation.

The remaining proposed rules are not anticipated to have a direct material effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules LAC 7:XXXIX.531, 533, and 539 will result in patrons of the Indian Creek Recreation Area paying higher rates and a higher net cost overall to use the area's amenities and will result in patrons paying less to use the amenities in the winter months. Proposed rule 541 creates an undetermined reservation fee and a cancellation fee equal to one night's stay at the reserved campsite. Proposed rule 543 establishes refund procedures for visitors to the park. Proposed rules 501-527 also establish rules that must be followed by visitors to the Indian Creek Recreation Area, however these rules are technical in nature and will not result in any costs or economic benefits to patrons of the park.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will not have a material effect on competition and employment.

Dane Morgan	Evan Brasseaux
Assistant Commissioner	Staff Director
1606#046	Legislative Fiscal Office

NOTICE OF INTENT

Department of Children and Family Services
Division of Programs
Licensing Section

Health Status (LAC 67:V.7313 and 7315)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:V, Subpart 8, Chapter 73, Child Placing Agencies—General Provisions, Sections 7313 and 7315.

The proposed Rule provides for the expansion of the number of potential applicants which enables the department to certify additional foster and adoptive parents who will provide a safe and nurturing environment for our most vulnerable children. The proposed Rule allows potential applicants that were previously excluded because of their health status to become certified foster or adoptive parents. The potential applicant must have a signed statement by a licensed physician or health care professional verifying that their health status is under medical care and does not present a health or safety risk to a child placed in their home. The previous policy was more restrictive than necessary to ensure the health and safety of children placed in foster homes, therefore a change was needed.

This action was made effective by an Emergency Rule dated and effective February 26, 2016.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 8. Residential Licensing
Chapter 73. Child Placing Agencies—General Provisions

§7313. Foster Care Services

A. - B.2.d.iv.(a). ...

v. health;

(a). a statement for each member of the applicant's household signed by a licensed physician or licensed health care professional verifying that the individual:

(i). has no past nor present physical or mental illness or condition that would present a health or safety risk to a child placed in the applicant's home;

(ii). is physically able to provide necessary care for a child; and

(iii). is free of a communicable or infectious disease or if not free of a communicable or infectious disease, there shall be a signed statement by the licensed treating physician or licensed treating health care professional verifying the following:

[a]. the individual is under the care of a licensed physician or licensed health care professional; and

[b]. the present condition does not present a health or safety risk to a child placed in the applicant's home.

B.2.e. - C.5.b.vii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:833 (March 2011), amended LR 38:985 (April 2012), LR 42:222 (February 2016), LR 42:

§7315. Adoption Services

A. - F.2.d.iv.(a). ...

v. health:

(a). a statement for each member of the applicant's household signed by a licensed physician or licensed health care professional verifying that the individual:

(i). has no past nor present physical or mental illness or condition that would present a health or safety risk to a child placed in the applicant's home;

(ii). is physically able to provide necessary care for a child; and

(iii). is free of a communicable or infectious disease or if not free of a communicable or infectious disease, there shall be a signed statement by the licensed treating physician or licensed treating health care professional verifying the following:

[a]. the individual is under the care of a licensed physician or licensed health care professional; and

[b]. the present condition does not present a health or safety risk to a child placed in the applicant's home.

F.2.e. - J.4.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section LR 37:842 (March 2011), amended LR 42:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through July 26, 2016, to Rhenda Hodnett, Deputy Secretary of Child Welfare, Department of Children and Family Services, P.O. Box 3776, Baton Rouge, LA 70821.

Public Hearing

A public hearing on the proposed Rule will be held on July 26, 2016 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit or Division of Administrative Law at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Garner Walters
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Health Status

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends LAC 67:V, Subpart 8, Chapter 73 Child Placing Agencies – General Provisions, Sections 7313 and 7315 to expand the number of potential foster and adoptive parent applicants. The proposed rule allows potential applicants that were previously excluded because of their health status to become certified foster or adoptive parents. The potential applicant must have a signed statement by a licensed physician or health care professional verifying that their health status is under medical care and does not present a health or safety risk to a child placed in their home. The previous policy was more restrictive than necessary to ensure the health and safety of children placed in foster homes, therefore a change was needed.

Although the proposed rule may increase the number of certified foster or adoptive parents, the rule does not increase cost, as all children entering the foster system are placed. The proposed rule expands the foster and adoptive parent pool; thereby allowing DCFS additional placement options for children entering the foster care system.

The cost of publishing rulemaking is approximately $1,491 (Federal) in FY 15-16. This is a one-time cost that is routinely included in the department's operating budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will have no effect on state or local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule may increase the number of potential applicants, which enables the department to certify additional foster and adoptive parents that will provide a safe and nurturing environment to children placed in foster care.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Rhenda Hodnett
Deputy Secretary
1606#052

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Finanical Assistance

Scholarship/Grant Programs—TOPS Core Curriculum Equivalents: AP Computer Science A (LAC 28:IV.703)

The Louisiana Student Financial Assistance Commission (LASFAC), in accordance with the Administrative Procedure Act [R.S. 49:950 et seq.], is amending and re-promulgating the rules of the scholarship/grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1.1-3042.8, R.S. 17:5001 et seq., and R.S. 56:797(D)(2)].

This rulemaking adds AP computer science A as an equivalent to advanced mathematics in the TOPS core curriculum for students who graduate from high school beginning in the 2013-2014 academic year (high school). (SG16171E)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education
Scholarship and Grant Programs
Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards
§703. Establishing Eligibility

A. - A.5.a.ii.(d).(ii). …

* * *

(iii). For students graduating in academic years (high school) 2013-2014 through 2016-2017, for

purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, in addition to the equivalent courses identified in §703.A.5.a.ii.(d).(i) above, the following course shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Algebra III; Advanced Math-Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL	AP Computer Science A

(e). For students graduating in academic year (high school) 2017-2018 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course(s)	Equivalent (Substitute) Course
Algebra I, Geometry and Algebra II	Integrated Mathematics I, II and III
Art	Media Arts I-IV; Photography I, Photography II, and Digital Photography
Algebra III; Advanced Math- Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL	AP Computer Science A
Any listed core course or its equivalent.	Any core curriculum course taken by a student who has been deemed to be gifted and talented pursuant to R.S. 17:1941 et. seq. as implemented in State Board of Elementary and Secondary Education policy and in fulfillment of the student's Individualized Education Program shall be considered a gifted and talented course and shall fulfill the core curriculum requirement in its given subject area.

A.5.a.ii.(f). - J.4.b.ii. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:651, 664 (April 2015), LR 41:1486 (August 2015), LR 41:2596, 2599 (December 2015), LR 42:

Family Impact Statement

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

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG16171NI) until 4:30 p.m., July 11, 2016, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Programs
TOPS Core Curriculum Equivalents:
AP Computer Science A

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

In accordance with the requirements of R.S. 17:5062(C)(1) and with the prior approval of BESE and receipt of comments and recommendations from Regents, the proposed rule change modifies the Scholarship and Grant Program rules to add AP Computer Science A course as an equivalent (substitute) course to Advanced Mathematics for the purpose of meeting the TOPS core curriculum requirements effective for students graduating during the 2013-2014 high school academic year and thereafter. There are no estimated implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated effects on economic benefits to directly affected persons or non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

Robyn Rhea Lively
Senior Attorney
1606#035

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Control of Emissions for the Nitric Acid Industry
(LAC 33:III.2307)(AQ363)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2307.C (Log #AQ363).

This Rule will repeal LAC 33:III.2307.C. LAC 33:III.2307.C applies to nitric acid plants that are not subject to 40 CFR 60 Subpart G (standards of performance for nitric acid plants).

LAC 33:III.2307.C.1.a states, in relevant part, that a "four-hour start-up exemption from [NOX] emission regulations may be authorized by the administrative authority for plants not subject to 40 CFR Part 60, Subpart G. LAC 33:III.2307.C.2.a provides a similar exemption "where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition." These provisions were approved by EPA into Louisiana's state implementation plan (SIP) on July 5, 2011 (76 FR 38977).

However, on June 12, 2015, EPA promulgated a rule* finding that several Louisiana air quality regulations, including LAC 33:III.2307.C, are "substantially inadequate to meet [Clean Air Act] requirements" because they provide "impermissible discretionary exemptions" from "otherwise applicable SIP emission limitations." Consequently, EPA issued a "SIP call" directing affected states to submit corrective SIP revisions by November 22, 2016.

Based on a review of effective permits, LDEQ identified only one nitric acid plant that is not subject to 40 CFR 60 subpart G, that being nitric acid train 4 (NNA4-1, EQT 0007), located at PCS Nitrogen Fertilizer's (PCS's) Geismar Agricultural Nitrogen and Phosphate Plant (agency interest no. 3732). Nitric acid train 4 is currently operating under permit no. 2240-V8, issued February 6, 2015.

A consent decree between EPA, LDEQ, and PCS (civil action no. 14-707-BAJ-SCR), entered February 26, 2014, requires PCS to install NO_X control equipment (i.e., selective catalytic reduction, or SCR) on nitric acid train 4 as a supplemental environmental project. Based on conversations with representatives of PCS, LDEQ understands that the SCR control device will be installed in summer 2016 and, after that time, the exemptions provided by LAC 33:III.2307.C will no longer be needed. Therefore, in response to EPA's SIP call, LDEQ will repeal LAC 33:III.2307.C.

*State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction [80 FR 33840]

This Rule is also a revision to the Louisiana state implementation plan for air quality. The basis and rationale for this Rule are to repeal the exemptions provided by LAC 33:III.2307.C in order to comply with EPA's SIP call. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 23. Control of Emissions for Specific Industries[1]

[1] Regulation of emissions of volatile organic compounds for certain industries are presented in Chapter 21.

Subchapter D. Nitric Acid Industry
§2307. Emission Standards for the Nitric Acid Industry

A. - B. …

C. Reserved.

1. - 2.c. Repealed.

D. - H.2. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000), LR 30:1672 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 33:2088 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:

Family Impact Statement

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

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ363. Such

comments must be received no later than August 3, 2016, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to diedra.johnson@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ363. This regulation is available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on July 27, 2016, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Control of Emissions for the Nitric Acid Industry

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule change. The proposed rule change will repeal exceptions from emission standards for the nitric acid industry. The rule was determined to contain an impermissible exemption by the U.S. Environmental Protection Agency. This provision eliminates exemptions from the NOX emission limitations for nitric acid plants not subject to 40 CFR 60 Subpart G (Standards of Performance for Nitric Acid Plants).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule change. LDEQ has identified only one nitric acid plant not subject to 40 CFR 60 Subpart G (i.e., Nitric Acid Train 4 located at PCS Nitrogen Fertilizer's (PCS's) Geismar Agricultural Nitrogen and Phosphate Plant). A Consent Decree between EPA, LDEQ, and PCS requires PCS to install NOX control equipment (i.e., selective catalytic reduction, or SCR) on Nitric Acid Train 4 as a supplemental environmental project. Based on conversations with representatives of PCS, LDEQ understands that the SCR control device will be installed in summer 2016. After that time, the exemptions provided by LAC 33:III.2307.C will no longer be needed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary) There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule change.

Herman Robinson	Evan Brasseaux
General Counsel	Staff Director
1606#033	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of Secretary
Legal Division

Emission Standards for Sulfur Dioxide—Exemptions
(LAC 33:III.1507)(AQ360)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.1507.A and B (Log #AQ360).

This Rule will repeal LAC 33:III.1507.A and B. LAC 33:III.1507.A and B apply to existing sulfuric acid plants (i.e., those constructed or last modified on or before August 17, 1971, and therefore not subject to 40 CFR 60 Subpart H).

LAC 33:III.1507.A states, in relevant part, that a "four-hour (continuous) start-up exemption from the [SO2 and sulfuric acid mist] emission limitations of LAC 33:III.1503.A will be authorized by the administrative authority for facilities not subject to 40 CFR 60.82 and 60.83 [of Subpart H]." LAC 33:III.1507.B provides a similar exemption "where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition." These provisions were approved by EPA into Louisiana's state implementation plan (SIP) on July 15, 1993 (58 FR 38060).

However, on June 12, 2015, EPA promulgated a rule* finding that several Louisiana air quality regulations, including LAC 33:III.1507.A and B, are "substantially inadequate to meet [Clean Air Act] requirements" because they provide "impermissible discretionary exemptions" from "otherwise applicable SIP emission limitations." Consequently, EPA issued a "SIP call" directing affected states to submit corrective SIP revisions by November 22, 2016.

Based on a review of effective permits, LDEQ has determined that no sulfuric acid plants are eligible for the aforementioned exemptions because each is subject to 40 CFR 60.82 and 60.83. Therefore, in response to EPA's SIP call, LDEQ will repeal LAC 33:III.1507.A and B.

*State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction. [80 FR 33840]

This Rule is also a revision to the Louisiana state implementation plan for air quality. The basis and rationale for this Rule are to repeal the exemptions provided by LAC 33:III.1507.A and B in order to comply with EPA's SIP call. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 15. Emission Standards for Sulfur Dioxide

§1507. Exemptions

A. Reserved.

1. - 2. Repealed.

B. Reserved.

1. - 2. Repealed.

C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), LR 23:1678 (December 1997), LR 24:1284 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), LR 33:1011 (June 2007), LR 33:2085 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:

Family Impact Statement

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

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ360. Such comments must be received no later than August 3, 2016, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to diedra.johnson@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ360. This regulation is available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on July 27, 2016, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Emission Standards for Sulfur Dioxide—Exemptions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule change. The proposed rule change will repeal exemptions from the emissions standards for sulfur dioxide and sulfuric acid mist. The rule was determined to contain an impermissible exemption by the U.S. Environmental Protection Agency. The rule formerly established exemptions from the SO_2 and sulfuric acid mist emission limitations for existing sulfuric acid plants "not subject to 40 CFR 60.82 and 60.83" (i.e., plants constructed or last modified on or before August 17, 1971).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule change. Based on a review of effective permits, LDEQ has determined that no sulfuric acid plants are eligible for the aforementioned exemptions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule change.

Herman Robinson	Evan Brasseaux
General Counsel	Staff Director
1606#032	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Work Practice Standards During Start-up and Shutdown
(LAC 33:III.2201)(AQ364)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.2201.C and K (Log #AQ364).

This Rule will repeal the exemption set forth in LAC 33:III.2201.C.8 and replace it with provisions allowing the owner/operator of an affected point source to comply either with the emission factors imposed by LAC 33:III.2201.D at all times (including periods of startup and shutdown) or with newly-established work practice standards designed to minimize emissions during periods of startup and shutdown.

LAC 33:III.2201 establishes NO_X standards for certain boilers, process heaters/furnaces, stationary gas turbines, and stationary internal combustion engines located at affected facilities in the following nine parishes: Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, and West Feliciana.

LAC 33:III.2201.C.8 provides an exemption from the aforementioned NO_X standards "during start-up and shutdown…or during a malfunction." Notably, this exemption does not apply to units that are shut down intentionally on a routine basis (i.e., more than once per month). This provision was approved by EPA into Louisiana's state implementation plan (SIP) on July 5, 2011 (76 FR 38977).

However, on June 12, 2015, EPA promulgated a rule* finding that several Louisiana air quality regulations, including LAC 33:III.2201.C.8, are "substantially inadequate to meet [Clean Air Act] requirements" because they provide "automatic exemptions for excess emissions from otherwise applicable SIP emission limitations." Consequently, EPA issued a "SIP call" directing affected states to submit corrective SIP revisions by November 22, 2016.

In this same rulemaking, EPA "revised and updated" its startup, shutdown, and malfunction (SSM) policy for SIP provisions. According to EPA's "SSM SIP policy as of 2015" (80 FR 33976), SIP emission limitations "must be applicable to the source continuously," but:

- do not need to be numerical in format;
- do not have to apply the same limitation (e.g., numerical level) at all times; and
- may be composed of a combination of numerical limitations, specific technological control requirements and/or work practice requirements, with each component of the emission limitation applicable during a defined mode of source operation.

In response to EPA's SIP call, LDEQ will repeal the exemption set forth in LAC 33:III.2201.C.8 and amend Chapter 22 to allow the owner/operator of an affected point source to comply either with the emission factors imposed by LAC 33:III.2201.D at all times (including periods of startup and shutdown) or with newly-established work practice standards designed to minimize emissions during periods of startup and shutdown.

*State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction [80 FR 33840]

This Rule is also a revision to the Louisiana state implementation plan for air quality. The basis and rationale for this Rule are to repeal the exemption set forth in LAC 33:III.2201.C.8 and replace it with provisions allowing the owner/operator of an affected point source to comply either with the emission factors imposed by LAC 33:III.2201.D at all times (including periods of startup and shutdown) or with newly-established work practice standards designed to minimize emissions during periods of startup and shutdown. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 22. Control of Emissions of Nitrogen Oxides (NO_X)

§2201. Affected Facilities in the Baton Rouge Nonattainment Area and the Region of Influence

A. - C.7. …

8. Reserved;

C.9. - J.2. …

K. Start-up and Shutdown

1. For affected point sources that are shut down intentionally more than once per month, the owner or operator shall include NO_x emitted during periods of start-up and shutdown for purposes of determining compliance with the emission factors set forth in Subsection D of this Section, or with an alternative plan approved in accordance with Paragraph E.1 or 2 of this Section.

2. For all other affected point sources, the owner or operator shall either comply with Paragraph K.1 of this Section or the work practice standards described in Paragraph K.3 of this Section during periods of start-up and shutdown. If the owner or operator chooses to comply with work practices standards, the emission factors set forth in Subsection D of this Section shall not apply during periods of start-up and shutdown.

3. Work Practice Standards

a. The owner or operator shall operate and maintain each affected point source, including any associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions.

b. Effective November 22, 2016, coal-fired and fuel oil-fired electric power generating system boilers and fuel oil-fired stationary gas turbines shall use natural gas during start-up. Start-up ends when any of the steam from the boiler or steam turbine is used to generate electricity for sale over the grid, or for any other purpose (including on-site use). If another fuel must be used to support the shutdown process, natural gas shall be utilized.

c. Engage control devices such as selective catalytic reduction (SCR) or selective non-catalytic reduction (SNCR) as expeditiously as possible, considering safety and manufacturer recommendations.

d. Minimize the start-up time of stationary internal combustion engines to a period needed for the appropriate and safe loading of the engine, not to exceed 30 minutes.

e. Maintain records of the calendar date, time, and duration of each start-up and shutdown.

f. Maintain records of the type(s) and amount(s) of fuels used during each start-up and shutdown.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:290 (February 2002), repromulgated LR 28:451 (March 2002), amended LR 28:1578 (July 2002), LR 30:748 (April 2004), LR 30:1170 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2441 (October 2005), LR 33:2088 (October 2007), LR 34:71 (January 2008), LR 36:60 (January 2010), amended by the Office of the Secretary, Legal Division, LR 42:

Family Impact Statement

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

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ364. Such comments must be received no later than August 3, 2016, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to diedra.johnson@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ364. This regulation is available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on July 27, 2016, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Work Practice Standards During Start-up and Shutdown

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule change. The proposed rule change will affect owners/operators of equipment subject to the control of emissions of nitrogen oxides by repealing an exemption for the control of emissions of nitrogen oxides during periods of start-up, shutdown, and malfunction. The proposed rule change will replace the current exemption with provisions allowing the owner/operator to comply either with the emission factors imposed by emission factors in current rule at all times (including periods of start-up and shutdown), or with newly-established work practice standards designed to minimize emissions during periods of start-up and shutdown.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will affect owners/operators of equipment subject to the control of emissions of nitrogen oxides by repealing an exemption for the control of emissions of nitrogen oxides during periods of start-up, shutdown, and malfunction. If an owner/operator chooses to comply with work practice standards during periods of start-up and shutdown, LDEQ anticipates there will be no significant effect on costs. This is because many owners/operators are already implementing such measures as part of their general duty to minimize emissions and/or to comply with federal regulations applicable to industrial, commercial, and institutional boilers and process heaters, or coal- and oil-fired electric utility steam generating units.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule change.

Herman Robinson	Evan Brasseaux
General Counsel	Staff Director
1606#031	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Board of Medical Examiners

Podiatry Licensure and Certification (LAC 46:XLV.1307)

Notice is hereby given in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Medical Practice Act, R.S. 37:1270, and the Louisiana Podiatric Practice Act, R.S. 37:611-628, that the board intends to amend its rules on licensure and certification of podiatrists. The proposed changes, which appear in §1307.D, remove the requirement for board certification/qualification for surgical treatment of the ankle for a podiatrist who has completed three years of a specified residency training program. The proposed changes also reflect a name change in the certifying surgical board within podiatry from the American Board of Podiatric Surgery to the American Board of Foot and Ankle Surgery. The proposed amendments are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 2. Licensure and Certification
Chapter 13. Podiatrists
Subchapter B. Requirements and Qualifications for Licensure, Scope of Practice
§1307. Qualifications for Certification for Advanced Practice; Scope of Practice

A. - C.4. ...

D. Qualifications for Certification in Surgical Treatment of the Ankle. To be eligible for certification in the surgical treatment of the ankle, whether for initial licensure or annual renewal, an applicant who possesses and meets the qualifications and requirements of §1305.A.1-5 of this Chapter shall:

1. have completed a surgical residency approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association, consisting of:

a. a three-year podiatric surgery residency (PSR 36) program or greater; or

b. a three-year podiatric medicine and surgery residency (PM and S 36) program or greater; or

c. a two-year podiatric surgery residency (PSR 24) program and:

i. be board-certified in reconstructive rear foot and ankle surgery (RRA) by the American Board of Foot and Ankle Surgery (ABFAS), formerly the American Board of Podiatric Surgery (APBS); or

ii. be board-certified in foot surgery and board qualified in reconstructive rear foot/ankle surgery (RRA) by the ABFAS.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:241 (February 2009), amended by the Department of Health, Board of Medical Examiners, LR 42:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below 100 percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Impact Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with development disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA, 70130, (504) 568-6820, ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., July 20 2016.

Public Hearing

If a public hearing is requested to provide data, views, arguments, information or comments in accordance with the Administrative Procedure Act, the hearing will be held on July 25, 2016 at 10 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice. Any person wishing to attend should call to confirm that a hearing is being held.

Eric D. Torres
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Podiatry Licensure and Certification

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation cost for this rule is approximately $319 for the notice and rule publication cost. The proposed rule change is not anticipated to result in any additional costs or savings to the Board or any other state or local governmental unit. The proposed amendments remove the board certification prerequisite requirement for applicants who have completed three years of specified post-graduate residency training in order to be eligible to be certified in the

advanced practice designation by the Board for the surgical treatment of the ankle. The amendments also reflect a name change in the certifying board within podiatry from the American Board of Podiatric Surgery to the American Board of Foot and Ankle Surgery.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the Board's revenue collections or those of any other state or governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

A podiatrist who completes a specified three (3) year residency training program will be favorably impacted by the amendment which removes the need for board certification as a prerequisite for certification in surgical treatment of the ankle by the Board. It is anticipated that there will be a minimal number of podiatrists that will be affected by the proposed amendments. Otherwise, the proposed amendments will not have a material effect on costs, paperwork, or workload of podiatrists or applicants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed changes may serve to increase employment opportunities and competition in the market for podiatrists who qualify for surgical treatment of the ankle as a result of completing the proposed specified residency training.

Eric D. Torres,
Executive Director
1606#049

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Board of Examiners of Psychologists

Continuing Education and Licenses
(LAC 46:LXIII.Chapters 8 and 9)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists intends to amend LAC 46:LXIII.801, 803, 805, 807, 809, 811, 815, 903; repeal §808; adopt §901; and renumber current §§901, 902, and 903 as published under Declaration of Emergency in the *Louisiana Register* on June 20, 2016.

The full text of this proposed Rule may be view in the Emergency Rule section of this edition of the *Louisiana Register*.

Family Impact Statement

The Board of Examiners of Psychologists hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule related to the continuing education requirements of psychologists will have no known or foreseeable impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; family earnings and family budget; behavior and personal responsibility of children; or, the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed modifications regulate licensed psychologists in the interest of health, safety and the welfare of the public. The Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). Specifically, there is no known or foreseeable effect on household income, assets, and financial security; early childhood development and preschool through postsecondary education development; employment and workforce development; taxes and tax credits; or, child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Specifically, there is no known or foreseeable effect on: the staffing level requirements or qualifications required to provide the same level of service; the total direct or indirect cost to the providers to provide the same level of service; or the overall ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Jaime T. Monic, Executive Director, 8706 Jefferson Highway, Suite B, Baton Rouge, LA 70809. All comments must be submitted by 12 p.m. on July 10, 2016.

Jaime T. Monic
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Continuing Education and Licenses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation cost for this rule totals approximately $500 in FY 2015-16 and applies only to the Board of Examiners of Psychologists. Those costs are related to publishing the proposed and final rule in the *Louisiana Register*.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on state or local government revenue collections is anticipated as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This amendment provides clarification to current continuing education rules for approximately 700 licensed psychologists in Louisiana. Continuing education is required for license renewal. This amendment does not impose any additional requirements for continuing education, nor would it have a financial impact on those licensed psychologists or the non-governmental groups who provide continuing education to licensed psychologists. The amendments are proposed solely to provide consistency and clarify what constitutes acceptable continuing education, proper calculation of credits, documentation required to prove credits, and to reinstate the requirements for renewal of a lapsed license.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated as a result of this rule change.

Jaime T. Monic
Executive Director
1606#042

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Federally Qualified Health Centers
Fluoride Varnish Applications
Delegated Appliers
(LAC 50:XI.10301)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XI.10301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing federally qualified health centers (FQHCs) to adopt provisions for the coverage of fluoride varnish applications (*Louisiana Register*, Volume 39, Number 11).

The department now proposes to amend the provisions governing FQHCs in order to allow certified medical assistants to apply fluoride varnish under the direction of a certified physician, and to establish training requirements for appliers of fluoride varnish.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XI. Clinic Services
Subpart 13. Federally-Qualified Health Centers
Chapter 103. Services
§10301. Scope of Services
[Formerly §10501]

A. - C.1.d. ...

e. registered nurses;

f. licensed practical nurses; or

g. certified medical assistants.

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

a. Physicians shall maintain a copy of the successfully completed post assessment certificate in their files for review, and shall provide the certificate to the department, or its fiscal intermediary, upon request.

b. Approved delegated appliers of fluoride varnish must also complete the training module and their certificates shall be retained on file locally as evidence of training.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2328 (October 2004), repromulgated LR 30:2487 (November 2004), amended LR 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2629 (September 2011), LR 39:3076 (November 2013), LR 42:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, July 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Federally Qualified Health Centers Fluoride Varnish Applications—Delegated Appliers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that

$432 ($216 SGF and $216 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 15-16. It is anticipated that $216 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule proposes to amend the provisions governing federally qualified health centers (FQHCs) in order to allow certified medical assistants to apply fluoride varnish under the direction of a certified physician, and to establish training requirements for appliers of fluoride varnish. This proposed rule will have no impact on FQHC expenditures since the Department does not anticipate any impact on utilization. The rule only allows for another delegated provider to act as a substitute applier of the varnish application. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to FQHCs for FY 15-16, FY 16-17 and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1606#060

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Home and Community-Based Services Waivers
New Opportunities Waiver
Emergency Opportunities
(LAC 50:XXI.13709)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend LAC 50:XXI.13709 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions governing the allocation of waiver opportunities in the New Opportunities Waiver (NOW) to revise the criteria for emergency waiver services, simplify the allocation process for NOW emergency opportunities, and facilitate faster access to NOW emergency services for qualified individuals (*Louisiana Register*, Volume 41, Number 9).

The department subsequently promulgated an Emergency Rule to rescind the October 1, 2015 Emergency Rule in order to return to the provisions in place governing the allocation of waiver opportunities for the NOW located in LAC 50:XXI.13709 (*Louisiana Register,* Volume 42, Number 1).

The department has now determined that it is necessary to amend the provisions governing the allocation of waiver opportunities in the NOW to revise the criteria for emergency opportunities, simplify the allocation process for NOW emergency opportunities and facilitate faster access to NOW emergency services for qualified individuals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services Waivers

Subpart 11. New Opportunities Waiver

Chapter 137. General Provisions

§13709. Emergency Opportunities

A. Requests for emergency waiver services shall be made through the local governing entities (LGEs) responsible for coordination of services for persons with developmental disabilities. When a request for emergency services is received, the LGE shall complete a standardized screening tool that incorporates standardized operational procedures to determine the priority of the individual's urgency of need in a fair and consistent manner.

B. To be considered for emergency waiver supports, the individual must need long-term supports, not temporary or short-term supports.

1. - 5. Repealed.

C. Effective for dates of service on or after September 20, 2016, an individual must meet the required criteria within the OCDD standardized screening tool in order to qualify for emergency waiver services.

1. Documentation that any one of the following criteria within the OCDD standardized screening tool has been met will qualify an individual for an emergency waiver opportunity:

a. the caregiver is no longer able to provide support and the individual's health and/or safety is placed at risk;

b. the individual has no other support available after the death of a caregiver;

c. the caregiver needs immediate assistance to provide support and maintain the individual's current living situation;

d. the individual has been placed in custody and, as a result, requires essential, community-based supports;

e. the individual requires long term care supports to address imminent risk of incarceration;

f. the individual needs immediate supports to stay in his/her own home;

g. intolerable conditions exist within the residence with an immediate need for a new residential option;

h. the individual's eligibility will expire and/or the individual "ages out" of the program or funding source providing essential supports within the next 90 days; and

i. additional supports are needed to ensure health and safety and/or to keep the individual from being placed in an institutional situation.

D. For individuals who meet the criteria for an emergency waiver opportunity, as determined by the OCDD standardized screening tool, the LGE will forward copies of all documentation used for determination of eligibility for NOW emergency services, including the standardized screening tool, to the appropriate DHH emergency review manager at OCDD.

1. OCDD will verify each qualifying applicant's request for services registry (RFSR) date and assign waiver opportunities in order, based on their protected RFSR dates.

2. In instances when there are more requests than available emergency waiver opportunities, qualifying individuals who have the earliest protected request dates on the NOW RFSR will receive their opportunities first.

3. If there are more applicants than available emergency waiver opportunities, those individuals may reapply when additional emergency waiver opportunities become available.

E. The LGE will keep all of the supporting documentation used to determine whether an applicant has met emergency waiver criteria.

F. Individuals who do not meet the criteria and are denied an emergency waiver opportunity have the right to an administrative appeal.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1201 (November 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:71 (January 2014), LR 42:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it will allow individuals and families in crisis to obtain faster access to necessary services.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by allowing families to obtain emergency services faster which may reduce their financial burden if they are incurring costs for services initially.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, July 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Home and Community-Based Services Waivers—New Opportunities Waiver Emergency Opportunities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no material programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16; however, there is potential for a nominal increase in expenditures since emergency opportunities will be accessed faster. It is anticipated that $756 ($378 SGF and $378 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no material effect on revenue collections other than the federal share of the promulgation costs for FY 15-16; however, there is potential for a nominal increase in revenue collections since emergency opportunities will be accessed faster. It is anticipated that $378 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the allocation of waiver opportunities in the New Opportunities Waiver (NOW) to revise the criteria for emergency opportunities, simplify the allocation process for NOW emergency opportunities and facilitate faster access to NOW emergency services for qualified individuals. The proposed changes are not expected to have a material impact on NOW program expenditures since the number of opportunities in the existing waiver or service utilization will not change; however, there is potential for a nominal increase in expenditures since emergency opportunities will be accessed faster. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to NOW service providers for FY 15-16, FY 16-17 and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Evan Brasseaux
1606#061

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Hospice Services (LAC 50:XV.4101)

The Department of Health and Hospitals, Bureau of Health Services Financing, proposes to amend LAC 50:XV.Chapter 41 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing hospice services to incorporate language approved in the corresponding State Plan Amendment in order to ensure compliance with federal regulations (*Louisiana Register*, Volume 41, Number 1). The department now proposes to amend the provisions governing hospice services in order to replace the retired local coverage determination (LCD) number with an active LCD number.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 3. Hospice
Chapter 41. Prior Authorization
§4101. Prior Authorization of Hospice Services

A. ...

1. The Medicare criteria found in local coverage determination (LCD) hospice determining terminal status (L34538) will be used in analyzing information provided by the hospice to determine if the patient meets clinical requirements for this program.

A.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1470 (June 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:131 (January 2015), LR 42:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, July 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Hospice Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that $324 ($162 SGF and $162 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 15-16. It is anticipated that $162 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing hospice services in order to replace the retired local coverage determination (LCD) number with an active LCD number. The Rule will replace the code that is currently listed in the Hospice provisions since it has now expired and is no longer being used. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to hospice providers for FY 15-16, FY 16-17 and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1606#062

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Managed Care for Physical and Behavioral Health
Non-Emergency Medical Transportation
(LAC 50:I.3103)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:I.3103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing managed care for physical and basic behavioral health in order to reflect the integration of specialized behavioral health services into Bayou Health as a result of the narrowing of the statewide management organization's scope of service administration for certain behavioral health services (*Louisiana Register*, Volume 41, Number 11). The department promulgated an Emergency Rule which amended the provisions governing managed care for physical and basic behavioral health to provide clarification regarding the inclusion of non-emergency medical transportation (NEMT) services (*Louisiana Register*, Volume 42, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 1, 2016 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 3. Managed Care for Physical and Behavioral Health
Chapter 31. General Provisions
§3103. Recipient Participation

A. - B. ...

1. Participation in an MCO for the following participants is mandatory for specialized behavioral health and non-emergency medical transportation (NEMT) services (ambulance and non-ambulance) only, and is voluntary for physical health services:

B.1.a. - D. ...

E. Mandatory MCO Populations—Specialized Behavioral Health Services and Non-Emergency Ambulance Services Only

1. The following populations are mandatory enrollees in Bayou Health for specialized behavioral health services and non-emergency ambulance services only:

a. - b. ...

F. Mandatory MCO Populations—Specialized Behavioral Health and NEMT Services (Ambulance and Non-Ambulance) Only

F.1. - I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1573 (June 2011), amended LR 40:310 (February 2014), LR 40:1096 (June 2014), LR 40:2258 (November 2014), LR 41:929 (May 2015), LR 41:2363 (November 2015), LR 42:754 (May 2016), LR 42:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase the total direct and indirect cost to the provider to provide the same level of service due to the reduction of NEMT payments. The proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the reduction of these payments adversely impacts the provider's financial standing.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, July 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Managed Care for
Physical and Behavioral Health
Non-Emergency Medical Transportation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of $91,420 for FY 15-16, $44,595 for FY 16-17 and $135,358 for FY 17-18. It is anticipated that $432($216 SGF and $216 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16, 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately $150,380 for FY 15-16, $73,569 for FY 16-17 and $225,116 for FY 17-18. It is anticipated that $216 will be expended in FY 15-16 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16, 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the January 1, 2016 emergency rule which amended the provisions governing managed care for physical and basic behavioral health to provide clarification regarding the inclusion of non-emergency medical transportation services. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures for non-emergency medical transportation services by approximately $242,232 for FY 15-16, $118,164 for FY 16-17 and $360,474 for FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made for non-emergency medical transportation services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Jen Steele	Evan Brasseaux
Medicaid Director	Staff Director
1606#063	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Nursing Facilities
Reimbursement Methodology
(LAC 50:II.20001)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:II.20001 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement to nursing facilities, through vendor payments, for services rendered to Medicaid eligible individuals who reside in nursing facilities.

For state fiscal year (SFY) 2015-16, the department determined it was necessary to promulgate an Emergency Rule to amend the provisions governing the reimbursement methodology for nursing facilities in order to suspend the provisions of LAC 50:II.Chapter 200, and to impose provisions to ensure that the rates in effect do not increase for the SFY 2016 rating period (*Louisiana Register*, Volume 41, Number 7). This proposed Rule is being promulgated in order to continue the provisions of the July 11, 2015 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement
Chapter 200. Reimbursement Methodology
§20001. General Provisions

A. Definitions

Administrative and Operating Cost Component—the portion of the Medicaid daily rate that is attributable to the general administration and operation of a nursing facility.

Assessment Reference Date—the date on the minimum data set (MDS) used to determine the due date and delinquency of assessments. This date is used in the case-mix reimbursement system to determine the last assessment for each resident present in the facility and is included in the quarterly case-mix report.

Base Resident-Weighted Median Costs and Prices—the resident-weighted median costs and prices calculated in accordance with §20005 of this rule during rebase years.

Calendar Quarter—a three-month period beginning January 1, April 1, July 1, or October 1.

Capital Cost Component—the portion of the Medicaid daily rate that is:

a. attributable to depreciation;
b. capital related interest;
c. rent; and/or
d. lease and amortization expenses.

Care Related Cost Component—the portion of the Medicaid daily rate that is attributable to those costs indirectly related to providing clinical resident care services to Medicaid recipients.

Case Mix—a measure of the intensity of care and services used by similar residents in a facility.

Case-Mix Index (CMI)—a numerical value that describes the resident's relative resource use within the groups under the resource utilization group (RUG-III) classification system, or its successor, prescribed by the department based on the resident's MDS assessments. Two average CMIs will be determined for each facility on a quarterly basis, one using all residents (the facility average CMI) and one using only Medicaid residents (the Medicaid average CMI).

Case-Mix MDS Documentation Review (CMDR)—a review of original legal medical record documentation on a randomly selected MDS assessment sample. The original legal medical record documentation supplied by the nursing facility is to support certain reported values that resulted in a specific RUG classification. The review of the documentation provided by the nursing facility will result in the RUG classification being supported or unsupported.

Cost Neutralization—refers to the process of removing cost variations associated with different levels of resident case mix. Neutralized cost is determined by dividing a facility's per diem direct care costs by the facility cost report period case-mix index.

Delinquent MDS Resident Assessment—an MDS assessment that is more than 121 days old, as measured by the assessment reference date (ARD) field on the MDS.

Direct Care Cost Component—the portion of the Medicaid daily rate that is attributable to:

a. registered nurse (RN), licensed practical nurse (LPN) and nurse aide salaries and wages;

b. a proportionate allocation of allowable employee benefits; and

c. the direct allowable cost of acquiring RN, LPN and nurse aide staff from outside staffing companies.

Facility Cost Report Period Case-Mix Index—the average of quarterly facility-wide average case-mix indices, carried to four decimal places. The quarters used in this average will be the quarters that most closely coincide with the facility's cost reporting period that is used to determine the medians. This average includes any revisions made due to an on-site CMDR.

Example: A January 1, 2011-December 31, 2011 cost report period would use the facility-wide average case-mix indices calculated for March 31, 2011, June 30, 2011, September 30, 2011 and December 31, 2011.

Facility-Wide Average Case-Mix Index—the simple average, carried to four decimal places, of all resident case-mix indices based on the last day of each calendar quarter. If a facility does not have any residents as of the last day of a calendar quarter or the average resident case-mix indices appear invalid due to temporary closure or other circumstances, as determined by the department, a statewide average case-mix index using occupied and valid statewide facility case-mix indices may be used.

Final Case-Mix Index Report (FCIR)—the final report that reflects the acuity of the residents in the nursing facility on the last day of the calendar quarter, referred to as the point-in-time.

Index Factor—will be based on the *Skilled Nursing Home without Capital Market Basket Index* published by Data Resources Incorporated (DRI-WEFA), or a comparable index if this index ceases to be published.

MDS Supportive Documentation Guidelines—the department's publication of the minimum medical record documentation guidelines for the MDS items associated with the RUG-III or its successor classification system. These guidelines shall be maintained by the department and updated and published as necessary.

Minimum Data Set (MDS)—a core set of screening and assessment data, including common definitions and coding categories that form the foundation of the comprehensive assessment for all residents of long-term care facilities certified to participate in the Medicaid Program. The items in the MDS standardize communication about resident problems, strengths, and conditions within facilities, between facilities, and between facilities and outside agencies. The Louisiana system will employ the current MDS assessment required and approved by the Centers for Medicare and Medicaid Services (CMS).

Pass-Through Cost Component—includes the cost of property taxes and property insurance. It also includes the provider fee as established by the Department of Health and Hospitals.

Preliminary Case Mix Index Report (PCIR)—the preliminary report that reflects the acuity of the residents in the nursing facility on the last day of the calendar quarter.

Rate Year—a one-year period from July 1 through June 30 of the next calendar year during which a particular set of rates are in effect. It corresponds to a state fiscal year.

Resident-Day-Weighted Median Cost—a numerical value determined by arraying the per diem costs and total actual resident days of each nursing facility from low to high and identifying the point in the array at which the cumulative total of all resident days first equals or exceeds half the number of the total resident days for all nursing facilities. The per diem cost at this point is the resident-day-weighted median cost.

RUG-III Resident Classification System—the resource utilization group used to classify residents. When a resident classifies into more than one RUG-III, or its successor's group, the RUG-III or its successor's group with the greatest CMI will be utilized to calculate the facility average CMI and Medicaid average CMI.

Summary Review Results Letter—a letter sent to the nursing facility that reports the final results of the case-mix MDS documentation review and concludes the review.

a. The summary review results letter will be sent to the nursing facility within 10 business days after the final exit conference date.

Supervised Automatic Sprinkler System—a system that operates in accordance with the latest adopted edition of the National Fire Protection Association's *Life Safety Code*. It is referred to hereafter as a *fire sprinkler system*.

Two-Hour Rated Wall—a wall that meets American Society for Testing and Materials International (ASTM) E119 standards for installation and uses two-hour rated sheetrock.

Unsupported MDS Resident Assessment—an assessment where one or more data items that are used to classify a resident pursuant to the RUG-III, 34-group, or its successor's resident classification system is not supported according to the MDS supporting documentation guidelines and a different RUG-III, or its successor, classification would result; therefore, the MDS assessment would be considered "unsupported."

B. Effective for the rate period of July 1, 2015 through June 30, 2016, the department shall suspend the provisions of LAC 50:II.Chapter 200 governing the reimbursement methodology for nursing facilities and impose the following provisions governing reimbursements for nursing facility services.

1. During this time period, no inflation factor will be applied to the base resident day weighted medians and prices calculated as of July 1, 2014.

2. All costs and cost components that are required by rule to be trended forward will only be trended forward to the midpoint of the 2015 state fiscal year (December 31, 2014).

3. The base capital per square foot value, land value per square foot, and per licensed bed equipment value utilized in the calculation of the fair rental value (FRV) component will be set equal to the value of these items as of July 1, 2014.

4. Base capital values for the Bed Buy-Back program (§20012) purposes will be set equal to the value of these items as of July 1, 2014.

5. Nursing facility providers will not have their weighted age totals for the FRV component calculation purposes increased by one year as of July 1, 2015.

6. As of the July 1, 2016 rate setting, nursing facility provider weighted age totals for the FRV component calculation purposes will be increased by two years to account for the suspended year of aging occurring as of the July 1, 2015 rating period.

7. No other provisions of LAC 50:II.Chapter 200 shall be suspended for this time period.

Base Resident—Repealed.

Calendar Quarter—Repealed.

Capital Cost Component—Repealed.

1. - 4. Repealed.

Care Related Cost Component—Repealed.

Case Mix—Repealed.

Case-Mix Index—Repealed.

Case-Mix MDS Documentation Review (CMDR)—Repealed.

Cost Neutralization—Repealed.

Delinquent MDS Resident Assessment—Repealed.

Direct Care Cost Component—Repealed.

1. - 3. Repealed.

Facility Cost Report Period Case-Mix Index—Repealed.

Example. Repealed.

Facility-Wide Average Case-Mix Index—Repealed.

Final Case-Mix Index Report (FCIR)—Repealed.

Index Factor—Repealed.

Minimum Data Set (MDS)—Repealed.

MDS Supportive Documentation Guidelines—Repealed.

Pass-Through Cost Component—Repealed.

Preliminary Case Mix Index Report (PCIR)—Repealed.

Rate Year—Repealed.

Resident-Day-Weighted Median Cost—Repealed.

RUG-III Resident Classification System—Repealed.

Summary Review Results Letter—Repealed.

1. Repealed.

Supervised Automatic Sprinkler System—Repealed.

Two-Hour Rated Wall—Repealed.

Unsupported MDS Resident Assessment—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2262 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:825 (March 2012), LR 42:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, July 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities Reimbursement Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that $1,296 ($648 SGF and $648 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 15-16. It is anticipated

that $648 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the July 11, 2015 Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities in order to suspend the provisions of LAC 50:II.Chapter 200, and to impose provisions to ensure that the rates in effect do not increase for the SFY 2016 rating period. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to nursing facilities for FY 15-16, FY 16-17 and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1606#064

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Professional Services Program
Fluoride Varnish Applications
Delegated Appliers
(LAC 50:IX.905)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:IX.905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the Professional Services Program to adopt provisions for the coverage of fluoride varnish applications (*Louisiana Register*, Volume 40, Number 2).

The department now proposes to amend the provisions governing the Professional Services Program in order to allow certified medical assistants to apply fluoride varnish under the direction of a certified physician, and to establish training requirements for appliers of fluoride varnish.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 1. General Provisions
Chapter 9. Fluoride Varnish Application Services
§905. Provider Participation

A. - B.4. ...

5. registered nurses;
6. licensed practical nurses; or
7. certified medical assistants.

C. Professional service providers must review the Smiles for Life training module for fluoride varnish and successfully pass the post assessment.

1. Physicians shall maintain a copy of the successfully completed post assessment certificate in their files for review, and shall provide the certificate to the department, or its fiscal intermediary, upon request.

2. Approved delegated appliers of fluoride varnish must also complete the training module and their certificates shall be retained on file locally as evidence of training.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:315 (February 2014), amended LR 42:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, July 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Professional Services Program Fluoride Varnish Applications—Delegated Appliers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that $432 ($216 SGF and $216 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 15-16. It is anticipated that $216 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the Professional Services Program in order to allow certified medical assistants to apply fluoride varnish under the direction of a certified physician, and to establish training requirements for the application of fluoride varnish. This proposed rule will have no impact on Professional Services expenditures since the department does not anticipate any impact to utilization. The rule only allows for another delegated provider to act as a substitute applier of the varnish application. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to providers in the Professional Services Program for FY 15-16, FY 16-17 and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele	Evan Brasseaux
Medicaid Director	Staff Director
1606#065	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Rural Health Clinics
Fluoride Varnish Applications
Delegated Appliers
(LAC 50:XI.16301)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XI.16301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing rural health clinics (RHCs) to adopt provisions for the coverage of fluoride varnish applications (*Louisiana Register*, Volume 40, Number 1).

The department now proposes to amend the provisions governing RHCs in order to allow certified medical assistants to apply fluoride varnish under the direction of a certified physician, and to establish training requirements for appliers of fluoride varnish.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XI. Clinic Services
Subpart 15. Rural Health Clinics
Chapter 163. Services
§16301. Scope of Services
[Formerly §16501]

A. - C.1.d. ...

e. registered nurses;

f. licensed practical nurses; or

g. certified medical assistants.

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

a. Physicians shall maintain a copy of the successfully completed post assessment certificate in their files for review, and shall provide the certificate to the department, or its fiscal intermediary, upon request.

b. Approved delegated appliers of fluoride varnish must also complete the training module and their certificates shall be retained on file locally as evidence of training.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1905 (October 2006), repromulgated LR 32:2267 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2631 (September 2011), LR 40:83 (January 2014), LR 42:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will

have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, July 28, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Rural Health Clinics
Fluoride Varnish Applications
Delegated Appliers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 15-16. It is anticipated that $432 ($216 SGF and $216 FED) will be expended in FY 15-16 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 15-16. It is anticipated that $216 will be collected in FY 15-16 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule proposes to amend the provisions governing rural health clinics (RHCs) in order to allow certified medical assistants to apply fluoride varnish under the direction of a certified physician, and to establish training requirements for appliers of fluoride varnish. This proposed rule will have no impact on RHC expenditures since the Department does not anticipate any impact on utilization. The rule only allows for another delegated provider to act as a substitute applier of the varnish application. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to RHCs for FY 15-16, FY 16-17 and FY 17-18.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1606#066

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Office for Citizens with Developmental Disabilities

Certification of Medication Attendants
(LAC 48:IX.Chapter 9)

The Office for Citizens with Developmental Disabilities (OCDD) proposes to amend LAC 48:IX.Chapter 9, Guidelines for Certification of Medication Attendants (CMA), in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. R.S. 37:1021-1025 authorizes the establishment of "a medication administration course for the purpose of training and certifying unlicensed personnel to administer certain medication to residents of intermediate care facilities for people with developmental disabilities (ICFs/DD) and community homes for persons with developmental disabilities either operated by the Office for Citizens with Developmental Disabilities (OCDD) or funded through the Department of Health and Hospitals (DHH); and to individuals in the programs/agencies contracting for services with DHH except as prohibited in §911.B.5."

Based on an opinion given by the Louisiana State Board of Medical Examiners, the Department of Health and Hospitals has discontinued the use of physician delegation forms in intermediate care facilities and home and community-based settings. Unlicensed personnel must now complete minimum training requirements in order to administer medication to clients with intellectual and developmental disabilities. The termination of physician delegation has resulted in a large influx of persons seeking certified medication attendants (CMA) training and certification. This has created an administrative burden to providers, as well as OCDD, to timely process a steadily increasing number of certifications. This is an unfunded training mandate, which incurs significant costs to provider agencies and requires annual continuing education for re-certification. Due to limited funding, provider agencies who cannot afford to maintain the certification will experience a reduction in unlicensed personnel who are qualified to give medication, thus increasing the risk for medication errors, critical incidents, and mortality for persons who are medically compromised and vulnerable. The Office for Citizens with Developmental Disabilities seeks to extend the certification period for certified medication attendants to two years. Provider agencies will be required to determine CMA competency annually during the two-year period.

Also, OCDD will allow CMAs who have not worked directly with medication administration for 12 months or

more to be administered the statewide exam and a competency evaluation rather than requiring that they repeat the training. This opportunity will decrease administrative burden and allow qualified persons to more quickly re-enter the work force which will in turn, help assure client health and safety.

Title 48
PUBLIC HEALTH—GENERAL
Part IX. Developmental Disabilities Services
Chapter 9. Guidelines for Certification of Medication Attendant

§901. Overview

A. R.S. 37:1021-1025 authorizes the establishment of a medication administration course for the purpose of training and certifying unlicensed personnel to administer certain medication to residents of intermediate care facilities for people with developmental disabilities (ICFs/DD) and community homes for people with developmental disabilities either operated by the Office for Citizens with Developmental Disabilities (OCDD) or funded through the Department of Health and Hospitals (DHH); and to individuals in programs/agencies contracting for services with DHH except as prohibited in §911.B.5. Persons who successfully complete the certified medication attendant (CMA) course and demonstrate an acceptable level of competency on a written test and a practical examination are eligible for certification as medication attendants. Use of certified medication attendants (CMAs) on the part of private providers that contract with DHH is strictly voluntary.

B. The guidelines establish:

1. - 6. …

7. role and responsibilities of the Office for Citizens with Developmental Disabilities; and

8. composition and role of Certified Medication Attendant Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:694 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:

§903. Definitions

A. For the purpose of these CMA guidelines, the following definitions shall apply.

Abuse (adult/elderly)—the infliction of physical or mental injury, or actions which may reasonably be expected to inflict physical injury, on an adult by other parties, including but not limited to such means as sexual abuse, abandonment, isolation, exploitation, or extortion of funds or other things of value (R.S. 15:503).

Abuse (child)—any of the following acts which seriously endanger the physical, mental, or emotional health and safety of the child:

a. the infliction or attempted infliction, or, as a result of inadequate supervision, the allowance or toleration of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person;

b. the exploitation or overwork of a child by a parent or any other person;

c. the involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the child's sexual involvement with any other person or of the child's involvement in pornographic displays, or any other involvement of a child in sexual activity constituting a crime under the laws of this state (*Children's Code*, article 1003).

Authorized Instructor—a registered nurse (RN), with a minimum of one-year experience working with people with developmental disabilities, who has completed the training for instructors, and has a current authorization by OCDD to teach the 60-hour medication attendant course.

CMA Applicant—an employee of an intermediate care facility for people with developmental disabilities or an in-home Medicaid home and community-based service who is enrolled in the 60-hour course curriculum.

Certified Medication Attendant (*CMA*)—the designation given an employee who has successfully completed the 60-hour course and passed the OCDD initial certification exam and has been issued a certificate by OCDD.

Department—the Department of Health and Hospitals (DHH).

Exploitation (adult/elderly)—the illegal or improper use or management of the funds, assets, or property of a person who is aged or an adult with a disability, or the use of power of attorney or guardianship of a person who is aged or an adult with a disability for one's own profit or advantage (R.S. 15:503).

Extortion (adult/elderly)—the acquisition of a thing of value from an unwilling or reluctant adult by physical force, intimidation, or abuse of legal or official authority (R.S. 15:503).

Falsification of Participant Medical Records—includes, but is not limited to, falsification of time, dosage, date, amount, and documentation of prescribed treatment that did not occur.

Falsification or Alteration of CMA Certificate—includes, but is not limited to, altering expiration date, CMA name, OCDD coordinator's signature, or attempting to use another person's certificate.

HCBS (*Home and Community-Based Services*)—one or more of the following services:

a. *personal care attendant services*—services required by a person with a disability in order to become physically independent or to remain in or return to the community;

b. *respite care services*—the temporary care and supervision of a person with a disability or an infirm elderly person so that the primary caregiver can be relieved of such duties. Respite care services may be performed either in the home of the person with a disability or infirm elderly person or in a facility owned by the home- and community-based service provider who provides respite care services. For the purposes of this Section, person with a disability shall mean a person with a physical, mental, or medical condition or an adult who requires assistance with activities of daily living;

c. *supervised independent living services*—necessary training, social services, and medical services to enable a person who has mental illness or who has developmental disabilities and who is living in congregate or

individual apartments to live as independently as possible in the community;

d. *family support services*—advocacy services, family counseling, including genetic counseling, family subsidy programs, parent-to-parent outreach, legal assistance, income maintenance, parent training, homemaker services, minor home renovations, marriage and family education, and other related programs;

e. *adult day care services*—a group program designed to meet the individual needs of functionally impaired adults which is structured and comprehensive and which provides a variety of health, social, and related support services in a protective setting for a portion of the 24-hour day. The group program shall provide for 10 or more functionally impaired adults who are not related to the owner or operator of the home- and community-based service provider. For the purposes of this Section, *functionally impaired adults* shall mean individuals aged 17 years of age and older who are physically, mentally, or socially impaired to a degree that supervision is necessary;

f. *substitute family care services*—services providing 24-hour personal care, supportive services and supervision to adults who meet the criteria for having a developmental disability;

g. *supported employment*—a system of supports for people with disabilities in regards to ongoing employment in integrated settings. Supported employment can provide assistance in a variety of areas, including:

i. job development;
ii. job coaches;
iii. job retention;
iv. transportation;
v. assistive technology;
vi. specialized job training; and
vii. individually tailored supervision;

h. *monitored in-home caregiving*—services provided by a principal caregiver to a client who lives in a private unlicensed residence. The principal caregiver shall reside with the client, and shall be contracted by the licensed HCBS provider having a monitored in-home caregiving service module.

Home- and Community-Based Service Provider—an agency, institution, society, corporation, person or persons, or any other individual or group that provides one or more home- and community-based services as defined in this Section. The term *home- and community-based service provider* shall not include any of the following:

a. any person, agency, institution, society, corporation, group, or entity that solely prepares and delivers meals, that solely provides sitter services, or that solely provides housekeeping services;

b. any person, agency, institution, society, corporation, group, or entity who provides gratuitous home- and community-based services;

c. any individual licensed practical nurse or registered nurse who has a current Louisiana license in good standing, and who provides personal nursing services in the home to an individual, provided that the nurse has contracted with the individual or family for such services and payment of such services;

d. staffing agencies which supply contract workers to a health care provider licensed by the department;

e. any person who is employed as part of a department authorized self-direction program (R.S. 40:2120.2).

ICF/DD (*Intermediate Care Facility for People with Developmental Disabilities*)—an institution (or distinct part of an institution) that:

a. is primarily for the diagnosis, treatment, or rehabilitation of people with developmental disabilities or persons with related conditions; and

b. provides, in a protected residential setting, ongoing evaluation, planning, 24-hour supervision, coordination, and integration of health or rehabilitative services to help each individual function at his or her greatest ability (CMS 42 CFR 435.1009).

Institutional Abuse or Neglect—any case of child abuse or neglect that occurs in any public or private facility that provides residential child care, treatment, or education (*Children's Code*, article 603).

Misappropriation of Property—to take possession, without permission, of any and all of an individual's personal belongings.

Neglect (adult/elderly)—the failure, by a caregiver responsible for an adult's care or by other parties, to provide the proper or necessary support or medical, surgical, or any other care necessary for his/her well-being. No adult who is being provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall, for that reason alone, be considered to be neglected or abused (R.S. 15:503).

Neglect (child)—the refusal or failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired. Whenever, in lieu of medical care, a child is being provided treatment in accordance with the tenets of a well-recognized religious method of healing which has a reasonable, proven record of success, the child shall not, for that reason alone, be considered to be neglected or abused. Disagreement by the parent regarding the need for medical care shall not, by itself, be grounds for termination of parental rights. However, nothing herein shall prohibit the court from ordering medical services for the child when there is substantial risk of harm to the child's health or welfare (*Children's Code*, article 1003).

Office—the Office for Citizens with Developmental Disabilities (OCDD).

Supports and Services Center—a state ICF/DD operated by the Office for Citizens with Developmental Disabilities.

Waiver Program Services—other services approved by the Centers for Medicare and Medicaid Services for home- and community-based waivers for the Louisiana Medicaid Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental

Disabilities, LR 21:694 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:

§905. Applicability

A. These guidelines shall apply only for certification of medication attendants who are:

1. employed in intermediate care facilities for people with developmental disabilities (ICFs/DD) operated by the Office for Citizens with Developmental Disabilities;

2. employed in community homes for people with developmental disabilities and/or small or large intermediate care facilities for people with developmental disabilities funded through the Department of Health and Hospitals;

3. employed in program/agencies, except as prohibited by §911.B.5, contracting with the Department of Health and Hospitals for services to people with developmental disabilities; or

4. employed in programs supporting individuals licensed in HCBS services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:695 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:

§907. Qualifications of Applicants to be Medication Attendants

A. Each person accepted to participate in the medication attendant course must be:

1. …

2. an employee of an intermediate care facility for people with developmental disabilities or an in-home Medicaid home and community-based service provider agency who is enrolled in the 60-hour course curriculum;

3. - 4. …

5. be free of communicable diseases and in suitable physical and emotional health to administer medications safely;

6. have no known record or history of:

a. - c. …

d. conviction of a felony or other conviction that bars employment in accordance with R.S. 40:1300.53 or other applicable state law.

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:695 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:

§909. Qualifications of Instructors for Certified Medication Attendant Courses

A. A registered nurse (RN) with a minimum of one year of clinical experience as a nurse consultant or a full-time nurse for a provider agency providing services to individuals with developmental disabilities in a day-habilitation facility, state facility, ICF/DD or HCBS setting qualifies as an instructor to teach the 60-hour course consisting of 40-hours classroom theory and 20 hours of clinical practical. The RN may delegate the 20 hours of practical training to a licensed practical nurse (LPN) with a minimum of one year of clinical experience in a developmental disability setting and knowledge of the course.

B. The RN instructor must complete training offered by the OCDD in the curriculum prior to teaching the course.

C. The DHH/OCDD may offer the medication administration instructor course on at least an annual basis, or as determined by the certified medication attendant committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:695 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:

§911. Authorized and Prohibited Functions of Certified Medication Attendants

A. Authorized functions of the certified medication attendant:

1. deliver medications ordered by a physician, dentist, or authorized prescriber to individuals for self-administration verifying with the medication administration record, the correct individual, dosage, medication name, route, and time;

2. deliver and administer medications ordered by a physician, dentist, or authorized prescriber to individuals with the supervision of a registered nurse, as defined in LAC 46:XLVII.3703.A, verifying with the medication administration record, the correct individual, dosage, medication name, route, and time;

3. administer oral medications, enemas, douches, ointments, pre-measured oral inhalant aerosols, and suppositories unless otherwise indicated;

4. record in the individual's chart:

a. doses delivered to and/or administered to the individual;

b. effectiveness of the drug;

c. any adverse effect of the drug;

d. appropriate vital signs as indicated by the physician order and/or knowledge of the drug; and

e. may transfer prescribed medication information to a medication administration record (MAR); may transfer medication information using a pre-printed pharmacy label indicating the correct individual, dosage, medication name, route, and time;

5. administer prescribed pro re nata (PRN), or as needed, medications when authorized by a licensed physician, dentist, authorized prescriber, or registered nurse. The authorizing health care professional must document the authorization in writing within 24 hours.

B. Prohibited functions of the certified medication attendant:

1. may not give medications by intramuscular, intravenous, or subcutaneous routes;

NOTE: This does not include finger sticks for routine capillary blood glucose monitoring. The CMA may perform routine capillary blood glucose monitoring for clients who do not require sliding scale insulin. This also does not include epinephrine pen usage for emergency situations.

2. may not administer medications by the oral inhalant aerosol route unless administering a premeasured dosage unit provided by the manufacturer;

3. may not receive or assume responsibility for reducing to writing oral or telephone orders from a physician, dentist, or authorized prescriber;

4. may not alter medication dosages as delivered from the pharmacy unless authorized by a physician, dentist, or authorized prescriber. Alteration of a medication dosage may include giving more or less than the dosage ordered or crushing, cutting or diluting without an order to do so by the physician, dentist or authorized prescriber;

5. may not administer medications in an acute care setting, including those funded by DHH and/or operated by the OCDD;

6. may not administer any medications when there is indication that the medication has been inappropriately dispensed by the pharmacist or mishandled by other persons;

7. may not delegate medication administration to others.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:695 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:

§913. Certified Medication Attendant Course Curriculum

A. Each applicant must complete a 60-hour course to become a certified medication attendant.

1. The course curriculum is 40 hours of classroom theory to include at a minimum, instruction in the following topics:

a. - j. …

k. skills-tasks to be completed for competency; and

l. …

2. Twenty-hour practical may consist of 10 hours of classroom demonstration and 10 hours on the unit for hands-on experience. The applicant must attain proficiency in the following 26 skill areas, either by actual demonstration, or by verbally demonstrating to the satisfaction of the licensed nurse:

a. - f. …

g. capillary blood glucose monitoring;

h. - q. ...

r. taking auric temperature;

s. premeasured transdermal patches;

t. nasal atomizer;

u. oral powdered medications;

v. charting;

w. crushing tablets;

x. rectal creams;

y. premeasured dosage unit provided by the manufacturer of an oral aerosol inhalant;

z. limited sublingual medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:696 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:

§915. Certification Requirements and Process

A. CMA certificates issued after rule promulgation will expire two years from the last day of the month that the certificate was printed.

1. …

2. The CMA applicant must complete the 60-hour course: 40 hours of classroom theory and 20 hours of practical with a minimum of 10 of those hours conducted in the work place.

3. The CMA applicant must demonstrate proficiency in the 26 skill areas to pass the practical portion of the course. An RN or LPN must administer the practical. Proficiency may be either verbal or physical demonstration. A pass/fail grade shall apply.

4. After completion of the 60-hour course, the CMA instructor completes Form CMA-2, initial exam and certification request, and sends it to the regional coordinator to request applicant(s) be scheduled for the written OCDD CMA certification exam. Form CMA-2 must be attached to the Form CMA-1, profile sheet, for each applicant. All forms must be received by the regional coordinator before an exam date can be scheduled.

5. The regional coordinator will:

a. …

b. notify the central office CMA coordinator to mail or email an electronic version of the exam that cannot be modified to the regional coordinator (The exam consists of 50 questions at 2 points each for a total possible score of 100 points.);

c. - e. …

f. notify agency about applicants' scores;

g. mail certificates to the agency;

h. assist CMA instructors regarding any questions; and

i. maintain copies of all forms submitted to the central office coordinator.

6. The central office coordinator will:

a. - a.iii. ...

b. send the regional coordinator the exam scores and certificates.

7. - 8. …

9. The certificate shall include at least the following:

a. - c. …

d. an embossed seal;

e. the signature of the assistant secretary of OCDD; and

f. the official logo for the OCDD.

B. - B.5. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:696 (July 1995), amended LR 23:1147 (September 1997), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:

§917. Re-Certification Requirements and Process

A. Recertification is required every two years. Each CMA must be recertified. The requirements for re-certification are:

1. every two years a CMA must complete a total of nine hours of in-service training. Two of the nine hours must directly relate to the agency's medication administration policy and procedure. The remaining seven hours of in-

service must relate to medication administration. A CMA working in multiple agencies may combine training to meet these requirements with the exception that the two-hour training on agency medication administration policy and procedure is required for each employer. Each agency must have documentation of each CMA's required nine hours of in-service training;

2. annually, the CMA must pass with proficiency, either by physical or verbal demonstration, the 26 skills on the practical checklist. The annual cycle is based on the last day of the month that the certificate was printed. If a CMA changes employers within the certification period and training records are not available for the first year, the new employer must determine competency by assessing the 26 skills upon hire, in addition to meeting these requirements for re-certification.

B. - C. …

D. The re-certification requirements must be met prior to the month of expiration of the CMA's certification.

E. A CMA who has not worked directly with medication administration in a facility, program, or agency for individuals with developmental disabilities for 24 months or more must take the OCDD CMA state exam again and pass with proficiency the 26 skills checklist. If the CMA does not pass the state exam, then the CMA must repeat the 60-hour course and pass the exam prior to being recertified. Failure to pass the state exam will result in de-certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:697 (July 1995), amended LR 23:1147 (September 1997), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:

§919. Decertification of Medication Attendants

A. Decertification shall occur under the following conditions:

1. falsification of participant medical records as defined in these regulations;

2. - 6. …

B. Decertification may occur under the following conditions:

1. failure of CMA to obtain re-certification requirements results in decertification. The CMA may be reinstated if the re-certification requirements are met within six months of expiration of the certificate. During this six-month period the CMA's authorized functions shall be suspended;

2. unsatisfactory performance of CMA reported by a licensed nurse, either RN or LPN, can result in either a temporary suspension of the CMA's medication administration privileges or decertification. The RN may choose to suspend CMA medication administration privileges not to exceed three months and provide training during which time the CMA may administer medications only under RN or LPN direct observation. After completion of designated suspension and training, the RN reserves the right to re-instate medication administration privileges or decertify the CMA. If decertified, the CMA must repeat the 60-hour course and retake the OCDD CMA certification exam. The reinstatement of CMA medication administration privileges does not extend the expiration date of the certificate.

C. - E. ….

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:697 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:

§923. Reciprocity

A. A provider whose employee furnishes documentation as to successful completion of an equivalent medication administration course conducted in another state and meets other criteria stated in these guidelines and successfully passes the 26 skills checklist and the CMA initial certification exam, may on a case-by-case basis be granted reciprocity. The provider agency would complete Form CMA-5, reciprocity request, and mail to the central office OCDD coordinator. The Certified Medication Attendant Committee will review the documentation and determine if the person will be certified as a CMA in Louisiana. If reciprocity is granted, the provider is notified and the central office OCDD coordinator would issue the certificates to the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:699 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:

§925. Provider Responsibility

A. There will be no discrimination in selection of medication attendants for reason of race, color, creed, religion, disability, as defined in R.S. 51:2232(11), or national origin.

B. Each provider shall maintain records on each CMA. The records must include:

1. the current monitoring skills checklist required for certification and re-certification;

2. a copy of the current certificate issued to the CMA by the central office coordinator. The second copy must be provided to the CMA;

3. documentation of annual successful completion of the 26 skills checklist and completion every two years of continuing education necessary for re-certification of CMA.

C. The provider shall have policies and procedures in place regarding medication administration processes.

D. The provider is legally responsible for the level of competency of its personnel and for ensuring that unlicensed staff administering medication have successfully completed the medication administration course curriculum. Additionally, the provider is responsible for maintaining re-certification requirements of its CMAs and ensuring that its CMAs perform their functions in a safe manner.

E. The provider is responsible for providing access to RN supervision of staff through employment or through a contract with a registered nurse. This nurse should review all medication errors on a monthly basis.

F. The provider shall conduct thorough employment checks including verification of CMA certification.

G. The provider is responsible for contacting the central office to verify that a CMA is in good standing prior to employing a CMA certified by another provider. The central office coordinator will send the provider Form CMA-6 verifying that the CMA is in good standing. Form CMA-6

must be maintained on file in the provider's records. The CMA would be responsible for providing a copy of his or her certificate to the provider.

H. If a CMA changes employers within the certification period and training records are not available for the first year, the new employer must determine competency by assessing the 26 skills upon hire, in addition to meeting the requirements for re-certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:699 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:

§927. Office for Citizens with Developmental Disabilities Responsibilities

A. The OCDD shall ensure the integrity of the medication administration course by:

1. - 3. …

4. administer the tests for initial certification of CMAs;

5. grading the tests for initial certification of CMAs;

6. maintaining the originals of written examinations with scoring;

7. maintaining a roster of nurses who complete the CMA instructor training;

8. issuing certificates;

9. offering an instructor's course;

10. convening the Certified Medication Administration Committee as needed;

11. verifying CMAs are in good standing; and

12. maintaining a CMA registry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:700 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:

§929. The Certified Medication Administration Committee

A. Composition of committee as determined by the assistant secretary of OCDD:

1. authorized CMA instructors;

2. …

3. two OCDD regional coordinators;

4. an individual or individual's representative (e.g., family member), and

5. other representatives as determined by the office.

B. Responsibilities of the committee:

1. …

2. review requests for reciprocity status; and

3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:700 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:

Family Impact Statement

It is anticipated that the proposed action will have no known or foreseeable impact on the:

1. stability of the family;

2. authority and rights of parents regarding the education and supervision of their children;

3. functioning of the family;

4. family earnings and family budget;

5. behavior and personal responsibility of children; or

6. ability of the family or a local government to perform the functions as contained in the proposed action.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Mark A. Thomas, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. He is responsible for responding to inquiries regarding this proposed Rule. The deadline for all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for July, 27, 2016 at 9:30 a.m., in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Certification of Medication Attendants

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Louisiana Administrative Code Title 48, Part IX, Chapter 9 – Guidelines for Certified Medication Attendant (CMA), to extend the certification period from one year to two years as well as revise guideline definitions and certain administrative requirements. The CMA designation is given to unlicensed employees in Intermediate Care Facilities for People with Developmental Disabilities (ICF/DDs) and home and community-based settings that successfully complete 60 hours and pass a certification exam.

The designation allows unlicensed employees to administer medication to individuals.

Besides the cost of rule promulgation, the proposed rule will have no fiscal impact on the Department of Health and Hospitals (DHH) or Local Governing Entities (i.e., Human Services Districts/Authorities). The cost of rulemaking is anticipated to be $6,127 in State General Fund for promulgation of both the proposed rule and the final rule. The cost of rulemaking is routinely included in the agency's annual operating budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Extending the certification period from one year to two years allows ICF/DD and home and community-based providers time to meet employee re-certification requirements; and reduce training and continuing education costs on providers trying to maintain annual certification on employees.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule has no known effect on competition and employment.

Mark A. Thomas
Assistant Secretary
1606#050

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources
Office of Conservation

Carbon Dioxide Enhanced Oil Recovery
(LAC 43:XIX.Chapter 4)

The Department of Natural Resources, Office of Conservation proposes to amend LAC 43:XIX.Subpart 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The proposed amendment is made to implement application requirements for carbon dioxide enhanced oil recovery.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation—General Operations
Subpart 1. Statewide Order No. 29-B
Chapter 4. Pollution Control (Class II Injection/Disposal Well Regulations)

§401. Definitions

Confining Zone—a geological formation, group of formations, or part of a formation that is capable of limiting fluid or gas movement above an injection zone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 42:

§405. Application Requirements for New Enhanced Recovery Injection and New Saltwater Disposal Wells

A. - B.5.f. …

C. Area of Review for Enhanced Oil Recovery Wells Injecting Carbon Dioxide

1. The area of review (AOR) will be the approved enhanced oil recovery (EOR) project area plus the surrounding region where USDWs may be endangered by the carbon dioxide (CO_2) injection activities, at a minimum, no less than 1/4 mile beyond the project area. The AOR shall extend no closer than 1/2 mile, at a minimum, to any EOR well injecting or permitted to inject CO_2. For EOR projects injecting CO_2 that are permitted as of the effective date of these regulations, the owner or operator of the project has 30 days from the effective date of these regulations to submit a plan to the commissioner to come into compliance with §405.C, D, and E.

2. If it is determined at any time that the injected CO_2 and associated reservoir fluids have migrated beyond the boundary of the approved EOR project area, the AOR shall be redefined to extend, at a minimum, no less than an additional 1/4 mile beyond the migrating front.

3. The owner or operator of a class II EOR CO_2 injection well must submit a plan acceptable to the commissioner to periodically reevaluate the AOR for the proposed CO_2 EOR project and perform corrective action for any identified deficient wells. The AOR must be reevaluated on a frequency not to exceed five years.

4. The owner or operator of the class II EOR CO_2 injection well must identify all penetrations within the defined AOR including active and abandoned wells, underground mines, and any other man-made penetrations that penetrate the confining zone above the permitted EOR injection zone.

5. The owner or operator must determine which wells within the AOR have been constructed and/or plugged in a manner that prevents movement of CO_2 or other fluids that may endanger USDWs, and any wells which may require corrective action to ensure protection of USDWs.

6. For phased implementation of an EOR project injecting CO_2, the commissioner may allow injection operations to commence prior to a complete evaluation of all wellbores within the AOR if the operator presents a plan acceptable to the commissioner to complete the evaluation and perform any required corrective action in advance of the injected carbon dioxide and associated reservoir fluids migration to the area. The plan must include a method to monitor the injected carbon dioxide and associated reservoir fluids to ensure that the AOR review and any corrective action is performed at least 1/2 mile ahead of the boundary of the migrating front.

D. Corrective Action for Enhanced Oil Recovery Projects Injecting Carbon Dioxide

1. Owners or operators of class II EOR CO_2 injection wells must perform corrective action on all wells in the area of review that the commissioner has determined to require corrective action.

2. Owners or operators of class II EOR CO_2 injection wells shall submit a corrective action plan acceptable to the commissioner addressing all identified deficiencies within a time specified by the commissioner.

E. Emergency and Remedial Response for Enhanced Oil Recovery Projects Injecting Carbon Dioxide

1. As part of the permit application for a class II EOR CO_2 well, the owner or operator must provide the commissioner with an emergency and remedial response plan that outlines the actions the owner or operator must take to address movement of the injection or formation fluids that may cause an endangerment to a USDW during construction and operational periods.

2. If the owner or operator obtains evidence that the injected carbon dioxide and/or associated reservoir fluids are no longer confined to the permitted EOR injection zone or may cause an endangerment to a USDW, the owner or operator must:

a. take all steps reasonably necessary to identify, characterize, and control any release;

b. notify the commissioner within 24 hours; and

c. implement the emergency and remedial response plan approved by the commissioner.

3. The owner or operator shall review the emergency and remedial response plan developed under §405.E.1 periodically, but at least once every five years. Based on this review, the owner or operator shall submit an amended emergency and remedial response plan or demonstrate to the commissioner that no amendment to the emergency and remedial response plan is needed. Any amendments to the emergency and remedial response plan must be approved by the commissioner and are subject to the permit modification requirements at §411, as appropriate. Amended plans or demonstrations shall be submitted to the commissioner as follows:

a. within one year of an AOR reevaluation;

b. following any significant changes to the EOR project, such as the addition of injection wells or the reclassification of wells; or

c. when required by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2807 (December 2000), amended LR 42:

§423. Plugging Requirements

A. …

B. Enhanced Oil Recovery Projects Injecting Carbon Dioxide. Prior to the conclusion of the enhanced oil recovery (EOR) project, the operator shall present a plan of project abandonment (the "plan"). The commissioner shall assess the plan to ensure that it meets all applicable legal requirements and will protect the underground sources of drinking water (USDW) and the health, safety, and welfare of the public. After reviewing the plan, the commissioner may require additional information before approval of such plan, or impose additional requirements for the EOR project abandonment to assure protection of the USDW.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2810 (December 2000), amended LR 42:

Family Impact Statement

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

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested parties will be afforded the opportunity to submit data, views, or arguments, in writing. Written comments will be accepted by hand delivery or USPS only, until 4 p.m., July 11, 2016, at Office of Conservation, Executive Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Executive Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. Reference Docket No. I and M 2016-01. All inquiries should be directed to Stephen Lee at the above addresses or by phone to (225) 342-5569. No preamble was prepared.

Richard P. Ieyoub
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Carbon Dioxide Enhanced Oil Recovery

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs to state or local governmental units as a result of the proposed rule change. Application requirements already exist for Enhanced Oil Recovery methods, although none specifically address the use of carbon dioxide. The proposed rule seeks to implement application requirements for Carbon Dioxide Enhanced Oil Recovery. Carbon Dioxide Enhanced Oil Recovery is a process in which carbon dioxide is injected into an oil reservoir to push any remaining oil to the top of the reservoir for extraction. It is typically used as a tertiary method of extraction after primary and secondary techniques have extracted the bulk of the oil from a reservoir. As such, the new requirements specific to Carbon Dioxide Enhanced Oil Recovery will be evaluated using existing documents and staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The group directly affected by these rules changes will be Exploration and Production (E and P) companies. There are currently two companies in the state using carbon dioxide techniques for extraction. The department believes that the companies affected by these regulations have already incorporated these standards and are currently in compliance. To that end, there are no anticipated increased costs to E and P companies or other non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Richard P. Ieyoub	John D. Carpenter
Commissioner	Legislative Fiscal Officer
1606#038	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of Motor Vehicles

Off-Road Vehicles
(LAC 55:III.Chapter 21)

Under the authority of R.S. 32:299.3 and R.S. 32:299.4, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles (department), hereby gives notice of its intent to promulgate rules defining, identifying categorizing and regulating utility terrain vehicles and golf carts for use as off-road vehicles operated on public roads or streets. These rules are new and implement the provisions of Acts 2015, Nos. 122 and 308.

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles
Chapter 21. Off-Road Vehicles
Subchapter A. Utility Terrain Vehicles

§2101. Definition

Utility Terrain Vehicle (*UTV*)—a recreational motor vehicle or a recreational off-highway vehicle (ROV) designed for and capable of travel over designated roads that meet the following qualifications:

1. travels on four or more tires with a maximum tire width of 27 inches;
2. has a maximum wheel cleat or lug of 3/4 of an inch;
3. has a minimum width of 50 inches but not exceeding 74 inches;
4. has a minimum weight of at least 700 pounds but not exceeding 2,000 pounds;
5. has a minimum wheelbase of 61 inches but not exceeding 110 inches; and
6. includes those vehicles not equipped with a certification label as required by 49 CFR Part 567.4, and excludes:
   a. golf carts;
   b. vehicles specially designed to carry a disabled person; or
   c. vehicles otherwise registered under R.S. 32:299.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:299.3 and R.S. 32:299.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, LR 42:

§2103. Prohibition Exceptions to Use of Utility Terrain Vehicles on Public Roads or Streets

A. The use of utility terrain vehicles on public roads or streets are prohibited except as follows:

1. operation of a utility terrain vehicle upon a parish road that has been designated by a parish for use by a utility terrain vehicle with appropriate posted signage indicating that the operation is authorized;
2. operation of a utility terrain vehicle upon a municipal street that has been designated by a municipality for use by a utility terrain vehicle with appropriate posted signage indicating that the operation is authorized;
3. operation at an intersection crossing any divided highway, highway, roadway, or street with a posted speed limit in excess of 35 miles per hour.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:299.3 and R.S. 32:299.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, LR 42:

§2105. Requirements for Utility Terrain Vehicles

A. Operator must be at least 21 years of age.

B. Operator must possess a valid driver's license.

C. Any utility terrain vehicle operated upon any roadway or street shall be equipped with minimum motor vehicle equipment appropriate for motor vehicle safety including the following:

1. head lamps;
2. front and rear turn signal lamps;
3. tail lamps;
4. stop lamps;
5. reflex reflectors:
   a. one on each side as far to the rear as practicable; and
   b. one red reflector on the rear of the vehicle;
6. exterior mirror mounted on the driver's side of the vehicle;
7. exterior mirror mounted on the passenger's side of the vehicle or an interior mirror;
8. parking brake;
9. adequate windshield;
10. windshield wiper;
11. speedometer;
12. odometer;
13. braking for each wheel;
14. seatbelt assembly installed at each designated seating position;
15. vehicle identification number or serial number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:299.3 and R.S. 32:299.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, LR 42:

§2107. Requirements for Registering a Utility Terrain Vehicle

A. A completed application form (DPSMV 1799).

B. Manufacturer's statement of origin (new/unregistered vehicle) or title.

C. Itemized invoice from dealer to purchaser or original notarized bill of sale or invoice (new/unregistered) or current certificate of title assigned before a notary by seller to purchaser, with the properly released lien, if applicable.

D. Properly completed and signed odometer disclosure statement.

E. Original or copy of properly completed UCC-1 form, or other security agreement, if a lien is to be recorded.

F. Proof of liability insurance.

G. A statement from the purchaser indicating the following:

1. that the utility terrain vehicle contains all equipment required for use as indicated above and has a minimum wheelbase of 61 inches but not exceed 110 inches;
2. that the owner is aware that the vehicle is only permitted to be used by a licensed driver at least 21 years of age;
3. that the utility terrain vehicle may only be used upon a parish road that has been designated by a parish, or a municipal street that has been designated by a municipality,

for use by a utility terrain vehicle or cross any divided highway, highway, roadway, or street with a posted speed limit in excess of 35 miles per hour at an intersection.

H. Applicable fees (title, handling, recordation fee).

I. Applicable sales/use tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:299.3 and R.S. 32:299.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, LR 42:

§2109. Requirements for Reclassifying a Qualifying Vehicle as a Utility Terrain Vehicle

A. A completed vehicle application form (DPSMV 1799), including section D on the reverse side of the form.

B. Original title.

C. A statement from the purchaser indicating the following:

1. that the utility terrain vehicle contains all equipment required for use as indicated above and has a minimum wheelbase of 61 inches but not exceed 110 inches;

2. that the owner is aware that the vehicle is only permitted to be used by a licensed driver at least 21 years of age;

3. that the utility terrain vehicle may only be used upon a parish road that has been designated by a parish, or a municipal street that has been designated by a municipality, for use by a utility terrain vehicle or cross any divided highway, highway, roadway, or street with a posted speed limit in excess of 35 miles per hour at an intersection.

D. Applicable fees (title and handling).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:299.3 and R.S. 32:299.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, LR 42:

§2111. Requirements for Utility Terrain Vehicle Roadway Operation

A. A utility terrain vehicle will be issued an off-road decal.

B. Utility terrain vehicles are subject to the compulsory insurance requirements.

1. If liability insurance is cancelled it will result in a revocation of the registration and the driver's license.

2. To prevent insurance cancellations, the title must be surrendered and a title correction processed to re-classify the vehicle as an off-road vehicle. A title fee will be assessed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:299.3. and R.S. 32:299.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, LR 42:

Subchapter B. Golf Carts

§2113. Definition

Golf Cart—an electric four-wheeled vehicle originally intended for use off-road on golf courses and other green spaces whose maximum speed is twenty-five miles per hour.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:299.3 and R.S. 32:299.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, LR 42:

§2115. Prohibition Exceptions to Use of Golf Carts on Public Roads or Streets

A. The use of golf carts on public roads or streets are prohibited except as follows.

1. A golf cart may be operated only upon a parish road that has been designated by a parish, or a municipal street that has been designated by a municipality, for use by a golf cart. Upon a designation that a golf cart may be operated on a designated road or street, the responsible governmental entity shall post appropriate signage indicating that the operation is authorized.

2. A golf cart may be used to cross a part of a state highway where a golf course is constructed on both sides of the state highway if the Department of Transportation and Development has issued a permit for the crossing.

B. No person shall operate a golf cart upon a parish road or municipal street without a valid driver's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:299.3 and R.S. 32:299.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, LR 42:

§2117. Requirements

A. Any golf cart operated upon any roadway or municipal street shall be equipped with the minimum motor vehicle equipment appropriate for motor vehicle safety including:

1. efficient brakes;
2. reliable steering apparatus;
3. safe tires;
4. rear view mirror;
5. red reflectorized warning devices in both the front and rear of the vehicle;
6. front and rear turn signal lamps;
7. tail lamps;
8. brake lamps;
9. headlamps;
10. vehicle identification number or serial number;
11. a parish or municipal government may enact an ordinance relating to golf cart operation and may require equipment more extensive than indicated above, however, the list indicated above will be the only equipment required to title the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:299.3 and R.S. 32:299.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, LR 42:

§2119. Requirements for Titling a Golf Cart

A. The documentation required to register a golf cart is the same as the basic titling requirements:

1. a completed vehicle application form (DPSMV 1799);

2. manufacturer's Statement of Origin (new/unregistered vehicle) or title;

3. itemized invoice from dealer to purchaser or original notarized bill of sale or invoice (new/unregistered) or current certificate of title assigned before a notary by seller to purchaser, with the properly released lien, if applicable;

4. original or copy of properly completed UCC-1 form, or other security agreement, if a lien is to be recorded;

5. proof of liability insurance;

6. a statement from the purchaser indicating:

a. that the golf cart contains all equipment required for use as indicated above;

b. the owner is aware that the vehicle is only permitted to be used by a licensed driver;

7. the golf cart may be operated only upon a parish road that has been designated by a parish or a municipal street that has been designated by a municipality for use by a golf cart;

a. a golf cart may be used to crass a part of a state highway where a golf course is constructed on both sides of the state highway if the Department of Transportation and Development has issued a permit for the crossing;

8. applicable fees (title, handling, recordation fee);

9. applicable sales/use tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:299.3 and R.S. 32:299.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, LR 42:

§2121. Requirements for Reclassifying Vehicle as a Golf Cart

A. A completed vehicle application form (DPSMV 1799), including section D on the reverse side of the form:

1. original title;

2. A statement from the purchaser indicating:

a. that the golf cart contains all equipment required for use as indicated above;

b. the owner is aware that the vehicle is only permitted to be used by a licensed driver.

3. The golf cart may only be used upon a parish road that has been designated by a parish or a municipal street that has been designated by a municipality for use by a golf cart. A golf cart may be used to cross a part of a state highway where a golf course is constructed on both sides of the state highway if the Department of Transportation and Development has issued a permit for the crossing.

4. Applicable fees (title and handling).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:299.3 and R.S. 32:299.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, LR 42:

§2123. Requirements for Golf Cart Roadway Operation

A. A golf cart will be issued an off road decal.

B. Golf carts are subject to the compulsory insurance requirements. If liability insurance is cancelled, it will result in a revocation of the registration and the driver's license. To prevent insurance cancellations, the title must be surrendered and a title correction processed to re-classify the vehicle as an off road vehicle. A title fee will be assessed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:299.3 and R.S. 32:299.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles, LR 42:

Public Comments

Interested persons may submit written comments to Harrietta J. Bridges and Jennifer Del Murray, by mail at Post Office Box 66614, Baton Rouge, Louisiana70896, by fax at (225) 925-3974, or by e-mail at Jennifer.murray@la.gov or Harrietta.bridges@la.gov. Written comments will be accepted through the close of business, July 15, 2016. A public hearing is tentatively scheduled for July 25, 2016 at 10 a.m. at 7979 Independence Blvd. Suite 301, Baton Rouge, LA 70806. Please call or e-mail in advance to confirm the time and place of meeting, as the meeting will be cancelled if the requisite number of comments is not received.

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule should not have any effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule should not have any effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule should not have any effect on family earnings and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule should not have any effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Small Business Analysis

1. The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

2. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Poverty Impact Statement

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

2. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in

the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Jason Starnes
Interim Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Off-Road Vehicles

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will have no material effect on state or local governmental expenditures. The proposed rules stating that utility terrain vehicles (UTVs) and golf carts be issued offroad decals codify present practice and has no material expenditure impact.

The proposed rules codify regulations on roadways where golf carts and utility terrain vehicles (UTVs) may be used, compulsory motor vehicle insurance requirements for UTVs and golf carts, requirements for registering UTVs and golf carts, minimum requirements for compliant golf carts and UTVs, procedures for reclassifying qualifying vehicles as UTVs and golf carts, and requirements for titling UTVs and golf carts.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will have no material effect on state or local governmental revenues. The Office of Motor Vehicles reports that UTVs and golf carts are currently subject to title and registration requirements and all applicable fees.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules will affect persons who own utility terrain vehicles (UTVs) and golf carts as described in LA R.S. 32:299.3 and 32:299.4 who desire to operate these vehicles on approved roadways. The proposed rule changes do not create any new fees, but creates compliance requirements for UTVs and golf carts. Contained in the proposed rules are regulations on roadways where golf carts and UTVs may be used, requirements for registering UTVs and golf carts, minimum requirements for compliant golf carts and UTVs, requirements for reclassifying qualifying vehicles as UTVs and golf carts, and requirements for titling UTVs and golf carts. Persons owning UTVs and golf carts must comply with the proposed rules, including obtaining compulsory motor vehicle insurance, to operate the aforementioned vehicles under full compliance. To the extent persons owning UTVs and golf carts do not already meet the requirements outlined in the proposed rule changes, they would likely incur costs associated with making their vehicles compliant.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will have no material effect on competition and employment.

Jason Starnes
Interim Undersecretary
1606#053

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of State Police
Transportation and Environmental Safety Section

Motor Vehicle Inspections (LAC 55.III.803)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., Act 138 of the 2009 Regular Session, and R.S. 32:1304 et seq., gives notice of its intent to promulgate amended rules which remove incorrect Section numbers which were inadvertently included in a recent promulgation of LAC 55:III.803.B.

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles
Chapter 8. Motor Vehicle Inspection
Subchapter A. General
§803. Penalties for Non-Compliance (Formerly §701)

A. - B. …

1. allowing uncertified mechanics to inspect;
2. illegal sale of inspection certificates. This shall include the sale of fraudulent MVI certificates, rejection certificates or any insert that is attached to the MVI certificate;
3. involvement in criminal activity of a felony nature;
4. intentionally falsifying a report (written or electronic);
5. intentionally overcharging for inspections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1310 and 32:1312 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 21:184 (February 1995), amended LR 38:2550 (October 2012), LR 42:428 (March 2016), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 42:

Family Impact Statement

1. The effect of these rules on the stability of the family. These rules should not have any effect on the stability of the family.
2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children. These rules should not have any effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect of these rules on the functioning of the family. These rules should not have any effect on the functioning of the family.

4. The effect of these rules on family earnings and family budget. These rules should not have any effect on family earnings and family budget.

5. The effect of these rules on the behavior and personal responsibility of children. These rules should not have any effect on the behavior and personal responsibility of children.

6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules. These rules should not have any effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Poverty Impact Statement

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in R.S. 49:973.

2. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Small Business Analysis

1. The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

2. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Paul Schexnayder, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through July 15, 2016.

Jason Starnes
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Motor Vehicle Inspections

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local government expenditures. The proposed rule simply removes reference to incorrect section numbers for serious violations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have no estimated costs or economic benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules change will not affect competition and employment.

Jason Starnes	Evan Brasseaux
Undersecretary	Staff Director
1606#036	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Grouper Size Limit Season Modification (LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby give notice of intent to amend a Rule (LAC 76:VII.335) modifying existing reef fish harvest regulations. Proposed changes modify the season for the recreational harvest of gag grouper to be closed from January 1 through May 31 of each year and increase the recreational minimum size limit of gag and black grouper from 22 to 24 inches total length. Authority for amendment of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), 56:320.2, 56:326.1, and 56:326.3 to the Wildlife and Fisheries Commission.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§335. Reef Fish—Harvest Regulations

A. - D.8. …

* * *

E. Recreational and Commercial Minimum and Maximum Size Limits, Unless Otherwise Noted

Species	Minimum Size Limits
[See Prior Text for 1-7]	
8. Gag grouper	24 inches total length (Recreational) 22 inches total length (Commercial)
9. Black grouper	22 inches total length (Recreational) 24 inches total length
[See Prior Text for 10-14]	

F. - G.1. ...

* * *

2. Seasons for the recreational harvest of reef fish species or groups listed below shall be closed during the periods listed below.

Species or Group	Closed Season
a. Gag	January 1-May 31 of each year
[See Prior Text in b-e]	

G.3. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:320.2(C), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:1156 (June 2007), repromulgated LR 33:1397 (July 2007), amended LR 34:2209 (October 2008), LR 34:2682 (December 2008), LR 36:1791 (August 2010), LR 38: 2383 (September 2012), LR 39:330 (February 2013), LR 40:95 (January 2014), repromulgated LR 40:1116 (June 2014), amended LR 40:2281 (November 2014), LR 42:

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S.49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comment

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Fisheries Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000, or via e-mail to jadriance@wlf.la.gov prior to Thursday, August 4, 2016.

Bart Yakupzack
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Grouper Size Limit Season Modification

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no expenditure impact on state or local governmental units. The proposed rule aligns Louisiana rules with regard to gag and black grouper recreational fishing to those adopted by the Gulf of Mexico Fishery Management Council on April 25, 2016, as applies to these groupers in federal waters.

The proposed rule change alters the minimum size limit for gag grouper caught recreationally in Louisiana from 22 inches to 24 inches total length.

The proposed rule change alters the minimum size limit for black grouper caught recreationally in Louisiana from 22 inches to 24 inches total length.

The proposed rule change lengthens the recreational fishing season for gag grouper from July 1 through December 31 to June 1 through December 31.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is anticipated to have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed increase in the recreational minimum size limits for black grouper and gag grouper is expected to reduce recreational landings of these species.

The proposed alterations in the opening and closing dates of the recreational fishing season for gag grouper will increase recreational fishing opportunities.

Because black grouper and gag grouper represent only a small percentage of Louisiana's total marine recreational landings and because anglers do not appear to target the species specifically, the proposed rule changes are anticipated to have no economic effect.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are anticipated to have no impact on competition and employment.

Bryan McClinton
Undersecretary
1606#044

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Oyster Harvester Training Program (LAC 76:VII.539)

The Wildlife and Fisheries Commission does hereby give notice of intent to promulgate a Rule establishing the Oyster Harvester Training Program (R.S. 56:303.6(D)), for the purpose of developing professionalism in the oyster harvest industry. This Notice of Intent shall establish the requirements needed to complete the program, including training in the Louisiana Shellfish Sanitation Program and the best harvest practices for conservation of the species.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 5. Oysters
§539. Oyster Harvester Training Program

A. The following defines the requirements necessary to complete the program to develop professionalism in the commercial oyster industry pursuant to R.S. 56:303.6(D). This program shall hereafter be referred to as the Oyster Harvester Training Program.

B. Policy. Applicants for an oyster harvester license shall complete and receive a certificate for an online course within the previous three years, or within the previous year if the requirements covered in course material have substantively changed, in order to receive the oyster harvester license. The course will provide a detailed overview of the Louisiana Shellfish Sanitation Program, Chapter 3 of Part IX of Title 51 of the *Louisiana Administrative Code*, "Preparation and Handling of Seafood for Market," and cover the legalities and best management practices of oyster fishing, including but not limited to, licensing and permitting requirements, oyster harvest regulations, reporting requirements, responsible fishing, and vessel operation. The applicant will be required to view 100 percent of the course content and score a minimum of 80 percent in order to receive a certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:303.6(D).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 42:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comment

Interested persons may submit written comments relative to the proposed Rule to Mr. Steve Beck, Office of Fisheries, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000, prior to Friday, July 29, 2016.

Bart Yakupzack
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Oyster Harvester Training Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Louisiana Department of Wildlife and Fisheries will realize a cost of approximately $10,000 in statutory dedications from the Conservation Fund in FY 16-17 associated with creating the online training course and nominal out year costs associated with ongoing maintenance.

The proposed rule establishes a set of requirements for education and training for commercial fishermen wishing to obtain a Commercial Oyster Harvester License in Louisiana as per Act 276 of the 2016 Regular Legislative Session.

Beginning in Commercial License Year 2017, any individual applying for a Commercial Oyster Harvester License must have completed an Oyster Harvester Training Program within the previous three years or within the previous year if the requirements covered in the course material have changed. Education requirements include the completion of a series of online courses related to commercial fishing regulations, best practices for quality seafood production, and an overview of the Louisiana Shellfish Sanitation Program.

The proposed rule requires that the applicant must view 100 percent of the online training material and score a minimum of 80 percent on a series of questions related to the content.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to have no effect on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule requiring the completion of an Oyster Harvester Training Program is expected to have a minor effect on individuals seeking a Commercial Oyster Harvester License beginning in Commercial License Year 2017, as required by Act 276. The proposed online courses, which may be taken at no cost to the applicant, are expected to take less than one hour to complete. The courses must be repeated once every three years or within the previous year if the requirements covered in the course material have changed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is expected to have a positive effect on the Louisiana oyster industry's ability to compete in national seafood markets.

The proposed rule change is expected to have no immediate effect on employment.

Bryan McClinton	Evan Brasseaux
Undersecretary	Staff Director
1606#045	Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Health
Board of Pharmacy

Public Hearing—Substantive Changes to a Proposed Rule
Medication Synchronization (LAC 46:LIII.2519)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Board of Pharmacy published its Notice of Intent in the April 2016 edition of the *Louisiana Register*, specifying its proposal to amend §2519 of its rules to authorize pharmacists to perform a service known as medication synchronization with regard to the dispensing of refills. As indicated in the notice, the board conducted a public hearing on May 25, 2016 to receive comments and testimony on the proposal.

The board received one request, to add a synonym of medication synchronization, refill consolidation, to the title and body of the referenced Section. The board has no objection to the request and now seeks to revise the original proposal.

The Legislative Fiscal Office has opined the proposed revision requires no modification of the original Fiscal and Economic Impact Statement which they approved.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 25. Prescriptions, Drugs, and Devices
Subchapter B. Prescriptions
§2519. Prescription Refills; Medication Synchronization and Refill Consolidation

A. - B.2. …

C. Medication Synchronization and Refill Consolidation. These terms refers to a service which a pharmacist may perform for his patient, at the request of the patient, wherein he may proactively adjust the medication dispensing quantity and/or the refill schedule of a prescription in order to manage the patient's medication therapy, with the goal of improved medication adherence by the patient.

1. For the performance of this service, the pharmacist may adjust the dispensing quantity and/or refill schedule originally ordered by the prescriber; however, the pharmacist shall not exceed the total quantity prescribed [dispensing quantity multiplied by the total number of fills authorized (original plus refills)], or what is otherwise allowed by law.

2. With respect to prescriptions for controlled substances where refills have been authorized, pharmacists may utilize partial fills, as described in §2747.C.5 of the board's rules, but may not exceed the dispensing quantity noted on the original prescription.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, LR 33:1133 (June 2007), amended by the Department of Health, Board of Pharmacy, LR 42:

Public Comments

Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule as well as these proposed revisions to the original proposal.

Public Hearing

A public hearing on this proposed revision to the original proposal is scheduled for Friday, July 22, 2016 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 p.m. that same day.

Malcolm J. Broussard
Executive Director

1606#054

POTPOURRI

Department of Insurance
Office of Health, Life and Annuity Insurance

Annual HIPAA Assessment Rate

Pursuant to *Louisiana Revised Statute* 22:1071(D)(2), the annual HIPAA assessment rate has been determined by the Department of Insurance to be .00016 percent.

James J. Donelon
Commissioner

1606#014

POTPOURRI

Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	District	Well Name	Well Number	Serial Number
R. P. Phillips Well Service	Anse La Butte	L	J J Martin	003	48186
J. B. Downs	Red River-Bull Bayou	S	Jinks Carter Estate	001	43583

Operator	Field	District	Well Name	Well Number	Serial Number
Energy Corp. Of America, Inc.	St Gabriel	L	H. H. Gueymard "B"	001	25643(30)
M.T. Grubb & C.C. Gilger	Edgerly	L	The Hunter Co	B-1	47096
M. B. Chastain et al	Caddo Pine Island	S	Stiles	008	32700
Radiant Oil & Gas Operating Company, Inc	Baldwin	L	Ensminger et ux	002	247872
Radiant Oil & Gas Operating Company, Inc	Eugene Island Block 18	L	SL 21313	001	247970
Hamman Oil & Refining Co.	Merryville	L	Sabine Riv LBR Co C	001	59757(30)
Bryan R White, Jr.	Monroe	M	Bryan R White	001	102551
Bryan R White, Jr.	Monroe	M	Bryan R White	005	193186
Magnum Hunter Resources Corporation	Chalkley	L	CK W RA Su;Pine Pasture et al	001	230851
Magnum Hunter Resources Corporation	Chalkley	L	CK W RA Su;Pine Pasture et al	002	237720
Magnum Hunter Resources Corporation	Chalkley	L	CK W RA Su;Pine Pasture et al	003	245979
Magnum Hunter Resources Corporation	Chalkley	L	Pine Pasture et al SWD	001	973687
Black Elk Energy Offshore Operations LLC	South Timbalier Block 8	L	13400 RA VUA;Sl 4238	003	108427
Black Elk Energy Offshore Operations LLC	South Timbalier Block 8	L	Stb8 13000 NVU;Sl 4238	007	112544
Black Elk Energy Offshore Operations LLC	South Timbalier Block 8	L	SL 4238	003-D	119836
Black Elk Energy Offshore Operations LLC	South Timbalier Block 8	L	SL 4238	014	181205
Black Elk Energy Offshore Operations LLC	South Timbalier Block 8	L	Stb8 12200 RA NVU;SL 4238	011	193000
Black Elk Energy Offshore Operations LLC	South Timbalier Block 8	L	SL 4238	011-D	211690
Black Elk Energy Offshore Operations LLC	South Timbalier Block 8	L	Stb8 13000 NVU;SL 4237	002	216118
Black Elk Energy Offshore Operations LLC	South Timbalier Block 8	L	15100 RA VUA;SL 14905	001	220388
Black Elk Energy Offshore Operations LLC	South Timbalier Block 8	L	SL 14905	2	223907

Operator	Field	District	Well Name	Well Number	Serial Number
Black Elk Energy Offshore Operations LLC	South Timbalier Block 8	L	SL 15307	001	226041
Black Elk Energy Offshore Operations LLC	South Timbalier Block 8	L	SL 4237	004	239104
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Richard P. Ieyoub
Commissioner

1606#034

POTPOURRI

Department of Revenue
Policy Services Division

Natural Gas Severance Tax Rate

The natural gas severance tax rate effective July 1, 2016 through June 30, 2017 has been set at 9.8 cents per thousand cubic feet (MCF) measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of 60 degrees Fahrenheit.

This tax rate is set each year by multiplying the natural gas severance tax base rate of 7 cents per MCF by the "gas base rate adjustment" determined by the Secretary of the Department of Natural Resources in accordance with R.S. 47:633(9)(d)(i). The "gas base rate adjustment" is a fraction, of which the numerator is the average of the New York Mercantile Exchange (NYMEX) Henry Hub settled price on the last trading day for the month, as reported in the Wall Street Journal for the previous 12-month period ending on March 31, and the denominator is the average of the monthly average spot market prices of gas fuels delivered into the pipelines in Louisiana as reported by the Natural Gas Clearing House for the 12-month period ending March 31, 1990 (1.7446 $/MMBTU).

Based on this computation, the Secretary of the Department of Natural Resources has determined the natural gas severance "gas base rate adjustment" for April 1, 2015, through March 31, 2016, to be 1.3992 percent. Applying this gas base rate adjustment to the base tax rate of 7 cents per MCF produces a tax rate of 9.8 cents per MCF effective July 1, 2016, through June 30, 2017. The reduced natural gas severance tax rates provided for in R.S. 47:633(9)(b) and (c) remain the same.

Questions concerning the natural gas severance tax rate should be directed by email to Policy.Publications@la.gov.

Kimberly Lewis Robinson
Secretary

1606#004

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EXECUTIVE ORDER JBE 16-70

Termination of Specified Executive Orders

WHEREAS, Proclamation No. 111 JBE 2016, issued on August 12, 2016, and continued by Proclamation No. 127 JBE 2016, declared a state of emergency for the State of Louisiana due to the heavy rain and flooding;

WHEREAS, the federal government has issued a major disaster declaration pursuant to the Stafford Act due to the widespread damage caused by the flooding;

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721 et seq., confers upon the Governor of the State of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or manmade causes, in order to ensure that preparations of this State will be adequate to deal with such emergencies or disasters and to preserve the lives and property of the people of the State of Louisiana;

WHEREAS, pursuant to this authority, the following non-exhaustive list of Executive Orders were issued: JBE 16-52, concerning temporary suspension of licensure requirements for emergency medical technicians; JBE 16-54, concerning the use of state vehicles during an emergency; JBE 16-55 concerning emergency procedures for conducting state business; JBE 16-56, declaring a state of emergency in East Baton Rouge Parish; and JBE 16-59, concerning temporary suspension of licensure requirements for medical professionals and personnel licensed out-of-state; and

WHEREAS, there is no longer a need to continue certain specific emergency orders.

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

SECTION 1: I hereby terminate Executive Orders JBE 16-52, JBE 16-54, JBE 16-55, JBE 16-56 and JBE 16-59, effective immediately.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 11th day of October, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1611#079

EXECUTIVE ORDER JBE 16-71

Emergency Suspension of Certain
Insurance Code Provisions—Amended

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721 et seq., confers upon the Governor of the State of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or manmade causes, in order to ensure that preparations of this State will be adequate to deal with such emergencies or disasters and to preserve the lives and property of the people of the State of Louisiana;

WHEREAS, Proclamation No. 111 JBE 2016, issued on August 12, 2016, and continued by Proclamation No. 154 JBE 2016, declared a state of emergency for the State of Louisiana due to the heavy rain and flooding, which continues to threaten the safety and security of the citizens of Louisiana;

WHEREAS, Executive Order No. JBE 16-58, signed August 17, 2016, as renewed by Executive Order No. JBE 16-67, signed September 12, 2016, transferred to the Commissioner of Insurance limited authority to suspend provisions of any regulatory statute of Title 22 of the Louisiana Revised Statutes of 1950 concerning the cancellation, termination, nonrenewal and/or reinstatement provisions of Title 22;

WHEREAS, thousands of Louisiana citizens have suffered damage to their residential, commercial residential or commercial property due to the historic flooding, and many such properties have been severely damaged or destroyed;

WHEREAS, insurers have been working diligently to adjust and pay claims, however, due to a shortage in building materials, contractors, construction workers or delays in claim payments, many policyholders will be unable to repair and/or reconstruct their residential, commercial residential or commercial property within typical time frames;

WHEREAS, the extended time period to repair and/or reconstruct residential, commercial residential or commercial property continues to affect the ability of Louisiana insureds to maintain or obtain personal residential, commercial residential or commercial property insurance for residential property or commercial property and has created an immediate threat to the public health, safety and welfare of Louisiana citizens; and

WHEREAS, the Commissioner has requested and deemed it necessary to extend the time period for which he is extended the authority to suspend provisions of any

regulatory statute of Title 22 of the Louisiana Revised Statutes of 1950 concerning the cancellation, termination, nonrenewal and/or reinstatement provisions of Title 22 due to the continued impact of the flooding.

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

SECTION 1: Section 3 of Executive Order JBE 2016-58, signed August 17, 2016, shall be amended as follows:

> This Order shall apply retroactively from Friday, August 12, 2016, and shall continue through Thursday, February 9, 2017, unless amended, terminated, or rescinded by the Governor prior thereto.

SECTION 2: All other paragraphs, subsections, and sections of Executive Order JBE 2016-58 shall remain in full force and effect.

SECTION 3: This Order is effective upon signature and shall continue in effect through Thursday, February 9, 2017, unless amended, terminated, or rescinded by the Governor prior thereto.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 11th day of October, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1611#080

EXECUTIVE ORDER JBE 16-72

Flags at Half-Staff—Representative Forrest Dunn, Jr.

WHEREAS, former State Representative Forrest Dunn, Jr. died on October 15, 2016;

WHEREAS, besides serving three terms as a state legislator, his life reflects a thoughtful commitment to public service: at the age of 15, he joined the United States Navy; he co-founded H.A.P. House for the severely handicapped, housed at Barksdale Air Force Base; and was elected to serve as a member of the Caddo Parish School Board;

WHEREAS, Representative Dunn was elected to represent the citizens of District 3 in the Louisiana House of Representatives from 1972 until 1984, effectively relying upon his reputation as a widely respected and admired legislator to serve his constituency in Caddo Parish and the citizens of the State of Louisiana in an honorable and dedicated manner;

WHEREAS, known for bringing his time, energy and passion to any effort he was involved in, Representative Dunn served on the House committees on commerce, education, retirement, and ways and means; served as President of the Holiday in Dixie and the Louisiana State Fair Executive Committee; and served as a member and chairman of multiple other civic groups;

WHEREAS, Representative Dunn received several awards and honors for his work, a few of which include the Special Humanitarian Award of the Community Council in 1978 and recognition as an outstanding leader in the Shreveport-Bossier community in 2002;

WHEREAS, Representative Dunn's life was committed to public service for the benefit of the State of Louisiana and its citizens, and he will be remembered as a gentleman and an inspiration for affecting positive change.

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

SECTION 1: As an expression of respect and to honor Representative Forrest Dunn, Jr., the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol on Friday, October 21, 2016.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Friday, October 21, 2016.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 20th day of October, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1611#081

EXECUTIVE ORDER JBE 16-73

Amended and Restated Conditions for Participation in the Industrial Tax Exemption Program

WHEREAS, Article 7, Section 21(F) of the Louisiana Constitution provides that the State Board of Commerce and Industry "with the approval of the governor, may enter into contracts for the exemption from ad valorem taxes of a new manufacturing establishment or an addition to an existing manufacturing establishment, on such terms and conditions as the board, with the approval of the governor, deems in the best interest of the state";

WHEREAS, Article 7, Section 21(F) also provides that the contracts for the exemption "shall be for an initial term of no more than five calendar years and may be renewed for an additional five years";

WHEREAS, under past practices of the Board of Commerce and Industry and previous governors of Louisiana, this has resulted in a 100 percent exemption or abatement from local property taxes for an initial period of five years, plus the opportunity for a five-year renewal, for a total of ten years of full exemption from local property taxes for qualifying manufacturing establishments;

WHEREAS, under past practices of the Board of Commerce and Industry and previous governors of Louisiana, exemption contracts, unlike those in most states, have allowed ad valorem tax exemptions for maintenance

capital, environmental capital upgrades, and new replacements to existing machinery with the result that the same components of a manufacturing plant remain exempt from the local property taxes for years after the expiration of the ten-year period for the contract;

WHEREAS, under past practices the Board of Commerce and Industry and previous governors of Louisiana, exemption contracts have been allowed for Miscellaneous Capital Additions without requiring these projects to file advance notifications, which may more accurately identify projects that will provide for the goals of economic development;

WHEREAS, under past practices of the Board of Commerce and Industry and previous governors of Louisiana, there have been no job creation or capital investment thresholds required for eligibility for the program;

WHEREAS, further, receipt of other incentives from the State by way of direct funding, rebates, tax credits, industrial bonds, or other similar incentives has not factored into determinations of the Board or Governor for eligibility or extent of the exemption or for the length of the contract for the exemption despite the discretionary provisions granted in Article 7, Section 21(F);

WHEREAS, the Board of Commerce and Industry and previous governors of Louisiana have approved Industrial Tax Exemption contracts that and will result in an average of $1.4 billion in foregone ad valorem tax revenue each year for the next five years for parishes, municipalities, school districts and other political subdivisions of the state directly providing law enforcement, water and sewage, infrastructure, and educational opportunities to Louisiana citizens;

WHEREAS, Louisiana's adjacent states authorize local governments to grant discretionary exemptions based on the attractiveness of a particular project—in contrast with Louisiana where neither the Board of Commerce and Industry or previous administrations have, in the past, exercised discretion in awarding the Industrial Tax Credit Exemption authorized by the Louisiana Constitution;

WHEREAS, as a result, Louisiana has forgone opportunities to negotiate and/or to offer prospects lesser or greater benefits under the Industrial Tax Exemption program based upon the merit of the project being considered; and

WHEREAS, this practice has put Louisiana at a competitive disadvantage with neighboring states which use discretion in granting tax exemptions and thereby forgo less revenue by denying projects that will not create significant employment or sufficient capital investment.

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

SECTION 1: This order provides the terms and conditions under which the Governor is to determine that contracts for the Industrial Tax Exemption Program are in the best interests of the State of Louisiana in accordance with Article 7, Section 21(F) of the Louisiana Constitution.

SECTION 2: For all pending contractual applications for which no advance notification is required under the Rules of the Board of Commerce and Industry, except for such contracts that provide for new jobs at the completed manufacturing plants or establishments, this order is effective immediately; for all contracts for which advance notification is required under the Rules of the Board of Commerce and Industry, this order is effective for advance notifications filed after June 24, 2016. The requirements of this Executive Order do not apply to Industrial Tax Exemptions approved before June 24, 2016 or the renewal of those contracts. However, nothing in this Executive Order shall be interpreted to relieve any participants in the Industrial Tax Exemption Program from their contractual obligations.

SECTION 3: Only contracts accompanied by advance notifications will be considered by the Governor. Applications for miscellaneous capital additions and applications for tax exemptions for maintenance capital, required environmental capital upgrades, and new replacements for existing machinery will not be approved or issued contracts by the Governor.

SECTION 4: The Governor will not approve contracts unless the Board of Commerce and Industry has specifically determined that the establishment meets the constitutional definition of manufacturing. Exemption contracts for new manufacturing plants or establishments are favored by the Governor and exemption contracts for additions to any existing plant or establishment are not favored by the Governor unless they provide for new jobs or present compelling reasons for the retention of existing jobs.

SECTION 5: All contracts providing for the Industrial Tax Exemption shall include Exhibit "A" consisting of a Cooperative Endeavor Agreement between the State of Louisiana, the Louisiana Department of Economic Development, and the Applicant providing for the creation or retention of jobs and provisions for the exercise of the options in the Louisiana Constitution for the term or percentage of the exemption granted in the contract, and for the reduction or loss of the exemption based upon the applicant's compliance with the contract, provided with respect to the manufacturing project for which the exemption is granted will be approved by the Governor.

SECTION 6: All Contracts providing for the Industrial Tax exemption shall also include Exhibit "B" consisting of approvals of the relevant governing Parish Council or Police Jury by resolution, Municipal Council by resolution, School Board by resolution and Sheriff by resolution signifying whether each of those authorities is in favor of the project. The Secretary of Economic Development will provide guidance to the local parties to Exhibit "B" as to the suggested alternatives for their consideration including parameters for job creation, payroll, percentages of exemption, and length of contract.

SECTION 7: Only contracts including Exhibit "A" and Exhibit "B" as described herein will be approved by the Governor. Contracts for the Industrial Tax Exemption that do not meet these conditions will not be approved by the Governor. The Board of Commerce and Industry may address, by rule, any other contractual arrangements that it deems necessary and submit these to the Governor for consideration as amendments to this Executive Order.

SECTION 8: The Department of Revenue shall, in coordination with the Louisiana Department of Economic Development, implement procedures and shall annually review all contracts subject to this Executive Order to assure

compliance with existing law, this Order, and the terms of the Industrial Tax Exemption contract.

SECTION 9: Article 7 Section 21(F) provides for an initial term for the contract of exemption to be "no more than five years" and that "the contract may be renewed for an additional five years"; and in determining whether to sign the initial contract or to renew an existing contract, the Board of Commerce and Industry and the Governor will consider the information collected and the provisions and conditions presented in Exhibits "A" and "B". In considering new contracts for approval the Governor will only approve those contracts having an initial term of five years or less and providing for an exemption of up to 100% of the manufacturing establishment. If renewal terms are provided for in the new contract, then the renewal contract will only be approved if the renewal term is limited to three years or less and provides for an exemption of up to 80% or less of the manufacturing establishment.

SECTION 10: The terms for the Governor's approval of the contracts for the Industrial Tax Exemption as provided for in this Executive Order represent the primary cause for the Governor's execution of the contracts and any occurrence which operates to change or suspend the terms of any contract approved by the Board of Commerce and Industry and executed by the Governor after the effective date of this Executive Order shall render the approval of the Governor of the affected contract void and of no force or effect.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 21st day of October, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1611#082

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office Agricultural and Environmental Sciences

Citrus Canker Disease Quarantine (LAC 7:XV.127)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority of the state entomologist in R.S. 3:1652, notice is hereby given that Department of Agriculture and Forestry is adopting these emergency regulations establishing a quarantine for citrus canker disease ("CC") caused by the bacterial pathogens Xanthomonas axonopodis pv. citri and Xanthomonas axonopodis pv. aurantifolii. The state entomologist has determined that CC has been found in this state and may be prevented, controlled, or eradicated by quarantine.

CC poses an imminent peril to the health and welfare of the Louisiana commercial citrus industry due to its ability to infest rutaceous plants. This industry has a farm value of $2,400,000-$5,000,000 million in southeastern Louisiana in the form of citrus nursery stock, and $5,100,000 million in the form of commercial citrus fruit in the state. CC causes premature leaf and fruit drop, twig dieback and tree decline in citrus trees and is spread by wind-driven rain or through the movement of infected plants. Failure to prevent, control, or eradicate this pest threatens to destroy Louisiana's commercial citrus industry and the growing and harvesting of citrus by citizens of Louisiana for their own private use.

Louisiana's commercial citrus industry adds $7,500,000-$10,000,000 to the state's agriculture economy each year. Sales of citrus trees and plants by nursery stock dealers to private individuals also are important to the state's economy. The loss of the state's commercial citrus industry and privately owned citrus trees and fruit would be devastating to the state's economy and to its private citizens. The quarantine established by this emergency regulation is necessary to prevent the spread of CC in Louisiana outside of the current areas where this disease has already been found.

For these reasons, the outbreak CC in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana's citizens and the state's commercial and private citrus industry. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in these emergency regulations.

This Rule shall have the force and effect of law October 25, 2016, and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry or until permanent rules are promulgated in accordance with law.

Title 7
AGRICULTURE AND ANIMALS
Part XV. Plant Protection and Quarantine
Chapter 1. Crop Pests and Diseases
Subchapter B. Nursery Stock Quarantines
§127. Citrus Nursery Stock, Scions and Budwood

A. - E.3.d.iii.(b). …

F. Citrus Canker Disease Quarantine

1. The department issues the following quarantine because the state entomologist has determined that citrus canker disease (CC), caused by the bacterial pathogen Xanthomonas axonopodis pv. citri (Xac A, A* and AW) with synonyms X. citri pv. citri, or X. citri subsp. citri or X. campestris pv. citri or X. smithii subsp. citri; and X. axonopodis pv. aurantifolii (Xac B and C) with a synonym X. fuscans subsp. aurantifolii, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

2. No regulated materials as defined in this Subsection shall be moved out of any area of this state that is listed in this Subsection as a quarantined area for CC, except as provided in this Subsection.

3. Any person violating this quarantine shall be subject to imposition of the remedies and penalties provided for in R.S. 3:1653 for any violation of this quarantine.

4. Quarantined areas in this state include:

a. the entire parishes of Orleans, St. Bernard and Plaquemines;

b. the portions of Jefferson and St. Charles Parishes bounded by a line beginning at the intersection of Jefferson, Plaquemines and Orleans parish lines located at GPS coordinates 29.895497, -90.008050 then moving southwest along the Jefferson parish line to the intracoastal waterway west closure complex; then moving west-southwest along an imaginary line that intersects with the St. Charles/Jefferson Parish line running through Lake Salvador; then moving northwest, following the St. Charles /Jefferson Parish line to the intersection of the parish line with Highway 18; then moving southwest following Highway 18 (River Road) to the intersection of Interstate Highway 310; then moving south following I-310 until it reaches the intersection of I-310 and Hwy 3127; then moving north following 3127 to the intersection of Hwy 3127 and Hwy 3142; then moving north following 3142 to the intersection of Hwy 3142 and the West Mississippi River Levee; then moving south following the West Mississippi River Levee to the GPS coordinates 29.957078, -90.402763; then moving east along an imaginary line which crosses the Mississippi River and runs into Ormand Blvd.; the line continues northeast along Ormand Blvd until it intersects US 61; then moving southeast following US 61 until it intersects I-310; then moving north following Interstate Highway 310 to the Interstate Highway 310/Interstate Highway 10 interchange; then moving east following Interstate Highway 10 to its

intersection with the Jefferson Parish line; then moving north following the Jefferson Parish line until reaching the south shoreline of Lake Ponchartrain; then moving east following the south shoreline of Lake Ponchartrain until its intersection with the Orleans Parish line; then moving south following the Jefferson/Orleans Parish line and following said parish line to the point of beginning located at 29.895497, -90.00805;

c. that portion of Lafourche Parish bounded by a line beginning at the intersection of Highway 90 and Highway 1, then moving southwest on Highway 90 where it intersects Bayou Folse; then moving northwest along Bayou Folse to GPS coordinates 29.709562, -90.632235, then moving north, northeast along an imaginary line until it intersects Highway 1, then moving southeast on Highway 1 until it reaches the point of beginning;

d. a declaration of quarantine for CC covering any other specific parishes or areas of this state shall be published in the official journal of the state and in the *Louisiana Register*.

5. - 6.i.iv. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 40:1308 (July 2014), LR 42:730 (May 2016), LR 42:

Mike Strain DVM
Commissioner

1611#004

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Emerald Ash Borer Quarantine (LAC 7:XV.167)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and the authority of the state entomologist pursuant to R.S. 3:1652, and in order to avoid a lapse in coverage until a permanent rule is in effect, notice is hereby given that Department of Agriculture and Forestry is adopting these emergency regulations establishing a quarantine in Lincoln Parish and renewing a quarantine already in effect in Union Parish for the following pest: emerald ash borer ("EAB"), *Agrilus planipennis* Fairmaire. The state entomologist has determined that EAB has been found in Union and Lincoln Parishes and may be prevented, controlled, or eradicated by quarantine.

EAB poses an imminent peril to the health and welfare of Louisiana forests, commercial and private forestry/wood product industries, and nursery growers due to its ability to infest ash trees. In 2013, the wholesale value of woody ornamental sales for nursery growers in the state was $62.6 million, a portion of which is comprised of sales of ash trees (Louisiana State University AgCenter 2013 Louisiana Summary, Agriculture and Natural Resources). Louisiana's forests and forestry/wood products industries generated an output industry production value of $10.86 billion in 2012, a portion of which is comprised of ash trees and ash tree products (Louisiana State University AgCenter publication 3367-G, 2015). Sales of ash firewood by retail and wholesale suppliers to private individuals also are important to the state's economy.

Natural spread of EAB is limited to relatively short distances. However, without restriction, EAB can spread through human-assisted means over long distances via infested ash nursery stock, ash logs/timber and cut firewood. Once an ash tree is infested, it experiences twig dieback and tree decline. Tree death occurs within a few years. Failure to prevent, control, or eradicate this pest threatens to damage Louisiana's commercial ash tree nursery industry, and over time this pest poses a threat to destroy the majority of ash in our state, both commercial and residential. The loss of the state's commercial nursery-grown ash trees, forestry/wood ash products and even residential ash trees would be devastating to the state's economy and to its private citizens. The quarantine established by this emergency regulation is necessary to prevent the spread of EAB to all areas in Louisiana where ash may exist, outside of the current areas where this pest has been found.

For these reasons, the presence of EAB in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana's citizens and forests, the state's commercial and private forestry/wood product industries, and nursery growers. As a result of this imminent peril, the Department of Agriculture and Forestry, Office of Forestry and Office of Agricultural and Environmental Sciences, hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in these emergency regulations.

This Rule shall have the force and effect of law effective October 13, 2016, and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry or until permanent rules are promulgated in accordance with law.

Title 7
AGRICULTURE AND ANIMALS
Part XV. Plant Protection and Quarantine
Chapter 1. Crop Pests and Diseases
Subchapter F. Emerald Ash Borer Quarantine
§167. Emerald Ash Borer Quarantine

A. The department issues the following quarantine because the state entomologist has determined that the insect Emerald Ash Borer ("EAB"), *Agrilus planipennis*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

B. Quarantined areas in this state include:

1. The entire parishes of Bossier, Claiborne, Lincoln, Union and Webster.

2. A declaration of quarantine for EAB covering any other specific parishes or areas of this state shall be published in the official journal of the state and in the Louisiana Register.

C. No regulated articles as defined in this Subsection shall be moved out of any area of this state that is listed in

this subsection as a quarantined area for EAB, except as provided in this subsection.

D. The following articles are hosts of EAB and are deemed to be regulated articles for purposes of this subsection:

1. The emerald ash borer in all of its life stages; firewood of all hardwood (non-coniferous) species; nursery stock, green lumber, and other material living, dead, cut, or fallen, including logs, stumps, roots, branches, and composted and uncomposted chips of the genus *Fraxinus.*

2. Any other article, product, or means of conveyance not listed in Subparagraph 4.a of this Section may be designated as a regulated article if an inspector determines that it presents a risk of spreading emerald ash borer and notifies the person in possession of the article, product, or means of conveyance that it is subject to the restrictions of the regulations.

E. Regulated articles may be moved from quarantined areas to non-quarantined areas within or outside of Louisiana only if moved under the following conditions:

1. The regulated articles being moved are accompanied by a certificate or limited permit issued by LDAF and attached in accordance with the EAB federal requirements.

2. The regulated articles being moved are not accompanied by a certificate or limited permit but are being moved by the United States Department of Agriculture for experimental or scientific purposes;

3. The regulated articles being moved are not accompanied by a certificate or limited permit but originated outside of any EAB quarantined area and are moved interstate through the quarantined area under the following conditions:

a. The points of origin and destination are indicated on a waybill accompanying the regulated article; and

b. The regulated article, if moved through the quarantined area, is moved in an enclosed vehicle or is completely covered to prevent access by the EAB; and

c. The regulated article is moved directly through the quarantined area without stopping (except for refueling or for traffic conditions, such as traffic lights or stop signs), or has been stored, packed, or handled at locations approved by an inspector as not posing a risk of infestation by emerald ash borer; and

d. The article has not been combined or commingled with other articles so as to lose its individual identity.

F. Persons or businesses engaged in growing, handling, or moving regulated articles intrastate may enter into a compliance agreement with LDAF if such persons or businesses review with an LDAF inspector each provision of the compliance agreement. Any person or business who enters into a compliance agreement with LDAF must agree to comply with the provisions of this subpart and any conditions imposed under this subpart.

1. Any compliance agreement may be canceled orally or in writing by an inspector whenever the inspector determines that the person who has entered into the compliance agreement has not complied with this subpart or any conditions imposed under this subpart. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit. Any person whose compliance agreement has been canceled may appeal the decision in writing to LDAF within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants LDAF to consider in deciding the appeal. A hearing may be held to resolve a conflict as to any material fact. Rules of practice for the hearing will be adopted by LDAF. As soon as practicable, LDAF will grant or deny the appeal, in writing, stating the reasons for the decision.

G. Any person violating this quarantine shall be subject to imposition of the remedies and penalties set forth in R.S. 3:1653.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652, 3:1653.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 41:2577 (December 2015), amended LR 42:

Mike Strain DVM
Commissioner

1610#003

DECLARATION OF EMERGENCY

Department of Children and Family Services
Licensing Section

Residential Home
(LAC 67:V.Chapter 71)

The Department of Children and Family Services (DCFS) has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to amend LAC 67:V, Subpart 8, Chapter 71, Child Residential Care, Class A. This declaration is necessary to extend the original Emergency Rule since it is effective for a maximum of 120 days and will expire before the final Rule takes effect. This Emergency Rule extension is effective on November 28, 2016 and will remain in effect until the Final Rule becomes effective.

Pursuant to Section 2 of Act 502 of the 2016 Regular Legislative Session, the department shall adopt rules in accordance with the Administrative Procedure Act effective August 1, 2016. The department considers emergency action necessary in order to revise the child residential licensing standards to incorporate standards to protect the safety and well-being of children residing in child residential facilities with their parents.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 8. Residential Licensing
Chapter 71. Child Residential Care, Class A
§7101. Purpose

A. It is the intent of the legislature to protect the health, safety, and well-being of the children and residents of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of Chapter 14 of Title 46 of the Louisiana Revised Statutes to establish statewide minimum standards for the safety and well-being of children and residents, to ensure maintenance of these standards, and to regulate conditions in these facilities

through a program of licensing. It shall be the policy of the state to ensure protection of all individuals under care by specialized providers and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:804 (April 2010), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7103. Authority

A. Legislative Provisions

1. The state of Louisiana, Department of Children and Family Services, is charged with the responsibility of developing and publishing standards for the licensing of residential homes.

a. The licensing authority of the Department of Children and Family Services is established by R.S. 46:1401 et seq. and R.S. 46:51 which mandate the licensing of all residential homes. A residential home is any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group to provide full-time care, 24 hours per day, for more than four children, who may remain at the facility in accordance with R.S. 46:1403.1, who are not related to the operators and, except as provided in this Subparagraph, whose parents or guardians are not residents of the same facility, with or without transfer of custody. However, a child of a person who is a resident of a residential home may reside with that parent at the same facility. The age requirement may be exceeded as stipulated in R.S. 46:1403.1 which states that, "...notwithstanding any other provision of law to the contrary, including but not limited to R.S. 46:1403(1), a child housed at a residential home may stay at such home for a period not to exceed six months beyond his eighteenth birthday to complete any educational course that he began at such facility, including but not limited to a general education development (GED) course, and any other program offered by the residential home". In addition, the R.S. 46:1403.1(B) further stipulates that, "Notwithstanding Subsection A of this Section and any other provision of law to the contrary, including but not limited to R.S. 46:1403(A), a child housed at a residential home that does not receive Title IV-E funding pursuant to 42 USC 670 et seq., may remain at such home until his twenty-first birthday to complete any educational course that he began at such facility, including but not limited to a general education development course, and any other program offered by the residential home."

B. Penalties. As mandated by R.S. 46:1421, whoever operates as a specialized provider as defined in R.S. 46:1403, without a valid license issued by the department shall be fined not less than $1,000 for each day of such offense.

C. Waiver Request

1. The secretary of the department, in specific instances, may waive compliance with a standard, as long as the health, safety, and well-being of the staff and/or the health, safety, rights, or well-being of residents or children are not imperiled. Standards shall be waived only when the secretary determines, upon clear and convincing evidence, that the economic impact is sufficient to make compliance impractical for the provider despite diligent efforts and when alternative means have been adopted to insure that the intent of the regulation has been carried out.

2. Application for a waiver shall be made in writing and shall include:

a. a statement of the provisions for which a waiver is being requested; and

b. an explanation of the reasons why the provisions cannot be met and why a waiver is being requested.

3. The request for a waiver will be answered in writing and approvals will be maintained on file by the requesting provider and the department. A waiver is issued at the discretion of the secretary and continues in effect at her pleasure. It may be revoked by the secretary at any time, either upon violation of any condition attached to it at issuance, upon failure of any of the statutory prerequisites to issuance of a waiver (i.e., the cost of compliance is no longer so great as to be impractical or the health or safety of any staff or any child or resident is imperiled), or upon her determination that continuance of a waiver is no longer in the best interest of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:805 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:67 (January 2013), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7105. Definitions

A. As used in this Chapter:

Abuse—any one of the following acts which seriously endangers the physical, mental, or emotional health of the resident:

a. the infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the resident by a parent or any other person;

b. the exploitation or overwork of a resident by a parent or any other person; and

c. the involvement of the resident in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the resident's sexual involvement with any other person or of the resident's involvement in pornographic displays or any other involvement of a resident in sexual activity constituting a crime under the laws of this state.

Affiliate—

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

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

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

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

e. director of any such.

Age or Developmentally Appropriate Activities or Items—activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

Associated Person—a provider's owner, officers, board members, volunteers, and/or any other such person who may be involved in some capacity with the work of the provider other than the provider's employees.

Behavior Support—the entire spectrum of activities from proactive and planned use of the environment, routines, and structure of the particular setting to less restrictive interventions such as positive reinforcement, verbal interventions, de-escalation techniques, and therapeutic activities that are conducive to each resident's development of positive behavior.

Behavior Support Plan—a written document that addresses the holistic needs of the resident and includes the resident's coping strategies, de-escalation preferences, and preferred intervention methods.

Child—a person under 18 years of age who resides in a residential home with his parent who is a resident of the home with or without transfer of custody.

Complaint—an allegation that any person is violating any provisions of these standards or engaging in conduct, either by omission or commission, that negatively affects the health, safety, rights, or welfare of any child or resident who is residing in a residential home.

Criminal Background Check—a review of any and all records containing any information collected and stored in the criminal record repository of the Federal Bureau of Investigation, the state Department of Public Safety and Corrections, or any other repository of criminal history records, involving a pending arrest or conviction by a criminal justice agency, including, but not limited to, child abuse crime information, conviction record information, fingerprint cards, correctional induction and release information, identifiable descriptions and notations of convictions; provided, however, dissemination of such information is not forbidden by order of any court of competent jurisdiction or by federal law.

DAL—the Division of Administrative Law.

Debriefing—a process by which information is gathered from all involved parties after the use of personal restraints or seclusion that includes an evaluation of the incident, documentation detailing the events leading up to the incident, and ways to avoid such incidents in the future.

Department (DCFS)—Department of Children and Family Services.

Direct Care Worker—a person counted in the resident or child/staff ratio, whose duties include the direct care, supervision, guidance, and protection of a resident or child. This does not include a contract service provider who provides a specific type of service to the operation for a limited number of hours per week or month or works with one particular resident or child. This may include staff such as administrative staff that have the required background clearances and appropriate training that may serve temporarily as direct care staff.

Direct Supervision—the function of observing, overseeing, and guiding a resident or child and/or group of residents or children. This includes awareness of and responsibility for the ongoing activity of each individual and being near enough to intervene if needed. It requires physical presence, accountability for their care, knowledge of activity requirements, and knowledge of the individual's abilities and needs.

Discipline—the ongoing positive process of helping children or residents develop inner control so that they can manage their own behavior in an appropriate and acceptable manner by using corrective action to change the inappropriate behavior.

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

Documentation—written evidence or proof, signed and dated by the parties involved (director, residents, staff, etc.), and available for review.

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

Employee—all full or part-time paid or unpaid staff who perform services for the residential home and have direct or indirect contact with children or residents at the facility. Facility staff includes the director and any other employees of the facility including, but not limited to the cook, housekeeper, driver, custodian, secretary, and bookkeeper.

Facility—residential home as defined in R.S. 46:1403.

Human Service Field—the field of employment similar or related to social services such as social work, psychology, sociology, special education, rehabilitation counseling, child development, guidance and counseling, divinity, education, juvenile justice and/or corrections through which a person gains experience in providing services to the public and/or private clients that serves to meet the years of experience required for a job as specified on the job description for that position.

Independent Contractor—any person who renders professional, therapeutic, or enrichment services to children or residents such as educational consulting, athletic, or artistic services within a facility, whose services are not integral to either the operation of the facility or to the care and supervision of residents or children. Independent contractors may include but are not limited to dance instructors, gymnastic or sports instructors, computer instructors, speech therapists, licensed health care professionals, state-certified teachers employed through a local school board, art instructors, and other outside contractors. A person shall not be deemed an independent contractor if he is considered a staff of the facility.

Individual Owner—a natural person who directly owns a facility without setting up or registering a corporation, LLC, partnership, church, university or governmental entity. The spouse of a married owner is also an owner unless the

business is the separate property of the licensee acquired before his/her marriage, acquired through authentic act of sale from spouse of his/her undivided interest; or acquired via a judicial termination of the community of acquets and gains.

Infant—a child that has not yet reached his first birthday.

Injury of Unknown Origin—an injury where the source of the injury was not observed by any person or the source of the injury could not be explained by the resident and the injury is suspicious because of the extent of the injury or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma).

Legal Guardian—the caretaker in a legal guardianship relationship. This could be the parent or any child placing agency representative.

Legal Guardianship—the duty and authority to make important decisions in matters having a permanent effect on the life and development of the resident or child and the responsibility for the resident's or child's general welfare until he reaches the age of majority, subject to any rights possessed by the parents. It shall include the rights and responsibilities of legal custody.

License—

a. any license issued by the department to operate a facility as defined in R.S. 46:1403.

Licensing Section—DCFS Licensing Section.

Lifebook—a record of a resident's or child's life which chronicles accomplishments, milestones, and important people in their lives through pictures, words, artwork, and memorabilia.

Mandated Reporter—professionals who may work with children or residents in the course of their professional duties and who consequently are required to report all suspected cases of abuse and neglect. This includes any person who provides training and supervision of a child or resident, such as a public or private school teacher, teacher's aide, instructional aide, school principal, school staff member, social worker, probation officer, foster home parent, group home or other child care institution staff member, personnel of residential home facilities, a licensed or unlicensed day care provider, any individual who provides such services to a child or resident, or any other person made a mandatory reporter under article 603 of the *Children's Code* or other applicable law.

Medication—all drugs administered internally and/or externally, whether over-the-counter or prescribed.

Neglect—the refusal or unreasonable failure of a parent or caretaker to supply the child or resident with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of an individual under the age of 18, as a result of which the individual's physical, mental, or emotional health and safety is substantially threatened or impaired.

Owner or *Operator*—the individual or juridical entity who exercises ownership or control over a residential home, whether such ownership/control is direct or indirect.

Ownership—the right that confers on a person direct, immediate, and exclusive authority over a thing. The owner of a thing may use, enjoy, and dispose of it within the limits and under the conditions established by law; refers to direct or indirect ownership.

a. *Direct Ownership*—when a natural person is the immediate owner of a residential home, i.e., exercising control personally rather than through a juridical person.

b. *Indirect Ownership*—when the immediate owner is a juridical entity.

Personal Restraint—a type of emergency behavior intervention that uses the application of physical force without the use of any device to restrict the free movement of all or part of a resident's body in order to control physical activity. Personal restraint includes escorting, which is when a staff uses physical force to move or direct a resident who physically resists moving with the staff to another location.

Program Director—the person with authority and responsibility for the on-site, daily implementation and supervision of the overall facility's operation.

Provider—any facility, organization, agency, institution, program, or person licensed by the department to provide services to children or residents which includes all owners or operators of a facility, including the director of such facility.

Reasonable and Prudent Parent Standard—standard that a caregiver shall use when determining whether to allow a resident or child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities. The standard is characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a resident or child while at the same time encouraging the emotional and developmental growth of the resident or child.

Reasonable and Prudent Parent Training—training that includes knowledge and skills relating to the reasonable and prudent parent standard for the participation of the resident or child in age or developmentally appropriate activities. This includes knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a resident or child and knowledge and skills relating to applying the standard to decisions such as whether to allow the resident or child to engage in social, extracurricular, enrichment, cultural, and social activities. Activities include sports, field trips, and overnight activities lasting one or more days. Also included is knowledge and skills in decisions involving the signing of permission slips and arranging of transportation for the resident or child to and from extracurricular, enrichment, and social activities.

Reasonable Suspicion—suspicion based on specific and articulable facts which indicate that an owner, operator, or current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse or neglect against a minor resulting in a justified and/or valid finding currently recorded on the state central registry.

Related or *Relative*—a natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

Resident—an individual who receives full time care at a residential home and whose parents do not live in the same facility nor is the individual related to the owner or operator of the facility.

Residential home—any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group to provide full-time care, 24 hours per day, for more than four children, who may remain

at the facility in accordance with R.S. 46:1403.1, who are not related to the operators and, except as provided in this Paragraph, whose parents or guardians are not residents of the same facility, with or without transfer of custody. However, a child of a person who is a resident of a residential home may reside with that parent at the same facility.

Rest Time—period when residents are either asleep or are lying down in their own beds with the intent of going to sleep. Residents may be reading, listening to music, or other individual quiet activities that promote said sleep time.

Safety Interventions—an immediate time limited plan to control the factor(s) that may result in an immediate or impending serious injury/harm to a resident or child(ren).

Seclusion—the placement of an individual against his or her will in a room where they are not allowed to voluntarily leave.

Service Plan—a written plan of action for residents usually developed between the family, resident, social worker, and other service providers, that identifies needs, sets goals, and describes strategies and timelines for achieving goals.

Staff—all full or part-time paid or unpaid staff who perform services for the residential home and have direct or indirect contact with children or residents at the facility. Facility staff includes the director and any other employees of the facility including, but not limited to the cook, housekeeper, driver, custodian, secretary, and bookkeeper.

State Central Registry—repository that identifies any individual reported to have a justified (valid) finding of abuse or neglect of an individual under the age of 18 by DCFS.

Substantial Bodily Harm—physical injury serious enough that a prudent person would conclude that the injury required professional medical attention. It does not include minor bruising, the risk of minor bruising, or similar forms of minor bodily harm that will resolve healthily without professional medical attention.

Supervision—the function of observing, overseeing, and guiding a resident or child and/or group of residents or children. This includes awareness of and responsibility for the ongoing activity of each individual and being near enough to intervene if needed. It requires accountability for their care, knowledge of activity requirements, and knowledge of the individual's abilities and needs.

Time-Out—a strategy used to teach individuals to calm themselves, during which a child or resident is not given the opportunity to receive positive reinforcement and/or participate in the current routine or activity until he/she is less agitated.

Type IV License—license held by any public or privately owned residential home.

Unlicensed Operation—operation of a residential home at any location, without a valid, current license issued by the department for that location.

Volunteer—an individual who works at the facility and whose work is uncompensated. This may include students, interns, tutors, counselors, and other non-staff individuals who may or may not work directly with the residents or children.

Waiver—an exemption granted by the secretary of the department from compliance with a standard that will not place the resident or staff member at risk.

Youth—a person not less than 16 years of age nor older than 21 years of age in accordance with R.S. 46:1403.1(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:805 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:976 (April 2012), LR 42:220 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7107. Licensing Requirements

A. General Provisions

1. New buildings shall be designed to appear physically harmonious with the neighborhood in which they are located considering such issues as scale, appearance, density and population. A residential home shall not occupy any portion of a building licensed by another agency. A residential home shall be a self-contained facility. The mixing of differing populations is prohibited.

2. Before beginning operation, it is mandatory to obtain a license from the department.

3. All new construction or renovation of a facility requires approval from agencies listed in Subparagraphs B.2.b-f of this Section and must comply with the Louisiana Uniform Construction Code.

4. In addition all facilities shall comply with the requirements of the Americans with Disabilities Act, 42 USC §12101 et seq. (ADA).

5. Documentation of a satisfactory fingerprint based criminal background check from Louisiana State Police shall be submitted for all owners of a residential home, as required by R.S. 46:51.2 and R.S. 15:587.1. No person with a criminal conviction for, or a plea of guilty or nolo contendere to, any offense included in R.S. 15:587.1, or any offense involving a juvenile victim, shall directly or indirectly own, operate, or participate in the governance of a residential home. In addition, an owner, or director shall not have a conviction of, or plea of guilty or nolo contender to any crime in which an act of fraud or intent to defraud is an element of the offense. Effective August 1, 2016, criminal background checks (CBC) shall be dated no earlier than 30 days of the individual being present in the facility or having access to the residents or children. If an individual has previously obtained a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. If an owner obtains a certified copy of their criminal background check from the Louisiana State Police, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of

the certified criminal background check, the owner is no longer allowed on the premises until a clearance is received. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory criminal background clearance:

a. individual ownership—individual and spouse;

b. partnership—all limited or general partners and managers as verified on the Secretary of State's website;

c. church-owned, governmental entity, or university owned—any clergy and/or board member that is present in the home;

d. corporation—any individual who has 25 percent or greater share in the business or any individual with less than a 25 percent share in the business and performs one or more of the following functions:

i. has unsupervised access to the residents or children in the home;

ii. is present in the home;

iii. makes decisions regarding the day-to-day operations of the home;

iv. hires and/or fires staff including the director;

v. oversees residential staff and/or conducts personnel evaluations of the staff; and/or

vi. writes the facility's policies and procedures;

e. corporation—if an owner has less than a 25 percent share in the business and does not perform one or more of the functions listed in §7107.A.5.d, a signed, notarized attestation form is acceptable in lieu of a criminal background clearance. This attestation form is a signed statement from each owner acknowledging that he/she has less than a 25 percent share in the business and that he/she does not perform one or more of the aforementioned functions as an owner.

6. Providers and staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to a residential home as defined in R.S. 46:1403.

7. The owner or program director of a residential home shall be required to call and notify law enforcement personnel and the Licensing Section management staff if they have knowledge that a registered sex offender is on the premises of the residential home. The verbal report shall be followed by a written report to the Licensing Section within 24 hours. The owner or director of a residential home shall be required to call and notify law enforcement personnel if they have knowledge that a registered sex offender is within 1,000 feet of the residential home as required by R.S 14:91.1.

B. Initial Licensing Application Process

1. An initial application for licensing as a residential home shall be obtained from the department.

Department of Children and Family Services
Licensing Section
P.O. Box 260036
Baton Rouge, LA 70826
Phone: (225) 342-4350
Fax: (225) 219-4363
Web address: www.DCFS.louisiana.gov

2. After the residential home's location has been established, a completed initial license application packet for an applicant shall be submitted to and approved by the department prior to an applicant providing services. The completed initial licensing packet shall include:

a. completed application and non-refundable fee;

b. current Office of the State Fire Marshal approval for occupancy;

c. current Office of Public Health, Sanitarian Services approval;

d. current city fire department approval, (if applicable);

e. city or parish building permit office approval, (if applicable);

f. local zoning approval, (if applicable);

g. copy of proof of current general liability and current property insurance for facility;

h. copy of current proof of insurance for vehicle(s) used to transport residents or children of residents;

i. organizational chart or equivalent list of staff titles and supervisory chain of command;

j. verification of experience and educational requirements for the program director;

k. verification of experience and educational requirements for the service plan manager;

l. list of consultant/contract staff to include name, contact info, and responsibilities;

m. copy of program philosophy and goals;

n. list of all staff to include staff's name and position;

o. list of the names and addresses of owners of privately owned agencies;

p. list of the names and addresses of its' members and officers if a corporation, partnership, or association;

q. documentation of a charter, partnership agreement, constitution, articles of association, or bylaws if a corporation, partnership, or association;

r. a floor sketch or drawing of the premises to be licensed;

s. any other documentation or information required by the department for licensure;

t. documentation of a Louisiana State Police fingerprint based satisfactory criminal record check for all staff including all owners and operators of the facility, as required by R.S. 46:51.2 and 15:587.1. CBC shall be dated no earlier than 30 days before the application has been received by the Licensing Section;

u. documentation of completed state central registry disclosure form (SCR 1) noting no justified (valid) finding of abuse and/or neglect for all staff including owners and operators (SCR 1 shall be dated no earlier than 30 days before the application has been received by the Licensing Section) or a determination from the Risk Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to children/youth/residents;

v. current approval from the Department of Education, if educational services will be provided on-site;

w. copy of the completed reasonable and prudent parent authorized representative form;

x. three signed reference letters dated within three months prior to hire for program director attesting affirmatively to his/her character, qualifications, and suitability to manage the program; and

y. three signed reference letters dated within three months prior to hire for service plan manager attesting affirmatively to his/her character, qualifications, and suitability for the position.

3. If the initial licensing packet is incomplete, the applicant will be notified of the missing information and will have 45 calendar days to submit the additional requested information. If the department does not receive the additional requested information within the 45 calendar days, the application will be closed and the fee forfeited. After an initial licensing application is closed, an applicant who is still interested in becoming a residential home provider shall submit a new initial licensing packet with a new initial licensing fee to restart the initial licensing process.

4. Once the department has determined the initial licensing packet is complete, DCFS will attempt to contact the applicant to schedule an initial inspection; however it is the applicant's responsibility to coordinate the initial inspection. If an applicant fails to schedule the initial inspection within 45 calendar days of the notification, the initial licensing application shall be closed and fee forfeited.

5. After an initial licensing application is closed, an applicant who is still interested in becoming a residential home provider shall submit a new initial licensing packet with a new initial licensing fee to restart the initial licensing process.

6. After the completed application and non-refundable fee have been received by the Licensing Section, DCFS will notify the Office of State Fire Marshal, office of city fire department (if applicable), and Office of Public Health that an application for licensure has been submitted. However, it is the applicant's responsibility to request and obtain these inspections and approvals.

C. Initial Licensing Inspection

1. Prior to the initial license being issued to the residential home provider, an initial licensing inspection shall be conducted on-site at the residential home to assure compliance with all licensing standards. The initial licensing inspection shall be an announced inspection. No resident shall be provided services by the residential home provider until the initial licensing inspection has been performed and the department has issued an initial license. If the provider is in operation in violation of the law, the licensing inspection shall not be conducted. In these instances, the application shall be denied and DCFS shall pursue legal remedies.

2. In the event the initial licensing inspection finds the residential home provider is compliant with all licensing laws and standards, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department may issue a license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, extended, revoked, suspended, or terminated.

3. In the event the initial licensing inspection finds the residential home provider is noncompliant with any licensing laws or standards, or any other required statutes, laws, ordinances, rules, or regulations, with the exception of the following standards, the department may deny the initial application:

a. Office of State Fire Marshal approval;

b. city fire approval (if applicable);

c. Office of Public Health approval;

d. three signed and dated reference letters on the program director dated within the previous three months of hire which should attest affirmatively to his/her character, qualifications, and suitability to manage the program;

e. documentation of a satisfactory Louisiana State Police fingerprint based criminal record clearance for all staff not previously listed on the staffing sheet in Subparagraph B.2.n of this Section; and

f. documentation of completed state central registry disclosure forms (SCR 1) noting no justified (valid) finding of abuse and/or neglect for all staff not previously listed on the staffing sheet in Subparagraph B.2.n of this Section or determination from the Risk Evaluation Panel or Division of Administrative Law noting that the individual does not pose a risk to children/youth/residents.

4. The application shall be denied if the above documentation is not received within 120 calendar days of receipt of the completed initial application packet.

5. When issued, the initial residential home provider license shall specify the licensed bed capacity. Children of residents shall not be counted in the facility's licensed capacity; however the license will note if the provider is licensed to provide services to children of residents.

D. Fees and Notification of Changes

1. All fees are non-refundable and shall be paid by money order, certified check, or electronic payment, if available, made payable to DCFS - Licensing Section.

2. In accordance with R.S 46:1406(F), there shall be a non-refundable fee as prescribed by the department for a license or renewed license, payable to the department with the initial licensing application, CHOL application, CHOW application, and prior to the last day of the anniversary month of the license as listed below, based on capacity.

4 to 6 Residents	7 to 15 Residents	16 or More Residents
$400	$500	$600

NOTE: Children of residents are not counted in the facility's licensed capacity.

3. A non-refundable fee of $5 is required to issue a duplicate license with no changes.

4. The provider shall notify the Licensing Section on a DCFS approved change of information form prior to making changes to residential operations as noted below. For changes that require the issuance of a new replacement license, the provider shall be required to submit a non-refundable change fee of $25 in addition to the change of information form. There is no fee charged when the request is noted on the renewal application; however, the change shall not be effective until the first day of the month following the expiration of the current license.

a. Removal of a service or reduction in capacity is effective upon receipt of a completed change of information form.

b. A capacity increase is effective when the following are received and approved by the Licensing Section and the new space shall not be utilized until approval has been granted by the Licensing Section:

i. completed change of information form;

ii. $25 non-refundable change fee; an additional fee may be required in accordance with Paragraph D.2 of this Section based on new capacity;

iii. current Office of State Fire Marshal approval for new space;

iv. current Office of Public Health approval for new space;

v. current city fire approval for new space (if applicable); and

vi. measurement of the additional space by Licensing Section staff.

c. Name change is effective when the following are received by the Licensing Section:

i. completed change of information form; and

ii. $25 non-refundable change fee.

d. Age range change for residents is effective when the following are received and approved by the Licensing Section:

i. completed change of information form; and

ii. $25 non-refundable change fee.

e. Change to add services provided (acceptance of children of residents) is effective when the following is received and approved by the Licensing Section:

i. completed change of information form;

ii. $25 non-refundable change fee;

iii. current Office of State Fire Marshal approval form noting acceptance of infants or children of residents;

iv. current Office of Public Health approval noting acceptance of infants or children of residents;

v. inspection by the Licensing Section noting compliance with regulations regarding the children of residents.

f. Change in program director is effective when the following is received and approved by the Licensing Section:

i. completed change of information form;

ii. documentation of program director's qualifications as noted in Subparagraph A.3.a of this Section; and

iii. three signed letters of reference dated within three months prior to hire attesting affirmatively to his/her character, qualifications, and suitability to manage the program.

5. If a provider is found to be non-compliant with regard to a particular service offered or with a particular age group of children/residents, DCFS may require the provider to cease providing the service and/or restrict the age of the children/youth/residents for which the provider is licensed to provide services.

6. All new construction or renovation of a facility requires approval from agencies listed in Paragraph B.2 of this Section and the Licensing Section.

7. A license is not transferable to another person, juridical entity, or location.

E. Renewal of License

1. The license shall be renewed on an annual basis prior to the last day of the anniversary month of the license.

2. The provider shall submit, prior to its license expiration date, a completed renewal application form and applicable fee. The following documentation must also be included:

a. current Office of Fire Marshal approval for occupancy;

b. current Office of Public Health, Sanitarian Services approval;

c. current city fire department approval, (if applicable);

d. copy of proof of current general liability and current property insurance for facility;

e. copy of proof of current insurance for vehicle(s) used to transport residents and children;

f. copy of a criminal background clearance or attestation forms as referenced in §7107.A.5 for all owners and program directors as required by R.S. 46:51.2 and 15.587.1; and

g. copy of current state central registry disclosure forms (SCR 1) for all owners and program directors.

3. Prior to renewing the facility license, an on-site survey shall be conducted to assure compliance with all licensing laws and standards. If the facility is found to be in compliance with the licensing laws and standards, and any other required statutes, laws, ordinances, or regulations, the license shall be renewed for a 12-month period.

4. In the event the annual licensing inspection finds the facility is non-compliant with any licensing laws or standards, or any other required statutes, ordinances or regulations but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the provider shall be required to submit a corrective action plan to the department for approval. The department shall specify the timeline for submitting the corrective action plan based on such non-compliance or deficiencies cited but no later than 10 days from the date of the inspection or receipt of the deficiencies if mailed or emailed. The corrective action plan shall include a description of how the deficiency shall be corrected, the date by which correction(s) shall be completed, an outline of the steps the provider plans to take in order to prevent further deficiencies from being cited in these areas and the plan to maintain compliance with the licensing standards. Failure to submit an approved corrective action plan timely shall be grounds for revocation or non-renewal.

5. If it is determined that such noncompliance or deficiencies have not been corrected prior to the expiration of the license, the department may issue an extension of the license not to exceed 60 days.

6. When it is determined by the department that such noncompliance or deficiencies have been corrected, a license may be issued for a period not to exceed 12 months.

7. If it is determined that all areas of noncompliance or deficiencies have not been corrected prior to the expiration date of the extension, the department may revoke the license.

F. Change of Location (CHOL) and Change of Ownership (CHOW)

1. Change of Location (CHOL)

a. When a provider changes the physical location of the residential home, it is considered a new operation and a new license is required prior to opening. The license at the existing location shall not transfer to the new residential home location.

b. After the residential home's new location has been determined, a complete CHOL licensing packet shall be submitted to the Licensing Section. A complete CHOL licensing packet shall include:

i. completed application and non-refundable fee;

ii. current Office of State Fire Marshal approval for occupancy;

iii. current Office of Public Health, Sanitarian Services approval;

iv. current city fire department approval, (if applicable);

v. city or parish building permit office approval, (if applicable);

vi. local zoning approval, (if applicable);

vii. copy of proof of current general liability and current property insurance for facility;

viii. copy of current proof of insurance for vehicle(s) used to transport residents or children of residents;

ix. organizational chart or equivalent list of staff titles and supervisory chain of command;

x. verification of experience and educational requirements for the program director;

xi. verification of experience and educational requirements for the service plan manager;

xii. list of consultant/contract staff to include name, contact info, and responsibilities;

xiii. copy of program philosophy and goals plan;

xiv. list of all staff to include staff's name and position;

xv. list of the names and addresses of owners of privately owned agencies;

xvi. list of the names and addresses of its' members and officers if a corporation, partnership, or association;

xvii. documentation of a charter, partnership agreement, constitution, articles of association or bylaws if a corporation, partnership, or association;

xviii. a floor sketch or drawing of the premises to be licensed;

xix. any other documentation or information required by the department for licensure;

xx. documentation of a Louisiana State Police fingerprint based satisfactory criminal record check for all staff including all owners and operators of the facility, as required by R.S. 46:51.2 and 15:587.1;

xxi. documentation of completed state central registry disclosure form (SCR 1) noting no justified (valid) finding of abuse and/or neglect for all staff including owners and operators (SCR 1 shall be dated no earlier than 30 days before the application has been received by the Licensing Section) or a determination from the Risk Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to children/youth/residents;

xxii. current approval from the Department of Education, if educational services will be provided on-site; and

xxiii. current completed reasonable and prudent parent authorized representative form.

c. CHOL inspection will be conducted between the currently licensed and new location to determine compliance with all standards. The inspection at the new location shall be to verify compliance with all licensing standards with the exception of staff and children/residents records that will be transferred. After closure of the old location and prior to the services being provided at the new location, all staff's, resident's, and children's records shall be transferred to the new location.

d. Services shall not be provided simultaneously at both locations.

e. The following shall be submitted to the Licensing Section prior to a license being issued:

i. current Office of State Fire Marshal approval;

ii. current city fire approval (if applicable);

iii. current Office of Public Health approval;

iv. local zoning approval (if applicable).

f. The license for the new location may be effective upon receipt of all items listed in Paragraph F.1 of this Section with the approval of DCFS, but not prior to the first day operations begin at the new location.

g. The license for the old location shall be null and void on the last day services were provided at that location, but no later than the effective date of the new location's license. Provider shall submit documentation noting the last day services will be provided at the old location.

2. Change of Ownership (CHOW)

a. Any of the following constitutes a change of ownership for licensing purposes:

i. change in the federal tax id number;

ii. change in the state tax id number;

iii. change in profit status;

iv. any transfer of the business from an individual or juridical entity to any other individual or juridical entity;

v. termination of services by one owner and beginning of services by a different owner without a break in services to the children/residents; and/or

vi. addition of an individual to the existing ownership on file with the Licensing Section.

3. Change of Ownership (CHOW) Procedures

a. When a residential home changes ownership, the current license is not transferable. Prior to the ownership change and in order for a new license to be issued, the new owner shall submit a CHOW application packet containing the following:

i. completed application form with a non-refundable licensing fee as noted in Paragraph D.2 of this Section payable by money order, certified check, or electronic payment, if available, made payable to DCFS-Licensing Section;

ii. current Office of State Fire Marshal approval for occupancy;

iii. current Office of Public Health, Sanitarian Services approval;

iv. current city fire department approval, (if applicable);

v. city or parish building permit office approval, (if applicable);

vi. local zoning approval, (if applicable);

vii. copy of proof of current general liability and current property insurance for facility;

viii. copy of current proof of insurance for vehicle(s) used to transport residents or children of residents;

ix. organizational chart or equivalent list of staff titles and supervisory chain of command;

x. verification of experience and educational requirements for the program director;

xi. verification of experience and educational requirements for the service plan manager;

xii. list of consultant/contract staff to include name, contact info, and responsibilities;

xiii. copy of program philosophy and goals plan;

xiv. list of all staff to include staff's name and position;

xv. list of the names and addresses of owners of privately owned agencies;

xvi. list of the names and addresses of its members and officers if a corporation, partnership, or association;

xvii. documentation of a charter, partnership agreement, constitution, articles of association, or bylaws if a corporation, partnership, or association;

xviii. a floor sketch or drawing of the premises to be licensed;

xix. any other documentation or information required by the department for licensure;

xx. documentation of a Louisiana State Police fingerprint-based satisfactory criminal record clearance for all staff including owners and operators. CBC shall be dated no earlier than 30 days before the application has been received by the Licensing Section. The prior owner's documentation of a satisfactory criminal background check for staff and/or owners and operators are not transferrable;

xxi. documentation of completed state central registry disclosure form (SCR 1) noting no justified (valid) finding of abuse and/or neglect for all staff including owners and operators (SCR 1 shall be dated no earlier than 30 days before the application has been received by the Licensing Section) or a determination from the Risk Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to children/youth/residents. The prior owner's documentation of a state central registry disclosure forms for staff and/or owners and operators are not transferrable;

xxii. current approval from the Department of Education, if educational services will be provided on-site;

xxiii. copy of the current completed reasonable and prudent parent authorized representative form;

xxiv. three signed reference letters dated within three months prior to hire for program director attesting affirmatively to his/her character, qualifications, and suitability to manage the program; and

xxv. three signed reference letters dated within three months prior to hire for service plan manager attesting affirmatively to his/her character, qualifications, and suitability for the position.

b. The prior owner's current Office of State Fire Marshal and Office of Public Health approvals are only transferrable for 60 calendar days. The new owner shall obtain approvals dated after the effective date of the new license from these agencies within 60 calendar days. The new owner will be responsible for forwarding the approval or extension from these agencies to the Licensing Section on or prior to the sixtieth day in order for their license to be extended.

c. A licensing inspection shall be conducted within 60 calendar days to verify compliance with the licensing standards.

d. All staff/children's/resident's information shall be updated under the new ownership as required in LAC 67:V.7111.A.2.d, A.6, A.7, B.2, and B.4.b-c prior to or on the last day services are provided by the existing owner.

e. If all information in Paragraph F.3 of this Section is not received prior to or on the last day services are provided by the existing owner, the new owner shall not operate until a license is issued. The new owner is not authorized to provide services until the licensure process is completed in accordance with Paragraph B.2 of this Section.

f. In the event of a change of ownership, the resident's and children's records shall remain with the new provider.

g. A residential home facing adverse action shall not be eligible for a CHOW. An application involving a residential home facing adverse action shall be treated as an initial application rather than a change of ownership application.

4. Change in Ownership Structure

a. Although the following does not constitute a change of ownership for licensing purposes, a change of information form is required.

i. The change of information form shall be submitted to the Licensing Section within 14 calendar days of the change:

(a). if individual ownership, upon death of the spouse;

(b). if individual ownership, upon death of the spouse and execution of the estate, if the surviving spouse remains as the only owner.

b. The change of information form shall be submitted to the Licensing Section within seven calendar days of the change:

i. if individual ownership, undergoing a separation or divorce until a judicial termination of the community aquets and gains, signed by both parties;

ii. change in board members for churches, corporations, limited liability companies, universities, or governmental entities;

iii. any removal of a person from the existing organizational structure under which the residential home is currently licensed.

G. Denial, Revocation, or Non-Renewal of License

1. Even if a facility is otherwise in compliance with these standards, an application for a license may be denied, or a license revoked or not renewed for any of the following reasons:

a. cruelty or indifference to the welfare of the residents or children in the residential home;

b. violation of any provision of the standards, rules, regulations, or orders of the department;

c. disapproval from any agency whose approval is required for licensing;

d. nonpayment of licensing fee or failure to submit a licensing application and required documentation;

e. any validated instance of abuse, neglect, corporal punishment, physical punishment, or cruel, severe or unusual punishment, if the owner is responsible or if the staff member who is responsible remains in the employment of the licensee;

f. the facility is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure;

g. any act of fraud such as falsifying or altering documents required for licensure;

h. the owner, director, officer, board of directors member, or any person designated to manage or supervise the provider or any staff providing care, supervision, or treatment to a resident or child of the facility has been convicted of or pled guilty or nolo contendere to any offense listed in R.S. 15:587.1. A copy of a criminal record check performed by the Louisiana State Police (LSP) or other law enforcement provider, or by the Federal Bureau of Investigation (FBI), or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttals presumption that such a conviction or plea exists;

i. the provider, after being notified that an officer, director, board of directors member, manager, supervisor, or any employee has been convicted of or pled nolo contendere to any offense referenced above, allows such officer, director, or employee to remain employed, or to fill an office of profit or trust with the provider. A copy of a criminal record check performed by the LSP or other law enforcement provider, or by the FBI, or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a reputable presumption that such a conviction or plea exists;

j. failure of the owner, director, or any employee to report a known or suspected incident of abuse or neglect to child protection authorities;

k. revocation or non-renewal of a previous license issued by a state or federal provider;

l. a history of non-compliance with licensing statutes or standards, including but not limited to failure to take prompt action to correct deficiencies, repeated citations for the same deficiencies, or revocation or denial of any previous license issued by the department;

m. failure to submit an application for renewal or required documentation or to pay required fees prior to the last day of the anniversary month;

n. operating any unlicensed facility and/or program;

o. permit an individual with a justified (valid) finding of child abuse/neglect to be on the premises without being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry prior to a determination by the Risk Evaluation Panel or Division of Administrative Law that the individual does not pose a risk to children/youth/residents; or to knowingly permit an individual who has not disclosed that their name appears with a justified (valid) finding on the state central registry to be on the premises at any time, whether supervised or not supervised;

p. permit an individual, whether supervised or not supervised to be on the residential premises with a ruling by the Risk Evaluation Panel that the individual poses a risk to children/youth/residents and the individual has not requested an appeal hearing with DAL within the specified timeframe;

q. have a criminal background, as evidenced by the employment or ownership or continued employment or ownership of or by any individual (paid or unpaid staff) who has been convicted of, or pled guilty or nolo contendere to, any offense included in R.S. 15:587.1, or to any offense involving a juvenile victim;

r. own a residential home and have been convicted of or have pled guilty or nolo contender to any crime in which an act of fraud or intent to defraud is an element of the offense;

s. have knowledge that a convicted sex offender is on the premises and fail to notify law enforcement and licensing management staff immediately upon receipt of such knowledge; or

t. have knowledge that a convicted sex offender is physically present within 1,000 feet of the facility and fail to notify law enforcement immediately upon receipt of such knowledge.

2. If a license is revoked or not renewed or application denied or refused, a license may also be denied or refused to any affiliate of the licensee or applicant.

3. In the event a license is revoked or renewal is denied, (other than for cessation of business or non-operational status), or voluntarily surrendered to avoid adverse action; any owner, officer, member, manager, or program director of such licensee shall be prohibited from owning, managing, directing or operating another licensed facility for a period of not less than two years from the date of the final disposition of the revocation or denial action. The lapse of two years shall not automatically restore a person disqualified under this provision. The department, at its sole discretion, may determine that a longer period of disqualification is warranted under the facts of a particular case.

H. Disqualification of Facility and Provider

1. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not process a subsequent application from the provider for that facility or any new facility for a minimum period of 24 months after the effective date of revocation or non-renewal or a minimum period of 24 months after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or her designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

2. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its' license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked. In addition, if the applicant has had a history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to process a subsequent application from that applicant for a minimum period of 24 months after the effective date of denial.

3. The disqualification period provided in this rule shall include any affiliate of the provider.

I. Appeal Process for Denial, Non-Renewal, or Revocation

1. The DCFS Licensing Section, shall advise the applicant, program director or owner by letter of the reasons for non-renewal or revocation of the license, or denial of an application, and the right of appeal. If the director or owner is not present at the facility, delivery of the written reasons for such action may be made to any staff of the facility.

Notice to a staff shall constitute notice to the facility of such action and the reasons therefore. A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for revocation, denial, or non-renewal, together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to: Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

2. A provider shall have 15 calendar days from receipt of the letter notifying of the revocation or non-renewal to request an appeal. Provider may continue to operate during the appeals process as provided in the Administrative Procedure Act.

3. If the provider's license will expire during the appeal process, the provider shall submit an application, fee, copies of the satisfactory criminal background clearances and current SCR 1 forms for all owners. Each provider is solely responsible for obtaining the application form. The application, full licensure fee, copies of the criminal background clearances and SCR 1 forms for all owners shall be received on or postmarked by the last day of the month in which the license expires, or the provider shall cease operation at the close of business by the expiration date noted on the license.

4. A provider shall have 30 calendar days from receipt of the letter notifying of the denial of an application for a license to request an appeal.

5. The Appeals Section shall notify the Division of Administrative Law of receipt of an appeal request. Division of Administrative Law shall conduct a hearing. The appellant will be notified by letter of the decision, either affirming or reversing the original decision.

6. If the decision of DCFS is affirmed or the appeal dismissed, the provider shall terminate operation of the child care business immediately. If the provider continues to operate without a license, the DCFS may file suit in the district court in the parish in which the facility is located for injunctive relief.

7. If the decision of DCFS is reversed, the license will be re-instated and the appellant may continue to operate.

J. Complaint Process

1. In accordance with R.S. 46:1418, the department shall investigate all complaints (except complaints concerning the prevention or spread of communicable diseases), including complaints alleging abuse or neglect, within prescribed time frames as determined by the department based on the allegation(s) of the complaint. All complaint inspections will be initiated within 30 days.

2. All complaint inspections shall be unannounced.

3. The complaint procedure shall be posted conspicuously in the facility including the name, address, and telephone number of the required department units to be notified.

K. Posting of Notices of Revocation

1. The notice of revocation of the license shall be prominently posted.

a. The Department of Children and Family Services shall prominently post a notice of revocation action at each public entrance of the facility within one business day of such action. This notice must remain visible to the general public, other agencies, parents, guardians, and other interested parties of individuals that receive services from the provider.

b. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to the general public, parents, guardians, and other interested parties throughout the pendency of any appeals of the revocation.

c. The provider shall notify the department's licensing management staff verbally and in writing immediately if the notice is removed or obliterated.

d. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation, or non-renewal of any future license.

L. State Central Registry

1. All owners shall complete, sign, and date the state central registry disclosure form (SCR 1) as required by R.S. 46:1414.1. This information shall be reported prior to the owner being on the premises of the child residential home, shall be updated annually at the time of licensure renewal, at any time upon the request of DCFS, and within 24 hours or no longer than the next business day, whichever is shorter, of any owner receiving notice of a justified (valid) finding of child abuse and/or neglect against them. Any current owner or operator of a residential home is prohibited from owning, operating, participating in the governance of or working in a residential home, if they have a justified (valid) finding of child abuse and/or neglect against them. If information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse and/or neglect of a child/youth/resident, the individual shall have a determination by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children/youth/residents in order to continue to operate a residential home.

a. Within 24 hours or no later than the next business day, whichever is shorter, of current owners receiving notice of a justified (valid) finding of child abuse and/or neglect against them, an updated state central registry disclosure form (SCR 1) shall be completed by the owner and submitted to Licensing section management staff as required by R.S. 46:1414.1 The owner must request a risk evaluation assessment in accordance with LAC 67:I.305 within 10 calendar days from completion of the state central registry disclosure form or the license shall be revoked. Immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the owner, at any and all times when he/she is in the presence of a child/youth/resident, shall be directly supervised by a paid staff (employee) of the residential home. The employee responsible for supervising the owner must have on file a completed state central registry disclosure form indicating that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect. Under no circumstances may the owner with the justified finding be left alone and unsupervised with a child/youth/resident pending the disposition of the Risk Evaluation Panel or the Division of Administrative Law determination that the owner does not pose a risk to any child/youth/resident in care. An owner

supervised by an employee who does not have a satisfactory disclosure form on file as provided in this Subsection shall be deemed to be alone and unsupervised.

i. Any owner with a justified (valid) finding of abuse and/or neglect on the state central registry must submit, together with the SCR 1 required above, a written, signed statement to Licensing Section management staff acknowledging that they are aware of the supervision requirements and understand that under no circumstances are they to be left alone and unsupervised with a child/youth/resident and that they shall be directly supervised by a paid staff (employee) of the residential home, who has completed the required state central registry disclosure form and who has indicated on that form that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect on the state central registry.

ii. If the Risk Evaluation Panel determines that the owner does pose a risk to children/youth/residents and the individual does not appeal the determination within the required timeframe, the owner may close the business or the license shall be revoked.

iii. If the Risk Evaluation Panel determines that the owner poses a risk to children/youth/residents and the individual appeals the determination to the Division of Administrative Law within the required timeframe, the owner shall continue to be under direct supervision when in the presence of a child/youth/resident on the premises. Supervision must continue until receipt of a ruling from the Division of Administrative Law that the owner does not pose a risk to children/youth/residents.

iv. If the Division of Administrative Law (DAL) upholds the Risk Evaluation Panel's determination that the individual poses a risk to children/youth/residents, the owner may voluntarily close the business or the license shall be revoked.

2. Prospective owners shall complete, sign, and date the state central registry disclosure form and submit the disclosure form at the time of application to the DCFS Licensing Section. If a prospective owner discloses that his or her name is currently recorded as a perpetrator on the state central registry, the application shall be denied unless the owner requests a risk evaluation assessment on the state central registry risk evaluation request form (SCR 2) within the required timeframe. DCFS will resume the licensure process when the owner provides the written determination by the Risk Evaluation Panel or the Division of Administrative Law that they do not pose a risk to children/youth/residents.

a. If the Risk Evaluation Panel determines that the prospective owner poses a risk to children/youth/residents and the individual does not appeal the determination within the required timeframe, the prospective owner shall withdraw the application immediately or the application shall be denied.

b. If the Risk Evaluation Panel determines that the prospective owner poses a risk to children/youth/residents and the individual appeals the determination to the Division of Administrative Law within the required timeframe, the department shall not proceed with the licensure process until a ruling is made by the Division of Administrative Law that the owner does not pose a risk to children/youth/residents.

c. If the Division of Administrative Law upholds the Risk Evaluation Panel determination that the individual poses a risk to children/youth/residents, the prospective owner shall withdraw the application within 10 business days of the mailing of the DAL decision or the application shall be denied.

3. Any information received or knowledge acquired that a current or prospective owner, operator, volunteer, employee, prospective volunteer, or prospective employee has falsified a state central registry disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) determination of abuse or neglect shall be reported in writing to Licensing Section management staff as soon as possible, but no later than the close of business on the next business day.

4. Any state central registry disclosure form, Risk Evaluation Panel finding, and Division of Administrative Law ruling that is maintained in a residential home licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.

M. Retention of Records

1. Documentation of the previous 12 months' activity shall be available for review. Records shall be accessible during the hours the facility is open and operating.

2. For licensing purposes, children's and resident's information shall be kept on file a minimum of one year from date of discharge from the program.

3. For licensing purposes, staff records shall be kept on file a minimum of one year from termination of employment from the agency.

4. Records for residents or children in the custody of DCFS shall be kept on file a minimum of five years from the date of discharge from the facility.

5. If the facility closes, the owner of the facility within the state of Louisiana shall store the resident records for five years.

6. All records shall be retained and disposed of in accordance with state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.46:1401 et seq., and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:807 (April 2010), amended LR 36:843 (April 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:977, 984 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7108. Corrective Action Plans

A. A corrective action plan (CAP) shall be submitted for any and all deficiencies noted by Licensing Section staff regarding any licensing law or standard, or any other required statute, ordinance, or standard. The request for submission of the CAP does not restrict the actions which may be taken by DCFS. If the department does not specify an earlier timeframe for submitting the CAP, the CAP shall be submitted within 10 calendar days from the date of the inspection or receipt of the deficiencies, if mailed or emailed. The CAP shall include a description of how the deficiency will be corrected, the date by which correction(s) shall be completed, and outline the steps the provider plans to take in order to prevent further deficiencies from being

cited in these areas, and the plan to maintain compliance with the licensing standards. If the CAP is not sufficient and/or additional information is required, the provider shall be notified and informed to submit additional information within 3 calendar days. If it is determined that all areas of noncompliance or deficiencies have not been corrected, the department may revoke the license.

B. Provider may challenge a specific deficiency or any information within a cited deficiency which the provider contends is factually inaccurate. The provider shall have one opportunity to request a review of a licensing deficiency. A statement of why the deficiency is being disputed and supporting documents (if applicable) shall be submitted with the corrective action plan within the timeframe specified for the submission of the CAP.

C. The statement of deficiencies for which a review has been requested will not be placed on the internet for viewing by the public until a decision has been reached. As a result of the licensing deficiency review request, a deficiency may be upheld with no changes, the deficiency may be removed, or the deficiency may be upheld and revised to include pertinent information that was inadvertently omitted. Once a decision has been reached, provider will be informed in writing of the decision and the reason for the decision. If the deficiency or information within the deficiency was cited in error or the cited deficiency is revised by the DCFS Licensing Section staff, provider will receive a revised "statement of deficiencies" with the decision letter. If any enforcement action was imposed solely because of a deficiency or finding that has been deleted through the licensing deficiency review process, the action will be rescinded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 42:

§7109. Administration and Organization

A. General Requirements

1. Once a residential home provider has been issued a license, the department shall conduct licensing and other inspections at intervals deemed necessary by the department to determine compliance with licensing standards, as well as, other required statutes, laws, ordinances, rules, regulations, and fees. These inspections shall be unannounced.

2. The department shall remove any resident, child, or all residents or children from any facility or agency when it is determined that one or more deficiencies exist within the facility that place the health and well-being of children or residents in imminent danger. The children nor residents shall be returned to the facility until such time as it is determined by the department that the imminent danger has been removed.

3. The provider shall allow representatives of the department in the performance of their mandated duties to inspect all aspects of a program's functioning that impact residents and children and to privately interview any staff member or resident. The department representatives shall be admitted immediately and without delay, and shall be given free access to all relevant files and all areas of a facility, including its grounds. If any portion of a facility is set aside for private use by the facility's owner or staff, department representatives shall be permitted to verify that no residents or children are present in that portion and that the private areas are inaccessible to residents and children. Any area to which residents or children have or have had access is presumed to be part of the facility and not the private quarters of the owner/operator or staff.

4. The provider shall make any information that DCFS requires under the present standards and any information reasonably related to determination of compliance with these standards available to the department. The resident's rights shall not be considered abridged by this standard.

5. The provider accepting any resident who resides in another state shall show proof of compliance with the terms of the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children, and the Interstate Compact on Mental Health. Proof of compliance shall include clearance letters from the compact officers of each state involved.

B. Other Jurisdictional Approvals. The provider shall comply and show proof of compliance with all relevant standards, regulations, and requirements established by federal, state, local, and municipal regulatory bodies including initial and annual approval by the following:

1. Office of Public Health, Sanitarian Services;
2. Office of State Fire Marshal;
3. city fire department (if applicable);
4. local governing authority or zoning approval (if applicable); and
5. Department of Education (if applicable).

C. Governing Body. The provider shall have an identifiable governing body with responsibility for and authority over the policies, procedures, and activities of the provider.

1. The provider shall have documents identifying all members of the governing body, their addresses, the term of their membership (if applicable), officers of the governing body (if applicable), and the terms of office of all officers (if applicable).

2. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year.

3. When the governing body is composed of more than one person, a provider shall have written minutes of all formal meetings of the governing body and bylaws specifying frequency of meetings and quorum requirements.

D. Responsibilities of a Governing Body. The governing body of the provider shall:

1. ensure the provider's compliance and conformity with the provider's charter;
2. ensure the provider's continual compliance and conformity with all relevant federal, state, local, and municipal laws and standards;
3. ensure the provider is adequately funded and fiscally sound by reviewing and approving the provider's annual budget or cost report;
4. ensure the provider is housed, maintained, staffed and equipped appropriately considering the nature of the provider's program;
5. designate a person to act as program director and delegate sufficient authority to this person to manage the facility;
6. formulate and annually review, in consultation with the program director, written policies and procedures

concerning the provider's philosophy, goals, current services, personnel practices and fiscal management;

7. have the authority to dismiss the program director;

8. meet with designated representatives of the department whenever required to do so;

9. inform designated representatives of the department prior to initiating any substantial changes in the program, services, or physical plant of the provider.

E. Authority to Operate. Current Louisiana residential home license shall be on display in a prominent area at the facility, except for facilities operated by a church or religious organization [R.S. 46:1406(D)] that choose to keep the license on file and available upon request. All homes shall operate within the licensed capacity, age range, and/or other specific services designated on the license.

F. Accessibility of Program Director. The program director, or a person authorized to act on behalf of the program director, shall be accessible to provider staff or designated representatives of the department at all times (24 hours per day, 7 days per week).

G. Statement of Philosophy and Goals

1. The provider shall have a written statement of its' residential home philosophy, purpose, program, and goals. The statement shall contain a description of all the services provided to include:

a. the extent, limitation, and scope of the services for which a license is sought;

b. the geographical area to be served; and

c. the ages of residents, ages of children, and types of behaviors to be accepted for placement.

H. Policies and Procedures. The provider shall have written policies and procedures approved by the owner or governing body that address, at a minimum, the following:

1. abuse and neglect;
2. admission and discharge;
3. behavior support and intervention program;
4. complaint process;
5. confidentiality and retention of resident records;
6. emergency and safety;
7. grievance process;
8. human resources;
9. incidents;
10. medication management;
11. provider services;
12. quality improvement;
13. resident funds;
14. rights;
15. recordkeeping; and
16. children of residents.

I. House Rules and Regulations. The provider shall have a clearly written list of rules and regulations governing conduct for residents and children in care and shall document that these rules and regulations are made available to each staff member, resident, and, where appropriate, the resident's legal guardian(s).

J. Representation at Hearings. When requested by the placing agency, the provider shall have a representative present at all judicial, educational or administrative hearings that address the status of a resident or child in care of the provider. The provider shall ensure that the resident is given an opportunity to be present at such hearings, unless prohibited by the resident's legal guardian or by his/her service plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:810 (April 2010), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7111. Provider Requirements

A. Provider Responsibilities

1. Enrichment Activities. Effective August 1, 2016, provider shall assist children at least twice monthly in creating and updating their lifebook. For children that are not developmentally able to participate in the creation and updating of their own lifebook, staff shall create and update for the child.

a. Lifebooks shall be the property of children and shall remain with the child upon discharge.

b. Lifebooks shall be available for review by DCFS.

2. Personnel Requirements

a. The provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to perform the following functions:

i. administrative;
ii. fiscal;
iii. clerical;
iv. housekeeping, maintenance, and food services;
v. direct resident and child services;
vi. record keeping and reporting;
vii. social service; and
viii. ancillary services.

b. The provider shall ensure that all staff members are properly certified or licensed as legally required and appropriately qualified for their position.

c. Personnel can work in more than one capacity as long as they meet all of the qualifications of the position and have met the training requirements.

d. The provider that utilizes volunteers shall be responsible for the actions of the volunteers. Volunteers shall:

i. have orientation and training in the philosophy of the program and the needs of residents and children and methods of meeting those needs prior to working with residents or children;

ii. have documentation of a fingerprint based satisfactory criminal background check from Louisiana State Police as required in R.S. 15:587.1 and R.S. 46:51.2. This check shall be obtained prior to the individual being present in the facility or having access to the residents or children. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility. CBC shall be dated no earlier than 30 days of the individual being present in the facility or having access to the residents or children;

iii. have a completed state central registry disclosure form (SCR 1) noting whether or not his/her name is currently recorded on the state central registry for a justified finding of abuse or neglect and he/she is the named perpetrator as required in R.S. 46.1414.1. SCR 1 shall be dated no earlier than 30 days of the individual being present in the facility or having access to the residents or children:

(a). this information shall be reported prior to the individual being on the premises of the facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of any volunteer receiving notice of a justified (valid) determination of child abuse or neglect;

(b). the prospective non-paid staff (volunteer) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner or operator of the facility:

(i). if a prospective staff non-paid (volunteer) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for volunteer duties at that time due to the state central registry disclosure. The director will provide the prospective volunteer with the risk evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested;

(ii). individuals are eligible for volunteer services if and when they provide written documentation from the Risk Evaluation Panel or the Division of Administrative Law noting that they do not pose a risk to children/youth/residents;

(c). current volunteers receiving notice of a justified (valid) determination of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) determination as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section management staff within 3 business days or upon being on the premises, whichever is sooner. Volunteers will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation on a SCR 2 form in accordance with LAC 67:I.305 or shall be terminated immediately:

(i). if the volunteer will no longer be employed at or provide volunteer services at the facility, the provider shall submit a signed, dated statement indicating that the volunteer will not be on the premises of the facility at any time;

(ii). immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued volunteer services, the staff person shall be directly supervised by a paid staff (employee) of the facility who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the volunteer is under continuous direct supervision by a paid staff who has not disclosed that their name appears with a justified (valid) finding on the state central registry. When these conditions are met, the non-paid staff (volunteer) may be counted in ratio. Under no circumstances may the volunteer with the justified finding be left alone and unsupervised with the children/youth/residents pending the disposition by the Risk Evaluation Panel or the Division of Administrative Law that the staff person does not pose a risk to children/youth/residents;

(iii). if the Risk Evaluation Panel finds the individual does pose a risk to children/youth/residents and the individual chooses not to appeal the finding, the non-paid staff (volunteer) shall be terminated immediately;

(iv). if the Risk Evaluation Panel finds the individual does pose a risk to children/youth/residents and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the non-paid staff (volunteer) shall continue to be under direct supervision at all times by another paid employee of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children/youth/residents. Supervision may end upon receipt of the ruling from the Division of Administrative Law that they do not pose a risk to children/youth/residents;

(v). if the Division of Administrative Law upholds the Risk Evaluation Panel finding that the individual does pose a risk to children/youth/residents, the individual shall be terminated immediately;

(d). any owner, operator, current or prospective employee, or volunteer of a facility requesting licensure by DCFS and/or a facility licensed by DCFS is prohibited from working in a facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children/youth/residents;

iv. have three documented reference checks dated within three months prior to beginning volunteer services;

v. have documentation of a signed and dated job description.

3. Personnel Qualifications

a. Program Director. The program director shall meet one of the following qualifications:

i. a bachelor's degree in a human service field plus three years experience relative to the population being served. One year of administrative experience in social services may be substituted for two years of regular experience. A master's degree plus two years of social service experience may be substituted for the three years of experience. An alternative may be a bachelor of social work (BSW) degree or professional equivalent with three years experience working with residents, one year of which may be experience in administration; or

ii. a master's degree in health care administration or in a human service related field; or

iii. in lieu of a degree, six years of administrative experience in health or social services, or a combination of undergraduate education and experience for a total of six years.

b. Service Plan Manager. The service plan manager shall have a bachelor's degree in a human service field plus a minimum of one year with the relevant population.

c. Direct Care Worker. A direct care worker hired on or after August 1, 2016, shall be at least 21 years of age and have a high school diploma or equivalency and at least two years post-high school job experience.

4. Personnel Job Duties

a. The program director shall be responsible for:

i. implementing and complying with policies and procedures adopted by the governing body;

ii. adhering to all federal and state laws and standards pertaining to the operation of the agency;

iii. addressing areas of non-compliance identified by licensing inspections and complaint inspections;

iv. directing the program;

v. representing the facility in the community;

vi. delegating appropriate responsibilities to other staff including the responsibility of being in charge of the facility during their absence;

vii. recruiting qualified staff and employing, supervising, evaluating, training, and terminating employment of staff;

viii. providing leadership and carrying supervisory authority in relation to all departments of the facility;

ix. providing consultation to the governing body in carrying out their responsibilities, interpreting to them the needs of residents and children, making needed policy revision recommendations, and assisting them in periodic evaluation of the facility's services;

x. preparing the annual budget for the governing body's consideration, keeping the body informed of financial needs, and operating within the established budget;

xi. supervising the facility's management including building, maintenance, and purchasing;

xii. participating with the governing body in interpreting the facility's need for financial support;

xiii. establishing effective communication between staff and residents and children and providing for their input into program planning and operating procedures;

xiv. reporting injuries, deaths, and critical incidents involving residents or children to the appropriate authorities;

xv. supervising the performance of all persons involved in any service delivery/direct care to residents or children; and

xvi. completing an annual performance evaluation of all staff. For any person who interacts with residents or children, a provider's performance evaluation procedures shall address the quality and quantity of their work.

b. The service plan manager shall be responsible for:

i. supervision of the implementation of the resident's service plan;

ii. integration of the various aspects of the resident's program;

iii. recording of the resident's progress as measured by objective indicators and making appropriate changes/modifications;

iv. reviewing quarterly service plan reviews for the successes and failures of the resident's program, including the resident's educational program, with recommendations for any modifications deemed necessary. Designated staff may prepare these reports, however, the service plan manager shall review, sign, and date the reports indicating approval;

v. signing and dating all appropriate documents;

vi. monitoring that the resident receives a periodic review and review of the need for residential placement and ensuring the timely release, whenever appropriate, of the resident to a least restrictive setting; monitoring any extraordinary restriction of the resident's freedom including use of any form of restraint, any special restriction on a resident's communication with others, and any behavior management plan;

vii. asserting and safeguarding the human and civil rights of residents, and children, and their families and fostering the human dignity and personal worth of each resident;

viii. serving as liaison between the resident, provider, family, and community during the resident's admission to and residence in the facility, or while the resident is receiving services from the provider in order to:

(a). assist staff in understanding the needs of the resident and his/her family in relation to each other;

(b). assist staff in understanding social factors in the resident's day-to-day behavior, including staff/resident relationships;

(c). assist staff in preparing the resident for changes in his/her living situation;

(d). help the family to develop constructive and personally meaningful ways to support the resident's experience in the facility, through assistance with challenges associated with changes in family structure and functioning, and referral to specific services, as appropriate;

(e). help the family to participate in planning for the resident's return to home or other community placement; and

(f). supervise and implement the shared responsibility plan regarding resident and child.

c. The direct care worker shall be responsible for the daily care and supervision of the residents and children in the living group to which they are assigned which includes:

i. protecting children's and residents' rights;

ii. handling separation anxiety and alleviating the stress of a resident or child in crisis;

iii. modeling appropriate behaviors and methods of addressing stressful situations;

iv. crisis management;

v. behavior intervention and teaching of appropriate alternatives;

vi. training the resident and child in good habits of personal care, hygiene, eating, and social skills;

vii. protecting the resident and child from harm;

viii. handling routine problems arising within the living group;

ix. representing adult authority to the residents and children in the living group and exercising this authority in a mature, firm, compassionate manner;

x. enabling the resident or child to meet his/her daily assignments;

xi. participating in all staff conferences regarding the resident's progress in program evaluation of service plan goals and future planning;

xii. participating in the planning of the facility's program and scheduling such program into the operation of the living group under his/her supervision;

xiii. maintaining prescribed logs of all important events that occur regarding significant information about the performance and development of each resident or child in the group;

xiv. reporting emergency medical or dental care needs to the administrative staff in a timely manner;

xv. reporting critical incidents to administrative staff in a timely manner; and

xvi. completing duties and responsibilities as assigned regarding residents and children.

5. Applicant Screening

a. The provider's screening procedures shall address the prospective employee's qualifications as related to the appropriate job description.

6. Contractors

a. Contractors hired to perform work which does not involve any contact with residents or children, shall not be required to have a criminal background check if accompanied at all times by a staff person if residents or children are present in the facility.

b. Contractors hired to perform work which involves contact with residents or children, shall be required to have documentation of a fingerprint based satisfactory criminal background check from Louisiana State Police as required by R.S. 15:587.1 and R.S. 46:51.2. This check shall be obtained prior to the individual being present in the facility or having access to the residents or children. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility. Effective August 1, 2016, criminal background checks (CBC) shall be dated no earlier than 30 days of the individual being present in the facility or having access to the residents or children. If an individual has previously obtained a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. If a contract staff obtains a certified copy of their criminal background check from the Louisiana State Police, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the contract staff is no longer allowed on the premises until a clearance is received.

c. Contractors hired to perform work which involves contact with residents or children, shall be required to have documentation of a state central registry disclosure form (SCR 1) as required by R.S. 46:1414.1. This information shall be reported prior to the individual being on the premises of the facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of the individual receiving notice of a justified (valid) determination of child abuse or neglect. All requirements in §7111.B.2 shall be followed.

7. Orientation

a. All staff hired effective August 1, 2016 or after, shall complete the DCFS "mandated reporter training" available at dcfs.la.gov within five working days of the date of hire and prior to having sole responsibility for residents or children of residents. Documentation of completion shall be the certificate obtained upon completion of the training.

b. The provider's orientation program shall include the following topics for all staff within 15 working days of the date of employment:

i. philosophy, organization, program, practices and goals of the provider;

ii. specific responsibilities of assigned job duties;

iii. administrative procedures;

iv. emergency and safety procedures including medical emergencies;

v. resident rights;

vi. detecting and reporting suspected abuse and neglect;

vii. infection control to include blood borne pathogens;

viii. confidentiality; and

ix. reporting and documenting incidents.

c. The provider's orientation program shall provide a minimum of 24 hours of training in the following topics for all direct care staff within one week of the date of employment and prior to having sole responsibility for residents or children of residents:

i. implementation of service plans to include a behavior plan, when clinically indicated;

ii. staff and resident grievance procedure;

iii. rights and responsibilities of residents who have children residing in the facility;

iv. responsibility of staff with regard to children residing in the facility;

v. transportation regulations, including modeling of how to properly conduct a visual check of the vehicle and demonstration by staff to program director on how to conduct a visual check;

vi. the proper use of child safety restraints required by these regulations and state law (See reference sheet for training resources);

vii. health practices;

viii. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

ix. basic skills required to meet the dental and health needs and problems of the residents and children;

x. prohibited practices;

xi. behavior management techniques;

xii. use of time out, personal restraints, and seclusion that is to include a practice element in the chosen method performed by a certified trainer;

xiii. safe self-administration and handling of all medications including psychotropic drugs, dosages, and side effects;

xiv. working with people with disabilities, attending to the needs of such residents and children in care, including interaction with family members with disabilities; and

xv. use of specialized services identified in §7117 of this Subpart.

d. The provider shall maintain sufficient information to determine content of training. This information shall be available for review.

e. Documentation of the orientation training shall consist of a statement/checklist in the staff record signed and dated by the staff person and program director, attesting to having received the applicable orientation training and the dates of the orientation training.

f. Effective August 1, 2016, staff in facilities licensed to care for children under age two years or facilities providing services for children of residents shall complete the "Reducing the Risk of SIDS in Early Education and Child Care" training available at www.pedialink.org. This training shall be completed annually. Documentation of completion shall be the certificate obtained upon completion of the training.

g. All new direct care staff shall receive certification in adult cardiopulmonary resuscitation (CPR) and first aid within 45 days of employment. Effective August 1, 2016, if residents or children of residents under the age of 10 are accepted into the program, then staff shall also obtain a certificate in infant/child CPR. No staff member shall be left unsupervised with residents or children until he/she has completed all required training. CPR and first aid shall be updated prior to the expiration of the certification as indicated by the American Red Cross, American Heart Association, or equivalent organization. Online only training is not acceptable.

8. Annual Training

a. The provider shall ensure that all staff receives training on an annual basis in the following topics:

i. administrative procedures and programmatic goals;

ii. emergency and safety procedures including medical emergencies;

iii. resident rights;

iv. detecting and reporting suspected abuse and neglect;

v. infection control to include blood borne pathogens;

vi. confidentiality;

vii. reporting and documenting incidents; and

viii. specific responsibilities of assigned job duties with regard to residents and children.

b. Direct care staff shall receive annual training to include but not be limited to the following topics:

i. implementation of service plans;

ii. philosophy, organization, program, practices, and goals of the provider;

iii. administrative procedures;

iv. staff and resident grievance procedure;

v. prohibited practices;

vi. health practices;

vii. mental health concerns;

viii. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

ix. basic skills required to meet the dental and health needs and problems of the residents and children;

x. behavior management techniques including acceptable and prohibited practices;

xi. use of time-out, personal restraints, and seclusion which is to include a practice element in the chosen method performed by a certified trainer;

xii. safe self-administration and handling of all medication including psychotropic drugs, dosages, and side effects;

xiii. rights and responsibilities of residents who have children residing in the facility;

xiv. responsibility of staff with regard to children residing in the facility;

xv. working with people with disabilities, attending to the needs of such residents and children in care, including interaction with family members with disabilities;

xvi. use of specialized services identified in §7117 of this Subpart; and

xvii. educational rights to include IDEA and section 504 accommodations in the Rehabilitation Act of 1973, as amended.

c. All direct care staff shall have documentation of current certification in adult CPR and first aid. Effective August 1, 2016, if residents or children of residents under the age of 10 are accepted into the program, then staff shall also obtain a certificate in infant/child CPR.

d. Documentation of annual training shall consist of a statement/checklist in the staff record signed and dated by the staff person and program director, attesting to having received the applicable annual training and the dates of the training.

e. The provider shall maintain sufficient information available to determine content of training. This information shall be available for review.

f. Effective August 1, 2016, all staff currently employed shall complete the DCFS "mandated reporter training" available at dcfs.la.gov within 45 days and shall be updated annually. Documentation of completion shall be the certificate obtained upon completion of the training.

9. Staffing and Supervision Requirements

a. The provider shall ensure that an adequate number of qualified direct care staff are present with the residents and children as necessary to ensure the health, safety and well-being of residents and children. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the provider, the ages and needs of the residents and children, and shall assure the continual safety, protection, direct care, and supervision of residents and children. In addition to the required number of direct care staff, the provider shall employ a sufficient number of maintenance, housekeeping, administrative, support, and management staff to ensure that direct care staff can provide direct care services.

i. The provider shall have at least one adult staff present for every six residents when residents are present and awake. In addition, there shall be one additional staff person for every six children present. There shall always be a minimum of two staff present when children are in the facility.

ii. The provider shall have at least 1 adult staff present and awake for every 12 residents when residents are present and participating in rest time. During these hours, the ratio of 1 staff to every 12 residents is acceptable only if the residents are in their assigned bedrooms. In addition, there shall be 1 additional staff person for every 6 children present. There shall always be a minimum of 2 staff present when children are in the facility.

iii. In addition to required staff, at least one staff person shall be on call in case of emergency.

iv. Independent contractors (therapists, tutors, etc.) shall not be included in ratio while providing said individualized services to a specific resident(s) or child(ren).

v. Management or other administrative staff may be included in ratio only if they are exclusively engaged in providing supervision of the residents or children.

vi. Staff are allowed to sleep, during nighttime hours, only if the following are met:

(a). There is a functional and monitored security system. Alarms shall be placed on all windows and exterior doors. The security system shall be enabled during nighttime hours and anytime that the staff/house parents are sleeping. Residents shall not be given the security system code.

(b). There shall be a functional monitoring system on all interior resident and children bedroom doors.

vii. When residents or children are away from the facility, staff shall be available and accessible to the residents and children to handle emergencies or perform other necessary direct care functions.

viii. The provider utilizing live-in staff shall have sufficient relief staff to ensure adequate off-duty time for live-in staff.

ix Six or more residents under two years of age shall have an additional direct care worker on duty when the residents are present to provide a staff ratio of one staff per every six residents under age two, in addition to staff noted in §7111.A.9.a.i.

x. The provider shall not contract with outside sources for any direct care staff, including one-on-one trainers or attendants.

xi. Staff shall be assigned to supervise residents and children whose names and whereabouts that staff person shall know.

xii. When the resident is at the facility with her child, she is responsible for the care and supervision of her own child when not engaged in services or other activities. Staff shall be present and available as a resource and to lend support and guidance to the resident.

xiii. During nighttime hours, staff shall actively participate in the individual care of a resident and/or assisting a resident in the care of her child.

(a). In bedrooms where a child resides with their parent, an auditory device shall be required to enable staff to provide assistance to the resident in the care of her child. The monitor shall have an on/off feature which is controlled by the resident.

xiv. Children shall be directly supervised by staff on the playground, in vehicles, and while away from the facility; unless the child is accompanied by their own parent.

xv. Staff shall actively supervise residents and/or children engaged in water activities and shall be able to see all parts of the swimming pool, including the bottom.

10. Reasonable and Prudent Parent Standard

a. The provider shall designate in writing at least one on-site staff person as the authorized representative to apply the reasonable and prudent parent standard to decisions involving the participation of a child of a resident who is in foster care or a resident who is in foster care and placed in the facility in age or developmentally appropriate activities. The staff person(s) designated as the authorized representative shall be at the licensed location at all times during the facility's hours of operation. The Licensing Section shall be notified in writing within five calendar days if there is a change to one of the designated representatives.

b. The authorized representative shall utilize the reasonable and prudent parent standard when making any decision involving the participation of a child of a resident who is in foster care or a resident who is in foster care and placed in the facility in age or developmentally appropriate activities.

c. The authorized representative shall receive training or training materials shall be provided on the use of the reasonable and prudent parent standard. Documentation of the reasonable and prudent parent training shall be maintained. The reasonable and prudent parent training or training materials, as developed or approved by DCFS, shall include, but is not limited to the following topic areas:

i. age- or developmentally-appropriate activities or items;

ii. reasonable and prudent parent standard;

iii. role of the provider and of DCFS; and

iv. allowing for normalcy for the resident or child while respecting the parent's residual rights.

B. Record Keeping

1. Administrative File

a. The provider shall have an administrative file that shall contain, at a minimum, the following:

i. a written program plan describing the services and programs offered by the provider;

ii. organizational chart of the provider;

iii. all leases, contracts, and purchase-of-service agreements to which the provider is a party;

iv. insurance policies. Every provider shall maintain in force at all times current comprehensive general liability insurance policy, property insurance, and insurance for all vehicles used to transport residents or children. This policy shall be in addition to any professional liability policies maintained by the provider and shall extend coverage to any staff member who provides transportation for any resident or child in the course and scope of his/her employment;

v. all written agreements with appropriately qualified professionals, or a state agency, for required professional services or resources not available from employees of the provider.

vi. written documentation of all residents' exits and entrances from facility property not covered under summary of attendance and leave. Documentation must include, at a minimum, date, time and destination.

2. Staff File

a. The provider shall have a personnel file for each staff that shall contain, at a minimum, the following:

i. the application for employment, including education, training, and experience;

ii. a criminal background check in accordance with state law:

(a). prior to employment, a Louisiana State Police fingerprint based criminal background check shall be conducted in the manner required by R.S. 15:587.1 and 46:51.2. Effective August 1, 2016, criminal background checks (CBC) shall be dated no earlier than 30 days of the individual being present in the facility or having access to the residents or children.

(b). the provider shall have a written policy and procedure for obtaining a criminal background check on persons as required in R.S. 15:587.1 and 46:51.2.

(c). no person, having any supervisory or other interaction with residents or children, shall be hired or on the premises of the facility until such person has submitted his or her fingerprints to the Louisiana Bureau of Criminal

Identification and Information and it has been determined that such person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C). This shall include any employee or non-employee who performs paid or unpaid work with the provider to include independent contractors, consultants, students, volunteers, trainees, or any other associated person, as defined in these rules.

(d). any employee who is convicted of or has pled nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue employment after such conviction or nolo contendere plea.

iii. evidence of applicable professional or paraprofessional credentials/certifications according to state law;

iv. signed and dated, written job description;

v. documentation of three signed and dated reference checks or telephone notes dated within three months prior to hire attesting affirmatively to the individual's character, qualifications, and suitability for the position assigned. References shall be obtained from individuals not related to the staff person;

vi. staff's hire and termination dates;

vii. documentation of current driver's license for operating provider or private vehicles in transporting residents or children of residents;

viii. annual performance evaluations signed and dated by the staff person and program director to include his/her interaction with residents and children, family, and other providers;

ix. personnel action, other appropriate materials, reports, and notes relating to the staff's employment with the facility;

x. state central registry disclosure forms (SCR 1) noting whether or not his/her name is currently recorded on the state central registry for a justified finding of abuse or neglect and he/she is the named perpetrator.

(a). Prior to employment, each prospective employee shall complete a state central registry disclosure form (SCR 1) as required in RS 46:1414.1. This information shall be reported prior to the individual being on the premises of the facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of any staff receiving notice of a justified (valid) determination of child abuse or neglect.

(i). The prospective paid staff (employee) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner or operator of the facility.

(ii). If a prospective staff (employee) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for employment at that time due to the state central registry disclosure. The director will provide the prospective employee with the risk evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested.

(iii). Individuals are not eligible for employment unless and until they provide written documentation from the Risk Evaluation Panel or the Division of Administrative Law expressly stating that they do not pose a risk to children/youth/residents.

(b). Current staff receiving notice of a justified (valid) determination of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) determination as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section management staff within three business days or upon being on the premises, whichever is sooner. Staff will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation on an SCR 2 form in accordance with LAC 67:I.305 or shall be terminated immediately.

(i). If the staff person will no longer be employed at the facility, the provider shall submit a signed, dated statement indicating that the staff will not be on the premises of the facility at any time.

(ii). Immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued employment the staff person shall be directly supervised by a paid staff (employee) of the facility who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the staff is under continuous direct supervision by a paid staff who has not disclosed that their name appears with a justified (valid) finding on the state central registry. When these conditions are met, the staff (employee) may be counted in ratio. Under no circumstances may the staff person with the justified finding be left alone and unsupervised with the children pending the disposition by the Risk Evaluation Panel or the Division of Administrative Law that the staff person does not pose a risk to children/youth/residents.

(iii). If the Risk Evaluation Panel finds the individual does pose a risk to children/youth/residents and the individual chooses not to appeal the finding, the staff (employee) shall be terminated immediately.

(iv). If the Risk Evaluation Panel finds the individual does pose a risk to children/youth/residents and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the staff (employee) shall continue to be under direct supervision at all times by another paid employee of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children/youth/residents. Supervision may end upon receipt of the ruling from the Division of Administrative Law that they do not pose a risk to children/youth/residents.

(v). If the Division of Administrative Law upholds the Risk Evaluation Panel finding that the individual does pose a risk to children/youth/residents, the individual shall be terminated immediately.

(c). Any owner, operator, current or prospective employee, or volunteer of a facility requesting licensure by DCFS and/or a facility licensed by DCFS is prohibited from working in a facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse

or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children/youth/residents.

b. Staff shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

3. Accounting File

a. The provider shall establish a system of business management and staffing to assure maintenance of complete and accurate accounts, books, and records.

b. The provider shall ensure that all entries in records are legible, signed by the person making the entry, and accompanied by the date on which the entry was made.

c. All records shall be maintained in an accessible, standardized order and format, and shall be retained and disposed of according to state and federal law.

d. The provider shall have sufficient space, facilities, and supplies for providing effective accounting record keeping services.

4. Resident Record

a. Active Record. The provider shall maintain a separate active record for each resident and child. The records shall be maintained in an accessible, standardized order and format. The records shall be current and complete and shall be maintained in the facility in which the resident and child resides and readily available to facility staff. The provider shall have sufficient space, facilities, and supplies for providing effective storage of records. The records shall be available for inspection by the department.

b. Each resident's record shall contain at least the following information:

i. resident's name, date of birth, Social Security number, previous home address, sex, religion, and birthplace of the resident;

ii. dates of admission and discharge;

iii. other identification data including documentation of court status, legal status or legal custody and who is authorized to give consents;

iv. for residents placed from other states, proof of compliance with the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children, and the Interstate Compact on Mental Health, when indicated. Proof of compliance shall include clearance letters from the compact officers of each state involved;

v. name, address, and telephone number of the legal guardian(s), and parent(s), if appropriate;

vi. name, address, and telephone number of a physician and dentist to be called in an emergency;

vii. resident's authorization for routine and emergency medical care;

viii. the pre-admission screening and admission assessment. If the resident was admitted as an emergency admission, a copy of the emergency admission note shall be included as well;

ix. resident's history including family data, educational background, employment record, prior medical history, and prior placement history;

x. a copy of the physical assessment report;

xi. reports of assessments and of any special problems or precautions;

xii. individual service plan, updates, and quarterly reviews;

xiii. continuing record of any illness, injury, or medical or dental care when it impacts the resident's ability to function or impacts the services he or she needs;

xiv. reports of any incidents of abuse, neglect, or incidents, including use of time-out, personal restraints, or seclusion;

xv. photo of resident updated at least annually;

xvi. a summary of court visits;

xvii. a summary of all visitors and contacts including dates, name, relationship, telephone number, address, the nature of such visits/contacts, and feedback from the family;

xviii. a record of all personal property and funds, which the resident has entrusted to the facility;

xix. reports of any resident grievances and the conclusion or disposition of these reports;

xx. written acknowledgment that the resident has received clear verbal explanation and copies of his/her rights, the house rules, written procedures for safekeeping of his/her valuable personal possessions, written statement explaining his/her rights regarding personal funds, and the right to examine his/her record;

xxi. all signed informed consents;

xxii. a discharge summary; and

xxiii. immunization record within 30 calendar days of admission.

c. Each child's record shall contain at least the following information:

i. child's information form signed and dated by the legal guardian and updated as changes occur, listing:

(a). the child's name, date of birth, sex, date of admission;

(b). name of parent(s) and legal guardian;

(c). name and telephone number of child's physician;

(d). name and telephone number of the child's dentist, (if applicable);

(e). any special concerns, including but not limited to allergies, chronic illness, and any special needs of the child, (if applicable);

(f). any special dietary needs, restrictions, or food allergies/intolerances, (if applicable);

(g). name and telephone number of child's caseworker, (if applicable); and

(h). written authorization to care for child from legal guardian.

ii. For residents that retain custody of their children, a written authorization signed and dated by the resident to secure emergency medical treatment in the event the child is left in the care of staff.

iii. For residents that retain custody of their children, a written authorization signed and dated by the resident noting the first and last names of individuals to whom the child may be released, including child care facilities, transportation services, or any person or persons who remove the child from the facility.

(a). The provider shall verify the identity of the authorized person prior to releasing the child.

d. For residents that retain custody of their children, the provider shall obtain written, informed consent from the resident prior to releasing any information, recordings, or photographs from which the child might be identified, except for authorized state and federal agencies. This one time written consent shall be obtained from the resident and updated as changes occur.

e. Provider shall have a signed and dated shared responsibility plan between the resident and provider detailing how they will share the rights and responsibilities of meeting the child's daily needs to include, but not limited to, who will care for the child at certain times and days of the week, who is responsible for supervising, feeding, changing, bathing, tending to the developmental needs of the child, and purchasing items for the child.

f. If the resident does not retain custody of her child, the provider shall have a written individual child care agreement for each child with the person or agency holding custody of the child.

g. If the resident retains custody of her child, the provider shall obtain written authorization signed and dated by the resident to transport her child on a regular basis shall include (if staff transports without resident):

i. name of child;

ii. type of service (to and from home, and to and from school to include the name of the school); and

iii. names of individuals or school to whom the child may be released.

C. Confidentiality of Records

1. The provider shall have written policies and procedures for the maintenance, security and retention of records. The provider shall specify who shall supervise the maintenance of records, who shall have custody of records, to whom records may be released, and disposition or destruction of closed service record materials. Records shall be the property of the provider, and the provider, as custodian, shall secure records against loss, tampering, or unauthorized use or access.

2. The provider shall maintain the confidentiality of all records to include all court related documents, as well as, educational and medical records. Every employee of the provider has the obligation to maintain the privacy of the resident, child, and his/her family and shall not disclose or knowingly permit the disclosure of any information concerning the resident, child or his/her family, directly or indirectly, to other residents or children in the facility or any other unauthorized person.

3. When the resident is of majority age and not interdicted, a provider shall obtain the resident's written, informed permission prior to releasing any information from which the resident or his/her family might be identified, except for authorized state and federal agencies.

4. When the resident is a minor or is interdicted, the provider shall obtain written, informed consent from the legal guardian(s) prior to releasing any information from which the resident might be identified, except for accreditation teams and authorized state and federal agencies.

5. When the resident retains custody of her child the provider shall obtain written, informed consent from the resident prior to releasing any information from which the resident might be identified, except for accreditation teams and authorized state and federal agencies.

6. When the resident does not retain custody of her child, the provider shall obtain written, informed consent from the legal guardian(s) prior to releasing any information from which the child might be identified, except for accreditation teams and authorized state and federal agencies.

7. The provider shall, upon written authorization from the resident or his/her legal guardian(s), make available information in the record to the resident, his/her counsel or the resident's legal guardian(s). If, in the professional judgment of the administration of the provider, it is felt that information contained in the record would be injurious to the health or welfare of the resident, the provider may deny access to the record. In any such case, the provider shall prepare written reasons for denial to the person requesting the record and shall maintain detailed written reasons supporting the denial in the resident's file.

8. The provider may use material from the residents' or children's records for teaching and research purposes, development of the governing body's understanding, and knowledge of the provider's services, or similar educational purposes, provided names are deleted, other identifying information are disguised or deleted, and written authorization is obtained from the resident or his/her legal guardian(s).

9. Staff Communication

a. The provider shall establish procedures to assure adequate communication among staff to provide continuity of services to the residents and children. This system of communication shall include recording and sharing of daily information noting unusual circumstances, individual and group problems of residents and children, and other information requiring continued action by staff. Documentation shall be legible, signed, and dated by staff.

b. Effective August 1, 2016, a daily log/record for all children, to include first and last name and in/out times shall be maintained. This record shall accurately reflect all children on the premises at any given time.

D. Incidents

1. Critical Incidents. The provider shall have written policies and procedures for documenting, reporting, investigating, and analyzing all critical incidents.

a. The provider shall report any of the following critical incidents to the Louisiana Child Protection Statewide Centralized Intake Hotline 1-855-4LA-KIDS (1-855-452-5437), resident's or child's assigned caseworker, and the Licensing Section:

i. abuse;

ii. neglect;

iii. injuries of unknown origin;

iv. death;

v. attempted suicide;

vi. serious threat or injury to the health, safety, or well-being of the resident or child, i.e., elopement or unexplained absence of a resident or child;

vii. injury with substantial bodily harm while in seclusion or during use of personal restraint; or

viii. unplanned hospitalizations, emergency room visits, and emergency urgent care visits.

b. The program director or designee shall:

i. immediately verbally notify the legal guardian of the incident;

ii. immediately verbally notify the appropriate law enforcement authority in accordance with state law;

iii. submit the mandated critical incident report form within 24 hours of the incident to Louisiana Child Protection Statewide Centralized Intake and Licensing;

iv. if requested, submit a final written report of the incident to the legal guardian as soon as possible, but no later than five working days of the incident;

v. conduct an analysis of the incident and take appropriate corrective steps to prevent future incidents from occurring;

vi. maintain copies of any written reports or notifications in the resident's or child's record;

vii. ensure that a staff person accompanies residents and children when emergency services are needed.

2. Other Incidents. The provider shall have written policies and procedures for documenting, reporting, investigating, and analyzing all other accidents, incidents, and other situations or circumstances affecting the health, safety, or well-being of a resident or child.

a. The provider shall initiate a detailed report of any other unplanned event or series of unplanned events, accidents, incidents, and other situations or circumstances affecting the health, safety, or well-being of a resident or child excluding those identified in Subparagraph D.1.a of this Section within 24 hours of the incident.

3. When a child residing in the facility with their parent, sustains any of the following, the resident shall be immediately notified:

a. blood not contained in an adhesive strip;

b. injury of the neck and head;

c. eye injury;

d. human bite which breaks the skin;

e. any animal bite;

f. an impaled object;

g. broken or dislodged teeth;

h. allergic reaction skin changes (e.g. rash, spots, swelling, etc.);

i. unusual breathing;

j. symptoms of dehydration;

k. any temperature reading over 101 oral, 102 rectal, or 100 axillary; or

l. any injury or illness requiring professional medical attention.

4. The provider shall not delay seeking care while attempting to make contact with the resident or legal guardian in a situation which requires emergency medical attention.

5. At a minimum, the incident report for critical and other incidents shall contain the following:

a. date and time the incident occurred;

b. a brief description of the incident;

c. where the incident occurred;

d. names of residents, children, or staff involved in the incident;

e. immediate treatment provided, if any;

f. symptoms of pain and injury discussed with the physician;

g. signature of the staff completing the report;

h. name and address of witnesses;

i. date and time the legal guardian was notified;

j. any follow-up required;

k. preventive actions to be taken in the future; and

l. documentation of actions regarding staff involved to include corrective action.

6. A copy of all written reports shall be maintained in the resident's or child's record.

E. Abuse and Neglect

1. The provider shall establish and follow a written, abuse/neglect policy that includes the following information:

a. describes communication strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, mandated reporting requirements to the child protection agency and applicable laws;

b. ensures the resident and child are protected from potential harassment during the investigation;

c. ensures that the provider shall not delay reporting suspected abuse and/or neglect to the Child Protection Statewide Hotline in an attempt to conduct an internal investigation to verify the abuse/neglect allegations;

d. ensures that the provider shall not require any staff, including unpaid staff, to report suspected abuse/neglect to the provider or management prior to reporting to the Child Protection Statewide Hotline 1-855-4LA-KIDS (1-855-452-5437);

e. ensures the staff member involved in the incident does not work directly with the resident or child involved in the program until an internal investigation is conducted by the facility or the child protection unit makes an initial report;

f. ensures the staff member that may have been involved in the incident is not involved in conducting the investigation;

g. ensures that confidentiality of the incident is protected.

2. As mandated reporters, all staff and owners shall report any suspected abuse and/or neglect of a resident or child whether that abuse or neglect was perpetrated by a staff member, a family member, or any other person in accordance with R.S 14:403 to the Louisiana Child Protection Statewide Hotline 1-855-4LA-KIDS (1-855-452-5437). This information shall be posted in an area regularly used by residents.

3. After reporting suspected abuse and/or neglect as required by Louisiana law, provider shall notify licensing. At a minimum the report shall contain:

a. name of suspected resident or child victim of alleged child abuse and/or neglect;

b. address and telephone number of where suspected victim may be contacted;

c. name(s) of alleged perpetrator(s);

d. alleged perpetrator(s)' address;

e. nature, extent, and cause of resident's or child's injury, neglect or condition;

f. current circumstance of resident or child and if resident is currently in danger;

g. identify names of possible witnesses;

h. identify how incident came to reporter's attention;

i. have other incidents of suspected abuse and/or neglect been reported regarding this resident, child, or alleged perpetrator;

j. any other pertinent information; and

k. name of person reporting to child protection and time of notification.

F. Grievance Process

1. The provider shall have a written policy and procedure, which establishes the right of every resident and the resident's legal guardian(s) to file grievances without fear of retaliation.

2. The written grievance procedure shall include, but not be limited to:

a. a formal process for the resident and the resident's legal guardian(s) to file grievances that shall include procedures for filing verbal, written, or anonymous grievances; and

b. a formal process for the provider to communicate with the resident and/or legal guardian about the grievance within five calendar days of receipt of the grievance;

3. The provider shall document that the resident and the resident's legal guardian(s) are aware of and understand the grievance and complaint policy and procedure and have been provided a written copy.

4. The provider shall maintain a log documenting all verbal, written, or anonymous grievances filed.

5. Documentation of any resident's or resident's legal guardian(s)' grievance and the conclusion or disposition of these grievances shall be maintained in the resident's record. This documentation shall include any action taken by the provider in response to the grievance and any follow up action involving the resident.

G. Data Collection and Quality Improvement

1. The provider shall have a written policy and procedure for maintaining a quality improvement program to include:

a. systematic data collection and analysis of identified areas that require improvement;

b. objective measures of performance;

c. at least monthly review of resident's and children's records;

d. quarterly review of incidents and the use of personal restraints and seclusion to include documentation of the date, time, and identification of residents and staff involved in each incident to include a critical analysis of the incidents to note patterns of behavior by specific residents or specific staff; and

e. implementation of plans of action to improve in identified areas.

2. Documentation related to the quality improvement program shall be maintained for at least two years.

H. Family Involvement. The provider shall have written strategies to foster ongoing positive communication and contact between children, residents, and their families, their friends, and others significant in their lives.

I. Influenza Notice to Parents

1. In accordance with R.S. 46:1428 providers shall make available to each resident's parent or legal guardian and to each youth aged eighteen or above information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a resident or youth may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Children and Family Services and shall be made available to parents or legal guardians prior to November 1 of each year. This information shall also be provided to residents with children residing in the facility.

J. Recalled Products

1. The provider shall post the current copy of "The Safety Box" newsletter issued by the Office of the Attorney General as required by chapter 55 of title 46 of R.S. 46:2701–2711. Items listed as recalled in the newsletter shall not be used and shall be immediately removed from the premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:811 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:979, 984 (April 2012), LR 42:221 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7113. Admission and Discharge

A. Admission

1. Policies and Procedures

a. The provider shall have written policies and procedures that shall include, at a minimum, the following information regarding an admission to the facility:

i. the application process and the possible reasons for rejection of an application;

ii. pre-admission screening assessment;

iii. the age and sex of residents and children to be served;

iv. the needs, problems, situations, or patterns best addressed by the provider's program;

v. criteria for admission;

vi. authorization for care of the resident and child;

vii. authorization to obtain medical care for the resident and child;

viii. criteria for discharge;

ix. procedures for insuring that placement within the program are the least restrictive alternative, appropriate to meet the resident's needs.

b. No resident shall be admitted from another state unless the provider has first complied with all applicable provisions of the Interstate Compact on Juveniles, the Interstate Compact on Placement of Children, and the Interstate Compact on Mental Health. Proof of compliance shall be obtained prior to admission and shall be kept in the resident's file.

c. When refusing admission to a resident or child, the provider shall notify the referring party of the reason for refusal of admission in writing. If his/her parent(s) or legal guardian(s) referred the resident, he/she shall be provided written reasons for the refusal. Copies of the written reasons for refusal of admission shall be kept in the provider's administrative file.

2. Pre-Admission Screening

a. The provider shall receive an assessment of the applicant from the placing agency prior to admission that identifies services that are necessary to meet the resident's needs and verifies that the resident cannot be maintained in a less restrictive environment within the community. This assessment shall be maintained in the resident's record. The provider shall conduct the pre-admission screening within 24 hours of admission to assess the applicant's needs and appropriateness for admission and shall include the following:

i. current health status and any emergency medical needs, mental health, and/or substance abuse issues;

ii. allergies;

iii. chronic illnesses or physical disabilities;

iv. current medications and possible side effects;

v. any medical illnesses or condition that would prohibit or limit the resident's activity or behavior plan;

vi. proof of legal custody or individual placing agency agreement;

vii. other therapies or ongoing treatments;

viii. family information; and

ix. education information.

b. Information gathered from the preadmission screening shall be confirmed with resident and legal guardian, (if applicable).

3. Admission Assessment

a. An admission assessment shall be completed within three business days of admission to determine the service needs and preferences of the resident. This admission assessment shall be maintained in the resident's record. Information gathered from the pre-admission screening and the admission assessment shall be used to develop the interim service plan for the resident.

B. Service Plan

1. Within 15 days of admission, the provider, with input from the resident, his/her parents, if appropriate and legal guardian shall develop an interim service plan using information gathered from the pre-admission screening and the admission assessment. This interim service plan shall include:

a. the services required to meet the resident's needs;

b. the scope, frequency, and duration of services;

c. monitoring that will be provided; and

d. who is responsible for providing the services, including contract or arranged services.

2. Within 30 days of admission, the provider shall have documentation that a resident has an individual service plan developed that is comprehensive, time-limited, goal-oriented, and addresses the needs of the resident. The service plan shall include the following components:

a. a statement of goals to be achieved for the resident and his/her family;

b. plan for fostering positive family relationships for the resident, when appropriate;

c. schedule of the daily activities including training/education for residents and recreation to be pursued by the program staff and the resident in attempting to achieve the stated goals;

d. any specific behavior management plan:

i. the provider shall obtain or develop, with the participation of the resident and his/her legal guardian or family, an individualized behavior management plan for each resident receiving service. Information gathered from the pre-admission screening and the admission assessment will be used to develop the plan. The plan shall include, at a minimum, the following:

(a). identification of the resident's triggers;

(b). the resident's preferred coping mechanisms;

(c). techniques for self-management;

(d). anger and anxiety management options for calming;

(e). a review of previously successful intervention strategies;

(f). a summary of unsuccessful behavior management strategies;

(g). identification of the resident's specific targeted behaviors;

(h). behavior intervention strategies to be used;

(i). the restrictive interventions to be used, if any;

(j). physical interventions to be used, if any; and

(k). specific goals and objectives that address target behaviors requiring physical intervention;

e. any specialized services provided directly or arranged for will be stated in specific behavioral terms that permit the problems to be assessed and methods for insuring their proper integration with the resident's ongoing program activities;

f. any specific independent living skills needed by the resident which will be provided or obtained by the facility staff;

g. overall goals and specific objectives that are time limited;

h. methods for evaluating the resident's progress;

i. use of community resources or programs providing service or training to that resident, and shall involve representatives of such services and programs in the service planning process whenever feasible and appropriate. Any community resource or program involved in a service plan shall be appropriately licensed or shall be a part of an approved school program;

j. any restriction to residents' "rights" deemed necessary to the resident's individual service plan. Any such restriction shall be expressly stated in the service plan, shall specifically identify the right infringed upon, and the extent and duration of the infringement, and shall specify the reasons such restriction is necessary to the service plan, and the reasons less restrictive methods cannot be employed;

k. goals and preliminary plans for discharge;

l. identification of each person responsible for implementing or coordinating implementation of the plan;

m. mental health screening; and

n. developmental and psychological assessments.

3. The service plan shall be developed by a team including, but not limited to, the following:

a. service plan manager;

b. representatives of the direct care staff working with the resident on a daily basis;

c. the resident;

d. the resident's parent(s), if indicated;

e. the resident's legal guardian(s); and

f. any other person(s) significantly involved in the resident's care on an ongoing basis.

4. All team participants shall sign the completed service plan.

5. The service plan shall be monitored by the team on an ongoing basis to determine its continued appropriateness and to identify when a resident's condition or preferences have changed. A team meeting shall be held at least quarterly. The quarterly review shall be signed and dated by all team participants.

6. The provider shall ensure that all persons working directly with the resident are appropriately informed of the service plan and have access to information from the resident's records that is necessary for effective performance of the employee's assigned tasks.

7. The provider shall document that the resident, parent(s), where applicable, and the legal guardian have been invited to participate in the planning process. When they do not participate, the provider shall document the reasons for nonparticipation.

8. All service plans including quarterly reviews shall be maintained in the resident's record.

C. Discharge

1. The provider shall have a written policy and procedure for all discharges. The discharge procedure shall include at least the following:

a. projected date of discharge;

b. responsibilities of each party (provider, resident, family) with regard to the discharge and transition process;

c. transfer of any pertinent information regarding the resident's stay at the facility; and

d. follow-up services, if any and the responsible party.

2. Emergency discharges initiated by the provider shall take place only when the health and safety of a resident or other residents might be endangered by the resident's further stay at the facility. The provider shall have a written report detailing the circumstances leading to each unplanned discharge within seven calendar days of the discharge. The discharge summary is to be kept in the resident's record and shall include:

a. the name and home address of the resident, the resident's parent(s), where appropriate, and the legal guardian(s);

b. the name, address, and telephone number of the provider;

c. the reason for discharge and, if due to resident's unsuitability for provider's program, actions taken to maintain placement;

d. a summary of services provided during care including medical, dental, and health services;

e. a summary of the resident's progress and accomplishments during care; and

f. the assessed needs that remain to be met and alternate service possibilities that might meet those needs.

3. When a discharge is planned, the provider shall compile or obtain a complete written discharge summary within 30 days of discharge. The discharge summary is to be kept in the resident's record and shall include:

a. the name and home address of the resident, the resident's parent(s), where appropriate, and the legal guardian(s);

b. the name, address, and telephone number of the provider;

c. the reason for discharge and, if due to resident's unsuitability for provider's program, actions taken to maintain placement;

d. a summary of services provided during care including medical, dental, and health services;

e. a summary of the resident's progress and accomplishments during care; and

f. the assessed needs that remain to be met and alternate service possibilities that might meet those needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

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§7115. Resident Protection

A. Rights

1. Provider Responsibility

a. The provider shall have written policies and procedures that ensure each resident's and child's rights are guaranteed and protected.

b. None of the resident's rights shall be infringed upon or restricted in any way unless such restriction is necessary to the resident's individual service plan. When individual rights restrictions are implemented, the provider shall clearly explain and document any restrictions or limitations on those rights, the reasons that make those restrictions medically necessary in the resident's individual service plan and the extent and duration of those restrictions. The documentation shall be signed by provider staff, the resident, and the legal guardian(s) or parent(s), if indicated. No service plan shall restrict the access of a resident to legal counsel or restrict the access of state or local regulatory officials to a resident.

c. Residents and children of residents with disabilities have the rights guaranteed to them under the Americans with Disabilities Act (ADA), 42 USC §12101 et seq., and regulations promulgated pursuant to the ADA, 28 CFR Parts 35 and 36 and 49 CFR Part 37; section 504 of the Rehabilitation Act of 1973, as amended, 29 USC §794, and regulations promulgated pursuant thereto, including 45 CFR Part 84. These include the right to receive services in the most integrated setting appropriate to the needs of the individual; to obtain reasonable modifications of practices, policies, and procedures where necessary (unless such modifications constitute a fundamental alteration of the provider's program or pose undue administrative burdens); to receive auxiliary aids and services to enable equally effective communication; to equivalent transportation services; and to physical access to a provider's facilities.

2. Privacy

a. Residents and children have the right to personal privacy and confidentiality. Any records and other information about the resident or child shall be kept confidential and released only with the legal guardian's expressed written consent or as required by law.

b. A child shall not be photographed or recorded without the express written consent of the resident or the child's legal guardian(s). A resident shall not be photographed or recorded without the express written

consent of the resident and the resident's legal guardian(s). All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the child and resident.

c. Residents nor children shall participate in research projects without the express written consent of the resident, child, and the legal guardian(s).

d. Residents nor children shall participate in activities related to fundraising and publicity without the express written consent of the resident, child, and the legal guardian(s).

3. Contact with Family and Collaterals

a. A child and resident have the right to consult freely and have visits with his/her family (including but not limited to his or her mother, father, grandparents, brothers, and sisters), legal guardian(s) and friends subject only to reasonable rules. Special restrictions shall be imposed only to prevent serious harm to the child or resident. The reasons for any special restrictions shall be recorded in the child's record or resident's service plan, as applicable and explained to the child, resident, and his or her family. The service plan manager shall review the special restrictions every 30 days and, if restrictions are renewed, the reasons for renewal shall be recorded in the child's record or resident's service plan, as applicable. Home visits shall not be restricted without approval from the legal guardian.

b. A child and resident have the right to telephone communication. The provider shall allow children and residents to receive and place telephone calls in privacy subject only to reasonable rules and to any specific restrictions in the child's record or resident's service plan, as applicable. The service plan manager shall formally approve any restriction on telephone communication in a child's record or resident's service plan, as applicable. The service plan manager shall review the special restrictions every 30 days and, if restrictions are renewed, the reasons for renewal shall be recorded in the child's record or resident's service plan, as applicable. The cost for long distance calls shall not exceed the usual and customary charges of the local phone company provider. There shall be no restrictions on communication between a child and their legal counsel.

c. A child and resident have the right to send and receive mail. The provider shall allow children and residents to receive mail unopened, uncensored, and unread by staff unless contraindicated in the child's record or resident's service plan, as applicable. The service plan manager shall review this restriction every 30 days. No service plan or record shall restrict the right to write letters in privacy and to send mail unopened, uncensored, and unread by any other person. Correspondence from a child's or resident's legal counsel shall be opened, read, or otherwise interfered with for any reason. Children and residents shall have access to all materials necessary for writing and sending letters and, when necessary, shall receive assistance.

d. Children and residents have the right to consult freely and privately with legal counsel, as well as, the right to employ legal counsel of their choosing.

e. Children and residents have the right to communicate freely and privately with state and local regulatory officials.

4. Safeguards

a. Residents and children have the right to file grievances without fear of reprisal as provided in the grievances section of these standards.

b. Residents and children have the right to be free from mental, emotional, and physical abuse and neglect and be free from chemical or mechanical restraints. Any use of personal restraints shall be reported to the legal guardians(s).

c. Residents and children have the right to live within the least restrictive environment possible in order to retain their individuality and personal freedom.

5. Civil Rights

a. Residents' nor children's civil rights shall be abridged or abrogated solely as a result of placement in the provider's program.

b. A resident nor child shall be denied admission, segregated into programs, or otherwise subjected to discrimination on the basis of race, color, religion, national origin, sexual orientation, physical limitations, political beliefs, or any other non-merit factor. Facilities must comply with the requirements of the Americans with Disabilities Act, 42 USC §12101 et seq. (ADA).

6. Participation in Program Development

a. A resident has the right to refuse treatment.

b. Residents and children have the right to be treated with dignity in the delivery of services.

c. Residents and children have the right to receive preventive, routine, and emergency health care according to individual needs which will promote his or her growth and development.

d. Residents and children have the right to be involved, as appropriate to age, development, and ability in assessment and service planning.

e. Residents and children have the right to consult with clergy and participate in religious services in accordance with his/her faith, but shall not be forced to attend religious services. The provider shall have a written policy of its religious orientation, particular religious practices that are observed, and any religious restrictions on admission. This description shall be provided to the resident, child, and the legal guardian(s). When appropriate, the provider shall determine the wishes of the legal guardian(s) with regard to religious observance and make every effort to ensure that these wishes are carried out. The provider shall, whenever possible, arrange transportation and encourage participation by those residents or children who desire to participate in religious activities in the community.

7. Acknowledgement of Rights

a. Each resident shall be fully informed of all rights noted in Paragraphs A.1-6 of this Section and of all rules and regulations governing residents' conduct and responsibilities, as evidenced by written acknowledgment, at the time of admission of the receipt of a copy of resident's rights, and when changes occur. Each resident's record shall contain a copy of the written acknowledgment, which shall be signed and dated by the program director, or designee, and the resident and/or his or her legal guardian.

B. Prohibited Practices

1. The provider shall have a written list of prohibited practices by staff members. Staff members shall not be

allowed to engage in any of the prohibited practices. Staff shall not promote or condone these prohibited practices between residents or children. This list shall include the following:

a. use of a chemical or mechanical restraint;

b. corporal punishment such as slapping, spanking, paddling or belting;

c. marching, standing, or kneeling rigidly in one spot;

d. any kind of physical discomfort except as required for medical, dental or first aid procedures necessary to preserve the resident's or child's life or health;

e. denial or deprivation of sleep or nutrition except under a physician's order;

f. denial of access to bathroom facilities;

g. verbal abuse, ridicule, or humiliation, shaming or sarcasm;

h. withholding of a meal, except under a physician's order;

i. requiring a resident or child to remain silent for a long period of time;

j. denial of shelter, warmth, clothing, or bedding;

k. assignment of harsh physical work;

l. punishing a group of residents or children for actions committed by one or a selected few; a group activity shall not be cancelled for the entire group, prior to the activity, due to the behavior of one or more individuals;

m. withholding family visits or communication with family;

n. extensive withholding of emotional response;

o. denial of school services or denial of therapeutic services;

p. other impingements on the basic rights of children or residents for care, protection, safety, and security;

q. organized social ostracism, such as codes of silence;

r. pain compliance, slight discomfort, trigger points, pressure points, or any pain inducing techniques;

s. hyperextension of any body part beyond normal limits;

t. joint or skin torsion;

u. pressure or weight on head, neck, throat, chest, lungs, sternum, diaphragm, back, or abdomen, causing chest compression;

v. straddling or sitting on any part of the body;

w. any position or maneuver that obstructs or restricts circulation of blood or obstructs an airway;

x. any type of choking;

y. any type of head hold where the head is used as a lever to control movement of other body parts;

z. any maneuver that involves punching, hitting, poking, pinching, or shoving;

aa. separation of a resident and her child as a means of punishment shall be prohibited;

bb. punishment for actions over which the child has no control such as bedwetting, enuresis, encopresis, or incidents that occur in the course of toilet training activities;

cc. use of threats or threatening an individual with a prohibited action even though there is/was no intent to follow through with the threat;

dd. cruel, severe, unusual, degrading, or unnecessary punishment;

ee. yelling, yanking, shaking;

ff. requiring a child or resident to exercise or placing a child or resident into uncomfortable positions;

gg. exposing a child or resident to extreme temperatures or other measures producing physical pain;

hh. putting anything in a resident's or child's mouth; or

ii. using abusive or profane language, including but not limited to telling a child to "shut up"; or

jj. any technique that involves mouth, nose, eyes or any part of the face or covering the face or body.

2. The resident and child, where appropriate, and the resident's legal guardian(s) shall receive a list of the prohibited practices. There shall be documentation signed and dated acknowledging receipt of the list of prohibited practices by the resident and, where appropriate, the child and resident's legal guardian(s) in the record.

3. A list of prohibited practices shall be posted in the facility in an area regularly utilized by residents.

C. Behavior Support and Intervention Program

1. The provider shall have a behavior support and intervention program that:

a. describes the provider's behavior support philosophy;

b. safeguards the rights of residents, children, families, and staff;

c. governs allowed and prohibited practices; and

d. designates oversight responsibilities.

2. The provider shall have written policies and procedures that include, but are not limited to:

a. a behavior support and intervention model consistent with the provider's mission;

b. proactive and preventive practices;

c. development of behavior support plans for residents and children;

d. prohibited behavior intervention practices;

e. restrictive practices, if any, that are allowed and circumstances when they can be used;

f. physical interventions to be used, if any;

g. informed consent of legal guardians for use of behavior support and interventions; and

h. oversight process.

3. An informed consent shall be obtained from the legal guardian for the use of any restrictive intervention.

4. There shall be a system in place that monitors the effectiveness of behavior support and interventions implemented.

5. All persons implementing physical interventions shall be trained and certified in behavior management under nationally accredited standards.

6. Participation by the resident, family, and the resident's legal guardian(s) in the development and review of the behavior support plan shall be documented in the resident's record.

7. There shall be documentation of written consent to the behavior support plan by the resident and the resident's legal guardian(s) in the resident's record.

D. Time-Out

1. The provider shall have a written policy and procedure that governs the use of time-out to include the following:

a. any room used for time out shall be unlocked and the resident or child shall, at all times, be free to leave if he or she chooses;

b. time-out procedures shall be used only when less restrictive measures have been used without effect. There shall be written documentation of less restrictive measures used in the resident's or child's record;

c. emergency use of time-out for residents shall be approved by the service plan manager or program director for a period not to exceed one hour;

d. time-out used in an individual behavior support plan for residents shall be part of the overall service plan;

e. the plan shall state the reasons for using time-out and the terms and conditions under which time-out will be terminated or extended, specifying a maximum duration of the use of the procedure that shall under no circumstances exceed two hours for residents;

f. staff shall make periodic checks but at least every 15 minutes while the resident is in time-out;

g. the resident shall be allowed to return to the daily milieu at any time he/she has regained control of his/her behavior and is ready to participate in the group activities;

h. a resident or child in time-out shall not be denied access to bathroom facilities, water, or meals;

i. after each use of time out, the staff shall document the incident and place in the resident's record;

j. an administrative review of the incident by the program director or other facility management staff shall be conducted within three calendar days to include an analysis of specific precipitating factors and strategies to prevent future occurrences;

k. time-out shall not be used for children under two years of age;

l. the length of time out for children 2 years – 5 years of age shall be based on the age of the child and shall not exceed a maximum of one minute per year of age. Provider shall take into account the child's developmental stage, tolerances, and ability to learn from time-out.

E. Personal Restraints

1. The provider shall have a written policy and procedure that governs the use of personal restraints.

2. Use of personal restraints shall never be used as a form of punishment, a form of discipline, in lieu of adequate staffing, as a replacement of active treatment or for staff convenience.

3. Written documentation of any less restrictive measures attempted shall be documented in the resident's record.

4. A personal restraint shall be used only in an emergency when a resident's behavior escalates to a level where there is imminent risk of harm to the resident or others and other de-escalation techniques have been attempted without effect. The emergency use of personal restraints shall not exceed the following:

a. 30 minutes for a resident under nine years old; or

b. one hour for a resident nine years old or older.

5. The specific maximum duration of the use of personal restraints as noted in Paragraph E.4 of this Section may be exceeded only if prior to the end of the time period, a written continuation order noting clinical justification is obtained from a licensed psychiatrist, psychologist, or physician. The maximum time for use of personal restraints shall be 12 hours.

6. During any personal restraint, staff qualified in emergency behavior intervention must monitor the resident's breathing and other signs of physical distress and take appropriate action to ensure adequate respiration, circulation, and overall well-being. If available, staff that is not restraining the resident should monitor the resident. The resident must be released immediately when an emergency health situation occurs during the restraint. Staff must obtain treatment immediately.

7. The resident must be released as soon as the resident's behavior is no longer a danger to himself or others.

8. Restraints are only to be used by employees trained by a certified trainer under a program that aligns with the nationally accredited standards. A single person restraint can only be initiated in a life-threatening crisis. Restraint by a peer is prohibited. Staff performing a personal restraint on a resident with specific medical conditions must be trained on risks posed by such conditions.

9. As soon as possible after the use of a personal restraint, the provider shall provide and document debriefing. Separate debriefing meetings must be held with senior staff and the staff members(s) involved, the resident involved, witnesses to the event, and family members, if indicated.

10. After use of a personal restraint, the staff shall document the incident and place in the resident's record.

11. An administrative review of the incident by the program director or other facility management staff shall be conducted within three calendar days to include an analysis of specific precipitating factors and strategies to prevent future occurrences.

12. All incidents of personal restraint use shall be trended in the quality improvement program. A summary report on the use of personal restraints will be prepared and submitted to the Licensing Section on a quarterly basis.

13. In the event a death occurs during the use of a personal restraint, the facility shall conduct a review of its personal restraint policies and practices and retrain all staff in the proper techniques and in methods of de-escalation and avoidance of personal restraint use within five calendar days. Documentation to include staff signatures and date of training shall be submitted to the Licensing Section.

F. Seclusion

1. The provider shall have a written policy and procedure that governs the use of seclusion, if such a room exists in the facility. Seclusion may only be used in accordance with this Subsection.

2. Use of seclusion shall never be used as a form of punishment, a form of discipline, in lieu of adequate staffing, as a replacement of active treatment or for staff convenience.

3. A resident will be placed in a seclusion room only in an emergency, when there is imminent risk of harm to the resident or others and when less restrictive measures have been used without effect. Written documentation of the less restrictive measures attempted shall be documented in the resident's record. The emergency use of seclusion shall not exceed the following:

a. one hour for a resident under nine years old; or

b. two hours for a resident nine years old or older.

4. The specific maximum duration of the use of seclusion as noted in Paragraph F.3 of this Section may be exceeded only if prior to the end of the time period, a written continuation order noting clinical justification is obtained from a licensed psychiatrist, psychologist, or physician. The maximum time for use of seclusion shall be 12 hours.

5. A staff member shall exercise direct physical observation of the resident at all times while in seclusion. During the seclusion, the staff must monitor the resident's physical well-being for physical distress and take appropriate action, when indicated. The resident must be released immediately when an emergency health situation occurs during the seclusion and staff must obtain treatment immediately. The staff member must assess the resident's psychological well-being to ensure that the intervention is being completed in a safe and appropriate manner and that the facility's policies and procedures are being upheld.

6. Seclusion used as part of an individual behavior support plan shall state the reasons for using seclusion and the terms and conditions under which seclusion shall be terminated or extended.

7. A resident in seclusion shall not be denied access to bathroom facilities, water or meals.

8. As soon as possible, but no later than 72 hours after the use of seclusion, the provider shall provide and document debriefing. Separate debriefing meetings must be held with senior staff and the staff member(s) involved, the resident involved, witnesses to the event, and family members, if indicated.

9. After use of seclusion, the staff shall document the incident and place in the resident's record.

10. An administrative review of the incident by the program director or other facility management staff shall be conducted within three calendar days to include an analysis of specific precipitating factors and strategies to prevent future occurrences.

11. All incidents of seclusion shall be trended in the quality improvement program. A summary report on the use of seclusion will be prepared and submitted to the Licensing Section on a quarterly basis.

12. The resident's legal guardian, the Louisiana Child Protection Statewide Hotline 1-855-4LA-KIDS (1-855-452-5437), and the Licensing Section shall be notified if injury or death occurs while the resident is in seclusion.

13. In the event a death occurs during the use of seclusion, the facility shall conduct a review of its seclusion policies and practices and retrain all staff in the proper use of seclusion and in methods of de-escalation and avoidance of seclusion within five calendar days. Documentation to include staff signatures and date of training shall be submitted to the Licensing Section.

14. Seclusion Room

a. The resident shall be unable to voluntarily leave the room.

b. The room shall be large enough to allow easy access for staff to enter and exit and deep enough to ensure that the person being secluded cannot keep the door from closing by blocking it with the body or an object.

c. The ceiling of the seclusion room shall be unreachable and of solid construction.

d. If there are windows in the seclusion room, they should be locked with security locks and not allowed to open to the outside. Safety glass or plastic that cannot be broken shall be used for the panes. The view from the door observation window must not be obstructed.

e. The inside walls of the seclusion room shall be smooth and capable of withstanding high impact. Nothing can protrude or extend from the wall.

f. The door of the room shall be a security rated door, shall be able to withstand high impact and stress and shall swing outward to prevent a person from blocking the door from opening and thus barricading himself in the room.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:819 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7117. Provider Services

A. Education

1. The provider shall have written policies and procedures to ensure that each resident and child has access to the most appropriate educational services consistent with the resident's and child's abilities and needs, taking into account his/her age and level of functioning.

2. The provider shall ensure that educational records from the resident's or child's previous school are transferred to the new educational placement timely.

3. A resident's service plan shall identify if the resident has any disabilities. Residents and children with disabilities shall be identified to the local education agency. If the resident or child is eligible for Individual with Disabilities Education Act (IDEA) services, the provider shall work with the legal guardian to ensure that he or she has a current educational evaluation, an appropriate Individualized Educational Plan (IEP), and surrogate parent to assist him or her in enforcing rights under the IDEA. If the resident or child is eligible for section 504 accommodations in the Rehabilitation Act of 1973, as amended, the provider shall work with the legal guardian.

4. If a resident or child is suspected of having a disability that would qualify him or her for special education services, the provider shall work with the legal guardian to ensure that a request for a special education evaluation is made and that the local education agency responds appropriately.

5. The provider shall work with the legal guardian and, where applicable, surrogate parent, to identify any deficiencies or problems with a resident's or child's IEP or individualized accommodations plan (IAP), and to ensure that the resident's or child's IEP or IAP is being implemented by the local education agency.

6. Whether educational services are provided on or off-site, all residents and children of school age shall be enrolled in and attending the least restrictive available option of either a school program approved by the Department of Education or an alternative educational program approved by the local school board within three school days of admission to the facility. Children of residents residing in the facility shall attend school off site.

7. The provider shall ensure residents have access to vocational training, GED programs, and other alternative educational programming, if appropriate.

8. Whether educational services are provided on or off-site, the provider shall coordinate residents' and children's participation in school-related extracurricular activities, including any related fees or costs for necessary equipment.

9. Whether educational services are provided on or off-site, the provider shall notify the resident's or child's legal guardian(s) and, where applicable, the resident's surrogate parent, verbally and in writing within 24 hours of any truancy, expulsion, suspension, or informal removal from school. Notification shall be documented in the resident's or child's record.

10. All residents and children shall receive a free and appropriate education. If transportation is not provided by the local educational authority for the resident, the provider shall transport the resident to school or other educational program in order for the resident to fulfill the requirements of their educational program.

11. When children are picked up or dropped off at the facility by a public or private school bus or transportation service, staff shall be present to safely escort children to and from the bus.

12. If educational services are provided on-site, the following also apply:

a. The provider shall provide accommodations for educational services to be provided by the local school district in accordance with local school board calendar. The school classes shall be held in classrooms/multi-purpose rooms. The provider shall ensure that the educational space is adequate to meet the instructional requirements of each resident.

b. Prior to the end of the first official school day following admission, the resident shall receive a brief educational history screening with respect to their school status, special education status, grade level, grades, and history of suspensions or expulsions. Staff shall use this information to determine initial placement in the facility educational program.

c. Within three school days of the resident's arrival at the facility, the provider shall request educational records from the resident's previous school. If records are not received within 10 school days of the request, the program director shall report in writing on the eleventh day to the local school district from which records were requested that the information has been requested and not received. If the records are not received within the following seven school days of notifying the local school district, the program director shall file a written complaint with the Board of Elementary and Secondary Education (BESE) on the eighth day.

d. Residents in restricted, disciplinary, or high security units shall receive an education program comparable to youth in other units in the facility consistent with safety needs.

e. When residents are suspended from the facility school, the suspension shall comply with local jurisdiction due process requirements.

f. Behavior intervention plans shall be developed for a resident whose behavior or emotional stability interferes with their school attendance and progress.

g. The provider shall have available reading materials geared to the reading levels, interests, and primary languages of residents.

h. The provider shall ensure that residents are engaged in instruction for the minimum minutes in a school day required by law.

i. The program director shall immediately report in writing to the local school district if the facility school is not being staffed adequately to meet state student to teacher ratios for education, including not but not limited to, special education staff and substitute teaching staff. If the issue is not resolved within five school days by the local school district, then the program director shall file a written complaint on the sixth day with BESE and cooperate with any subsequent directives received from BESE.

B. Milieu (Daily Living) Services

1. Routines

a. The provider shall have a written schedule of daily routines for residents designed to provide for reasonable consistency and timeliness in daily activities, in the delivery of essential services to residents and in the provision of adequate periods of recreation, privacy, rest and sleep.

b. Written schedules of daily routines shall be posted and available to the residents.

c. Daily routines shall be determined in relation to the needs and convenience of the residents who live together.

d. Whenever appropriate, the residents shall participate in making decisions about schedules and routines.

e. The program for daily routines shall be reviewed periodically and revised as the needs of the residents or living group change.

f. The Provider shall develop written policies regarding a daily schedule for children that includes planned/unplanned activities, allowing for flexibility and change. Activities shall accommodate and have due regard for individual needs and differences among children. Children's routines shall include time daily for indoor and outdoor play (weather permitting) that incorporate free play, gross/fine motor activities and vigorous and quiet activities. Time should also be designated for activities that support children's development of social, emotional, physical, language/literacy, cognitive/intellectual and cultural skills, as well as for routine occurrences such as meals/snacks, rest time, etc.

2. Personal Possessions

a. The provider shall allow residents and children to bring their personal possessions and display them, when appropriate.

b. Residents and children shall be allowed to acquire possessions of their own. The provider may, as necessary, limit or supervise the use of these items. Where restrictions are imposed, the resident or child shall be informed by staff of the reason of the restriction. The decision and reason shall be recorded in the individual's record.

c. Each resident and child shall have a secure place to store his/her personal property.

d. Possessions confiscated by staff will be documented to include:

i. signature of the staff and resident or child;

ii. date and time of confiscation; and

iii. date and time when returned to resident or child and signature of resident or child.

e. The provider shall be responsible for all confiscated items, including replacement if the item is damaged, lost, or stolen while in the provider's possession.

f. A log of any valuable personal possessions to include any assistive devices, i.e., hearing aide, glasses, etc., shall be maintained by the provider.

3. Clothing and Personal Appearance

a. The provider shall ensure that residents and children are provided with clean, well-fitting clothing appropriate to the season and to the individual's age, sex, and individual needs. Whenever possible, the resident or child should be involved in selecting their clothing.

b. The provider shall have a written policy concerning any limitations regarding personal appearance. Any limitations should be related to maintaining the safety and well-being of the residents or children receiving services.

c. Clothing and shoes shall be of proper size and adequate in amount to permit laundering, cleaning, and repair.

d. Clothing shall be maintained in good repair.

e. Clothing shall belong to the individual resident or child and not be required to be shared.

f. All clothing provided to a resident or child shall remain with the resident or child upon discharge.

g. The provider shall ensure residents and children have access to adequate grooming services, including haircuts.

4. Independent Life Training

a. The provider shall have a program to ensure that residents receive training in independent living skills appropriate to their age and functioning level. Individualized independent life training goals shall be included in each resident's service plan.

b. This program shall include but not be limited to instruction in:

i. health and dental care, hygiene and grooming;

ii. family life;

iii. sex education including family planning and venereal disease counseling;

iv. laundry and maintenance of clothing;

v. appropriate social skills;

vi. housekeeping;

vii. use of transportation;

viii. budgeting and shopping;

ix. money management;

x. cooking and proper nutrition;

xi. employment issues, including punctuality and attendance;

xii. use of recreation and leisure time;

xiii. education, college, trade, and/or long-term planning/life goals;

xiv. accessing community services; and

xv. parenting skills.

c. In addition, residents with children shall also receive training in the following topics:

i. parenting preparation classes;

ii. stages of growth in infants, children and adolescents;

iii. day-to-day care of infants, children and adolescents;

iv. disciplinary techniques for infants, children, and adolescents;

v. child-care resources;

vi. stress management;

vii. life skills; and

viii. decision making.

5. Money:

a. the provider shall permit and encourage a resident or child, as age appropriate, to possess his/her own money. The provider can give the resident or child an allowance. Older residents should be given the opportunity to earn additional money by providing opportunities for paid work, unless otherwise indicated by the resident's service plan, and reviewed every 30 days by the service plan manager;

b. money earned or received either as a gift or an allowance by a resident or child, shall be deemed to be that individual's personal property;

c. limitations may be placed on the amount of money a resident or child may possess or have unencumbered access to when such limitations are considered to be in the individual's best interests and are duly recorded in the resident's service plan or child's record. The reasons for any limitations should be fully explained to the resident, child, and their families;

d. resident's monetary restitution for damages shall only occur when there is clear evidence of individual responsibility for the damages and the service team approves the restitution. The resident and his/her legal guardian(s) shall be notified in writing within 24 hours of any claim for restitution and shall be provided with specific details of the damages, how, when and where the damages occurred, and the amount of damages claimed. If the amount is unknown, an estimate of the damages shall be provided and an exact figure provided within 30 days. The resident and his/her legal guardian(s) shall be given a reasonable opportunity to respond to any claim for damages. If the provider receives reimbursement for damages either through insurance or other sources, the resident shall not be responsible for restitution;

e. the provider shall maintain a separate accounting of each resident's or child's money; and

f. upon discharge, the provider shall provide the resident, child, or legal guardian(s) any outstanding balance.

6. Work

a. The provider shall have a written policy regarding the involvement of residents in work including:

i. description of any unpaid tasks required of residents;

ii. description of any paid work assignments including the pay for such assignments that are at least minimum wage;

iii. description of the provider's approach to supervising work assignments; and

iv. assurance that the conditions and compensation of such work are in compliance with applicable state and federal laws.

b. The provider shall demonstrate that any resident's work assignments are designed to provide a constructive experience and are not used as a means of performing vital provider functions at low cost. All work assignments shall be in accordance with the resident's service plan.

c. The provider shall assign, as unpaid work, age appropriate housekeeping tasks similar to those performed in a normal family home. Any other work assigned shall be compensated. The provider shall ensure that all such employment practices comply fully with state and federal laws and standards. No resident shall be employed in any industrial or hazardous occupation, or under any hazardous conditions.

d. When a resident engages in off-grounds work, the provider shall be responsible for ensuring the resident has access to transportation and other supports needed to perform the work successfully. The provider shall document that:

i. such work is voluntary and in accordance with the resident's service plan;

ii. the service plan manager approves such work;

iii. the conditions and compensation of such work are in compliance with the Fair Labor Standards Act and other applicable state and federal laws; and

iv. such work does not conflict with the resident's program.

C. Food Service

1. The provider shall ensure that a staff person has oversight of the total food service of the facility. This person shall be familiar with nutrition and food service management and shall be responsible for implementation and/or delegation of:

a. purchasing food according to the approved dietary menu;

b. oversight of storing and handling of food;

c. oversight of food preparation;

d. oversight of food serving;

e. maintaining sanitary standards in compliance with state and local regulations;

f. orientation, training, and supervision of food service personnel to include proper feeding techniques as age appropriate;

g. maintaining a current list of residents and children with special nutritional needs;

h. having an effective method of recording and transmitting diet orders and changes;

i. recording information in the resident's or child's record relating to special nutritional needs; and

j. providing information on residents' and children's diets to staff.

2. The provider shall have written policies and procedures that ensure that residents and children are , on a daily basis, provided with food of such quality and in such quantity as to meet the recommended daily dietary allowances adjusted for age, gender, and activity of the United States Department of Agriculture and doesn't deny any rights of the resident or child. Two of the three meals (breakfast, lunch, supper) served to children shall be hot meals. Residents and children shall also be provided with a snack between meals and prior to bedtime. Breakfast shall be served one hour from when residents awake.

3. The provider shall maintain a master menu, including appropriate substitutions, which is written and approved annually, by a registered dietician.

a. The provider shall post the written menu at least one week in advance.

b. Menus shall provide for a sufficient variety of foods, vary from week to week and reflect all substitutions. Any substitution shall be of equal nutritional value. Residents shall be allowed to provide input into these menus.

c. Written menus and records of foods purchased shall be maintained on record for one year.

4. The provider shall ensure that any modified diet for a resident or child shall be:

a. prescribed by the individual's physician, approved by the registered dietician, and identified in the resident's service plan or child's record; and

b. planned, prepared, and served by persons who have received instruction on the modified diet.

5. Condiments appropriate for the ordered diet will be available.

6. When meals are provided to staff, the provider shall ensure that staff members eat the same food served to residents or children, unless special dietary requirements dictate differences in diet.

7. Food provided to a resident or child shall be in accordance with his/her religious beliefs.

8. No resident or child shall be denied food or force-fed for any reason except as medically required pursuant to a physician's written order. A copy of the order shall be maintained in the individual's record.

9. The provider shall have written policies and procedures to ensure that all food shall be stored, prepared and served under sanitary conditions. e The provider shall ensure that:

a. food served to the resident or child is in appropriate quantity; at appropriate temperatures; in a form consistent with the developmental level of the individual; and with appropriate utensils;

b. food served to a resident or child not consumed is discarded;

c. food and drink purchased shall be of safe quality. Milk and milk products shall be grade A and pasteurized.

10. Hand washing facilities, including hot and cold water, soap, and paper towels, shall be provided adjacent to food service work areas.

11. Food shall be stored separate from cleaning supplies and equipment.

12. Food storage areas are free of rodents, roaches, and/or other pests and the provider shall take precautions to ensure such pests do not contaminate food.

13. Persons responsible for food preparation shall not prepare food if they have symptoms of acute illness or an open wound.

14. Information regarding food allergies/special diets shall be posted in the food prep area with special care so that the individual names are not in public view.

15. Children under four years of age shall not have foods that are implicated in choking incidents. Examples of these foods include but are not limited to the following:

whole hot dogs, hot dogs sliced in rounds, raw carrot rounds, whole grapes, hard candy, nuts, seeds, raw peas, hard pretzels, chips, peanuts, popcorn, marshmallows, spoonfuls of peanut butter, and chunks of meat larger than what can be swallowed whole.

16. Formula for an infant prepared by or in a residential home shall be prepared in accordance with the instructions of the formula or by the techniques recommended by the physician which shall be on file at the facility.

17. Formula for an infant shall be labeled with the child's name and date of preparation.

18. Formula for an infant shall be refrigerated immediately after preparation and shall not be used more than 24 hours after preparation. The timeframe for use after preparation may be longer than 24 hours if directed by a physician or as documented in the instructions of the formula. The timeframe shall not be extended beyond the physician's recommendation or the instructions of the formula.

19. Formula shall not be heated in a microwave oven.

20. Water shall be given to infants only with written instructions from child's physician.

21. A child's bottle shall not be propped at any time.

22. Infants shall be held while being bottle-fed to provide a nurturing, safe feeding experience.

D. Health Related Services

1. Health Care

a. The provider shall have written policies and procedures for providing preventive, routine, and emergency medical and dental care for residents and children and shall show evidence of access to the resources. They shall include, but are not limited to, the following:

i. ongoing appraisal of the general health of each resident and child;

ii. provision of health education, as appropriate;

iii. provision for keeping immunizations current;

iv. approaches that ensure that any medical service administered will be explained to the resident or child in language suitable to his/her age and understanding;

v. an ongoing relationship with a licensed physician, dentist, and pharmacist to advise the provider concerning medical and dental care;

vi. availability of a physician on a 24-hour, seven days a week basis;

vii. reporting of communicable diseases and infections in accordance with law;

viii. procedures for ensuring residents and children know how and to whom to voice complaints about any health issues or concerns.

2. Medical Care

a. The provider shall arrange a medical examination by a physician for the resident or child within a week of admission unless the resident or child has received such an examination within 30 days before admission and the results of this examination are available to the provider. If the resident or child is being transferred from another residential home and has had a physical examination within the last 12 months, a copy of this examination can be obtained to meet the requirement of the admission physical. The physical examination shall include:

i. an examination of the resident or child for any physical injury, physical disability, and disease;

ii. vision, hearing, and speech screening; and

iii. a current assessment of the resident's or child's general health.

b. The provider shall arrange an annual physical examination of all residents and children.

c. Whenever indicated, the resident or child shall be referred to an appropriate medical specialist for either further assessment or service, including gynecological services for female residents or children. The provider shall schedule such specialist care within 30 days of the initial exam. If the specialist's service needed is a result of a medical emergency, such care shall be obtained immediately.

d. The provider shall ensure that a resident or child receives timely, competent medical care when he/she is ill or injured. The provider shall notify the legal guardian, verbally and/or in writing, within 24 hours of a resident's or child's illness or injury that requires service from a physician or hospital. The notification shall include the nature of the injury or illness and any service required.

e. Records of all medical examinations, services, and copies of all notices to legal guardian(s) shall be kept in the resident's or child's record.

3. Dental Care

a. The provider shall have written policies and procedures for providing comprehensive dental services to include:

i. provision for dental service;

ii. provision for emergency service on a 24-hour, seven days a week basis by a licensed dentist;

iii. a recall system specified by the dentist, but at least annually;

iv. dental cleanings annually; and

v. training and prompting for residents and children to brush their teeth at least twice per day.

b. The provider shall arrange a dental exam for each resident and child within 90 days of admission unless the resident or child has received such an examination within six months prior to admission and a copy of the examination is obtained by the provider. Children shall begin receiving annual examinations at the eruption of their first tooth and no later than 12 months of age.

c. Records of all dental examinations, follow-ups and service shall be documented in the record.

d. The provider shall notify the legal guardian(s), verbally and/or in writing, within 24 hours when a resident or child requires or receives dental services of an emergency nature. The notification shall include the nature of the dental condition and any service required. Notification shall be documented in the record.

4. Immunizations

a. The provider shall have written policies and procedures regarding immunizations to ensure that:

i. within 30 days of admission, the provider shall obtain documentation of a resident's or child's immunization history, ensuring that the resident and child have received and will receive all appropriate immunizations and booster shots that are required by the Office of Public Health;

ii. the provider shall maintain a complete record of all immunizations received in the resident's or child's record.

5. Medications

a. The provider shall have written policies and procedures that govern the safe administration and handling of all medication, to include the following:

i. a system for documentation and review of medication errors;

ii. self-administration of both prescription and nonprescription medications;

iii. handling medication taken by residents and children on pass; and

iv. a plan of action for residents and children who require emergency medication (e.g., Epipen, Benadryl).

b. The provider shall have a system in place to ensure that there is a sufficient supply of prescribed medication available for each resident and child at all times.

c. The provider shall ensure that medications are either self-administered or administered by persons with appropriate credentials, training,and expertise.

i. Effective August 1, 2016, all staff members who administer medication to residents or children under five years of age shall have medication administration training. However, providers licensed to care for children of residents or licensed to care for children under five years of age shall have staff trained in medication administration. Trained staff shall be scheduled for each shift when children of residents under five years of age are present in the facility. Training shall be obtained every two years from an approved child care health consultant. By virtue of his/her current license, a licensed practical nurse (LPN) or registered nurse (RN) shall be considered to have medication administration training.

d. There shall be written documentation requirements for the administration of all prescription and non-prescription medication, whether administered by staff, supervised by staff or self-administered. This documentation shall include:

i. resident's or child's name, date, medication name, dosage, and time administered;

ii. signature of person administering medication, if other than resident; and

iii. signature of person witnessing resident or child self administer medication, (if applicable).

e. When residents administer medication to their own children, the medication administration record shall be documented by either the resident or by facility staff as indicated in Subparagraph D.5.d of this Section.

f. If prescription medication is not administered as prescribed or resident or child refuses to take medication, the physician ordering the medication shall be immediately notified and documentation noted to include:

i. resident's or child's name, date, and time;

ii. medication name and dosage;

iii. person attempting to administer medication, if other than resident or child;

iv. reason for refusal or medication not being given as prescribed;

v. name of staff notifying physician's office;

vi. date and time of notification to physician's office; and

vii. name of person notified and next steps, if applicable.

g. The provider shall ensure that any medication given to a resident or child for therapeutic and/or medical purposes is in accordance with the written order of a physician.

i. There shall be no standing orders for prescription medications.

ii. There shall be standing orders, signed by the physician, for nonprescription medications with directions from the physician indicating when he/she is to be contacted. The physician shall update standing orders annually.

iii. Copies of all written orders shall be maintained in the resident's or child's record.

iv. Medication shall not be used as a disciplinary measure, a convenience for staff, or as a substitute for adequate, appropriate programming.

v. Prescription medications shall be reviewed and renewed on at least an annual basis.

h. Residents and children shall be informed of any changes to their medications, prior to administration of any new or altered medications.

i. Residents, staff, and, where appropriate, residents' legal guardian(s) are educated on the potential benefits and negative side effects of the medication and are involved in decisions concerning the use of the medication.

j. The provider shall ensure that the prescribing physician is immediately informed of any side effects observed by staff, or any medication errors. Any such side effects or errors shall be promptly recorded in the resident's or child's record and the legal guardian(s) shall be notified verbally or in writing within 24 hours.

k. Discontinued and outdated medications and containers with worn, illegible, or missing labels shall be properly disposed of according to state law.

l. Medications shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security.

i. External medications and internal medications shall be stored on separate shelves or in separate cabinets.

ii. All medication shall be kept under lock and key. Refrigerated medication shall be stored in a secure container with a lid to prevent access by children and avoid contamination of food.

m. Psychotropic medications shall be reviewed and renewed at least every 90 days by a licensed physician.

n. All medications shall be maintained in the original container/packaging as dispensed by the pharmacist.

o. A plan of care shall be developed for each resident or child who requires emergency medication (e.g., Epipen, Benadryl). The plan of care shall include:

i. method of administration;

ii. symptoms that would indicate the need for the medication;

iii. actions to take once symptoms occur;

iv. description of how to use the medication; and

v. signature and date of program director or medical personnel.

p. Medication administration records for emergency medication shall be maintained in accordance with Subparagraph D.5.d of this Section and shall also include the following:

i. symptoms noted that indicated the need for the medication;

ii. actions taken once symptoms occurred;

iii. description of how medication was administered;

iv. signature (not initials) of the staff member who administered the medication; and

v. notification to legal guardian (date, time, and signature of person who contacted the legal guardian) following the administration of the emergency medication.

q. If the non-prescription medication label reads "to consult physician", a written authorization from a Louisiana, or adjacent state, licensed medical physician or dentist, shall be on file in order to administer the medication, and shall include the following information:

i. child's name;

ii. date of authorization;

iii. medication name and strength; and

iv. clear directions for use, including the route (e.g., oral, topical), dosage, and frequency, time, or schedule of medication.

6. Professional and Specialized Services

a. The provider shall monitor that residents and children receive specialized services to meet their needs; these services shall include but are not limited to:

i. physical/occupational therapy;

ii. speech pathology and audiology;

iii. psychological and psychiatric services;

iv. social work services;

v. individual, group and family counseling; and

vi. substance abuse counseling/drug or alcohol addiction treatment.

b. The provider shall monitor that all providers of professional and special services:

i. record all significant contacts with the resident or child;

ii. provide quarterly written summaries of the resident's or child's response to the service, the resident's or child's current status relative to the service, and the resident's or child's progress;

iii. participate, as appropriate, in the development, implementation, and review of resident's service plans and aftercare plans and in the interdisciplinary team responsible for developing such plans;

iv. provide services appropriately integrated into the overall program and provide training to direct service staff as needed to implement service plans;

v. provide resident assessments/evaluations as needed for service plan development and revision.

c. The provider shall monitor that any provider of professional or special services (internal or external to the facility) meets the criteria noted below:

i. have adequately qualified and, where appropriate, currently licensed or certified staff according to state or federal law;

ii. have adequate space, facilities, and privacy;

iii. have appropriate equipment, supplies, and resources.

d. The providers shall ensure that residents and children are evaluated for specialized services in a timely manner when a need is identified.

E. Recreation

1. The provider shall have a written policy and procedure for a recreation program that offers indoor and outdoor activities in which participation can be encouraged and motivated on the basis of individual interests and needs of the residents and children and the composition of the living group.

2. The provider shall provide recreational services based on the individual needs, interests, and functioning levels of the residents and children served. In planning recreational programs and activities, staff should assess the ages, interests, abilities and developmental and other needs of the residents and children served to determine the range of activities that are safe and appropriate. Residents and children shall be allowed time to be alone and to engage in solitary activities that they enjoy. There should be opportunities for group activities to develop spontaneously, such as group singing, dancing, storytelling, listening to records, games, etc. Recreational activities should be planned throughout the week.

3. Recreational objectives shall be included in each resident's service plan. Residents should be involved in planning and selecting activities as part of their individual service plan.

4. There shall be evidence that staff participating in recreation activities with the residents are appropriately informed of the resident's needs, problems, and service plans; communicate routinely with other direct service staff concerning residents; and have a means of providing in-put.

5. The provider shall provide adequate recreation and yard spaces to meet the needs and abilities of residents and children regardless of their disabilities. Recreation equipment and supplies shall be of sufficient quantity and variety to carry out the stated objectives of the provider's recreation plan. Recreational equipment should be selected in accordance with the number of residents and children, their ages and needs, and should allow for imaginative play, creativity, and development of leisure skills and physical fitness.

6. The provider shall utilize the recreational resources of the community whenever appropriate. The provider shall arrange the transportation and supervision required for maximum usage of community resources. Unless the restriction is part of the facility's master behavior program plan, access to such community resources shall not be denied or infringed except as may be required as part of the resident's service plan. Any such restrictions shall be specifically described in the service plan, together with the reasons such restrictions are necessary and the extent and duration of such restrictions.

F. Transportation

1. The provider shall have written policies and procedures to ensure that each resident is provided with transportation necessary to meet his/her needs as identified the individualized service plan.

2. The provider shall have means of transporting residents and children in cases of emergency.

3. The provider shall ensure and document that any vehicle used in transporting residents or children, whether such vehicle is operated by a staff member or any other person acting on behalf of the provider, is inspected and

licensed in accordance with state law and carries current liability insurance. All vehicles used for the transportation of residents or children shall be maintained in a safe condition and in conformity with all applicable motor vehicle laws. Preventative maintenance shall be performed on a monthly basis to ensure the vehicles are maintained in working order. The provider shall maintain documentation supporting adherence to vehicle maintenance schedules and other services as indicated.

4. Any staff member of the provider or other person acting on behalf of the provider, operating a vehicle for the purpose of transporting residents or children shall maintain a current driver's license. The staff member operating the vehicle shall have the applicable type of driver's license to comply with the current motor vehicle laws.

5. The provider shall not transport residents nor children in the back or the bed of a truck.

6. The provider shall conform to all applicable state motor vehicle laws regarding the transport of residents and children.

7. The provider shall ensure that residents and children being transported in the vehicle are properly supervised while in the vehicle and during the trip. Residents nor children are to be unattended in the vehicle.

8. Vehicles used to transport residents and children shall not be identified in a manner that may embarrass or in any way produce notoriety for residents or children.

9. The provider shall ascertain the nature of any need or problem of a resident or child that might cause difficulties during transportation, such as seizures, a tendency toward motion sickness, or a disability. The provider shall communicate such information to the operator of any vehicle transporting residents or children.

10. The following additional arrangements are required for a provider serving residents or children with physical limitations:

a. a ramp device to permit entry and exit of a resident or child from the vehicle shall be provided for all vehicles except automobiles normally used to transport physically handicapped residents or children. A mechanical lift may be utilized if a ramp is also available in case of emergency;

b. in all vehicles except automobiles, wheelchairs used in transit shall be securely fastened to the vehicle;

c. in all vehicles except automobiles, the arrangement of the wheelchairs shall provide an adequate aisle space and shall not impede access to the exit door of the vehicle.

11. No resident or child shall be transported in any vehicle unless age appropriate child restraints are utilized. In addition, transportation arrangements shall conform to state laws, including but not limited to those requiring the use of seat belts and child restraints.

12. Only one resident or child shall be restrained in a single safety belt.

13. The vehicle shall be maintained in good repair as evidenced by:

a. ventilation and heating systems shall be operational and used to maintain a comfortable temperature during transport;

b. the vehicle's engine shall be maintained in working mechanical order;

c. the vehicle's interior shall be clean and free of trash and debris;

d. the vehicle's seat coverings shall be in good repair.

14. The use or possession of alcohol, tobacco in any form, illegal substances or unauthorized potentially toxic substances, firearms (loaded or unloaded), or pellet or BB guns (loaded or unloaded) in any vehicle used to transport residents or children is prohibited.

15. The number of persons in a vehicle used to transport residents or children shall not exceed the manufacturer's recommended capacity.

16. The provider shall maintain a copy of a valid appropriate Louisiana driver's license for all individuals who drive vehicles (staff, contracted persons, etc.) used to transport residents or children.

17. The vehicle shall have evidence of a current safety inspection.

18. A visual inspection of the vehicle is required to ensure that no child was left on the vehicle. A staff person shall physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all enclosed spaces and recesses in the vehicle's interior. The staff conducting the visual check shall record the time of the visual check inspection and sign his or her full name, indicating that no child was left on the vehicle. For field trips, staff shall check the vehicle and conduct a face-to-name count conducted prior to leaving facility for the destination, when destination is reached, before departing destination for return to facility, and upon return to facility. For all other transportation, the staff shall inspect the vehicle at the completion of each trip prior to the staff person exiting the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:823 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7119. Physical Environment

A. Physical Appearance and Conditions

1. The provider shall maintain all areas of the facility accessible to residents and children in good repair and free from any reasonably foreseeable hazard to health or safety. All structures on the grounds of the facility shall be maintained in good repair.

2. The provider shall have an effective pest control program to prevent insect and rodent infestation.

3. The provider shall maintain the grounds of the facility in good condition.

a. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on at least a weekly basis.

b. Trash collection receptacles shall be separate from play area.

c. Fences shall be in good repair.

d. Areas determined to be unsafe, including steep grades; cliffs, open pits, swimming pools, high voltage boosters or high-speed roads (45 mph or higher) shall be fenced or have natural barriers to protect residents and children.

e. Playground equipment shall be so located, installed, and maintained as to ensure the safety of residents and children.

4. Residents and children shall have access to safe, suitable, outdoor recreational space and age appropriate equipment.

5. The provider shall have at least 75 square feet of accessible exterior space for each resident. The exterior space shall be adequate to accommodate one-half the licensed capacity of the facility.

6. The outdoor play space used by children shall be enclosed with a permanent fence or other permanent barrier in such a manner as to protect the children from traffic hazards, to prevent the children from leaving the premises without proper supervision, and to prevent contact with animals or unauthorized persons.

7. All air conditioning/heating units, mechanical equipment, electrical equipment, or other hazardous equipment shall be inaccessible to children.

8. Culverts are prohibited within outdoor play spaces.

9. Areas where there are open cisterns, wells, ditches, fish ponds, swimming pools, and other bodies of water shall be made inaccessible to children by fencing and locked gates.

10. All equipment used by children shall be maintained in a clean, safe condition and in good repair.

11. Poisons, cleaning supplies, harmful chemicals, equipment, tools, kitchen knives or potentially dangerous utensils, and any substance with a warning label stating it is harmful to or that is should be kept out of reach of children, shall be locked away from and inaccessible to children. Whether these items are in a cabinet or in an entire room, the area shall be locked.

B. Interior Space

1. The provider shall have policies and procedures to ensure that the facility maintains a safe, clean, orderly, and homelike environment.

2. All equipment, furnishings, and interior spaces shall be clean and maintained at all times. The provider shall have a program in place to monitor regular maintenance, preventative maintenance, cleaning and repair of all equipment and furnishings that is performed on a routine basis. Written documentation of the maintenance and cleaning program activities shall be maintained by administration to include cleaning schedules and reports of repairs.

3. The facility shall have sufficient living and program space available for residents and children to gather for reading, study, relaxation, structured group activities, and visitation. Space shall be available that allows for confidentiality for family visits, counseling, groups, and meetings. The living areas shall contain such items as television, stereo, age-appropriate books, magazines, and newspapers.

4. A facility shall have a minimum of 60 square feet of unencumbered floor area per resident in living and dining areas accessible to residents and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas and office areas.

5. Each child shall be provided with an opportunity to safely and comfortably sit, crawl, toddle, walk, and play according to the child's stage of development and in a designated space apart from sleeping quarters each day in order to enhance development.

6. Computers that allow internet access by the children shall be equipped with monitoring or filtering software, or an analogous software protection, that limits children's access to inappropriate websites, e-mail, and instant messages.

7. Programs, movies, and video games shall be age appropriate.

8. A variety of books, educational materials, toys, and play materials shall be provided, organized, and displayed within children's reach so that they may select and return items independently.

9. For providers licensed to care for children of residents, at least one corded land line capable of incoming and outgoing calls for emergency purposes shall be accessible at all times at the facility.

C. Dining Areas

1. The provider shall have dining areas that permit residents, children, staff, and guests to eat together and create a homelike environment.

2. Dining areas shall be clean, well lit, ventilated, and equipped with dining tables and appropriate seating for the dining tables.

3. Highchairs shall be used in accordance with the manufacturer's instructions including restrictions based on age and minimum/maximum weight of infants and children. Staff shall ensure that the highchair manufacturer's restraint device is used when children are sitting in the highchair. Children who are too small or too large to be restrained using the manufacturer's restraint device shall not be placed in the highchair. Provider shall take into account the child's developmental stage, tolerances, and ability to sit up safely by themselves.

D. Bedrooms

1. Each resident and child shall have his/her own designated area for rest and sleep.

2. The provider shall ensure that each single occupancy bedroom space has a floor area of at least 70 square feet of unencumbered space and that each multiple occupancy bedroom space has a floor area of at least 60 square feet of unencumbered space for each occupant.

3. The provider shall not use a room with a ceiling height of less than 7 feet 6 inches as a bedroom space. In a room with varying ceiling height, only portions of the room with a ceiling height of at least 7 feet 6 inches are allowed in determining usable space.

4. The bedroom space for residents and children shall be decorated to allow for the personal tastes and expressions of the residents and children.

5. Any provider that licenses beds subsequent to April 2012, shall have bedroom space that does not permit more than two residents per designated bedroom space. All others shall not exceed four residents to occupy a designated space.

6. No resident over the age of five years shall occupy a bedroom with a member of the opposite sex, unless that individual is the resident's parent in accordance with R.S. 46:1403.

7. The provider shall ensure that the age of residents sharing bedroom space is not greater than four years in

difference unless contraindicated based on family dynamics.

8. Each resident and child age one year and above shall have his/her own bed. The bed shall be longer than the resident or child is tall, no less than 30 inches wide, and shall have a clean, comfortable, nontoxic, fire retardant mattress.

9. The provider shall ensure that sheets, pillow, bedspread, and blankets are provided for each resident and child:

a. enuretic residents and children shall have mattresses with moisture resistant covers; and

b. sheets and pillowcases shall be changed at least weekly, but shall be changed more frequently if necessary. Sheets and coverings shall be changed immediately when soiled or wet.

10. Each resident shall have a solidly constructed bed. Cots or other portable beds shall be used on an emergency basis only and shall not be in use for longer than one week.

11. All bunk beds in use in a residential home shall be equipped with safety rails on the upper tier for a child under the age of 10, or for any child whose physical, mental, or emotional condition indicates the need for such protection. A child under 6 years of age shall not sleep on the upper bunk of a bunk bed. No beds shall be bunked higher than two tiers. The provider shall ensure that the uppermost mattress of any bunk bed shall be far enough from the ceiling to allow the occupant to sit up in bed.

12. Each resident and child shall have his/her own nightstand and dresser or other adequate storage space for private use in the bedroom.

13. There shall be a closet for hanging clothing in proximity to the bedroom occupied by the resident and child. For beds licensed after April 2012, there shall be a closet for hanging clothing within the bedroom or immediately adjacent to the bedroom. The closet shall not be within a bathroom.

14. No resident and her child shall share a bedroom with another resident.

15. A resident shall not be allowed to sleep in the same bed with her child.

E. Bathrooms

1. The facility shall have an adequate supply of hot and cold water.

2. The facility shall have toilets and baths or showers that allow for individual privacy. For beds licensed after April 2012, the following ratio shall be met. Whenever calculations include any fraction of a fixture, the next higher whole number of fixtures shall be installed.

Lavatories	1:6 resident beds
Toilets	1:6 resident beds
Showers or tubs	1:6 resident beds

3. Bathrooms shall be so placed as to allow access without disturbing other residents or children during sleeping hours.

4. Each bathroom shall be properly equipped with toilet paper, towels, and soap.

5. Tubs and showers shall have slip proof surfaces.

6. Bathrooms shall contain mirrors secured to the walls at convenient heights and other furnishings necessary to meet the residents' and children's basic hygienic needs.

7. Each resident and child shall be provided personal hygiene items such as hairbrushes, toothbrushes, razors, etc.

8. Bathrooms shall be equipped to facilitate maximum self-help by residents and children. Bathrooms shall be large enough to permit staff assistance of residents and children, if necessary.

9. Toilets, washbasins, and other plumbing or sanitary facilities in a facility shall be maintained in good operating condition.

F. Kitchens

1. Kitchens used for meal preparations shall be provided with the necessary equipment for the preparation, storage, serving and clean-up of all meals for all of the residents, children, and staff regularly served. All equipment shall be maintained in proper working order.

2. The provider shall not use disposable dinnerware at meals except for special occasions such as picnics or barbeques or in an emergency situation unless the facility documents that such dinnerware is necessary to protect the health or safety of residents or children in care.

3. The provider shall ensure that all dishes, cups, and glasses used by residents and children in care are free from chips, cracks, or other defects and are in sufficient number to accommodate all the residents.

4. Animals, other than those used as service animals, shall not be permitted in food storage, preparation, and dining areas.

G. Laundry Space. The provider shall have a laundry space complete with washer and dryer.

H. Staff Quarters. The provider utilizing live-in staff shall provide adequate, separate living space with a private bathroom for these staff and their children.

I. Administrative and Discussion Space

1. The provider shall provide a space that is distinct from residents' and children's living areas to serve as an administrative office for records, secretarial work, and bookkeeping.

2. The provider shall have a designated space to allow private discussions between individual residents, children, and staff.

3. There shall be a covering on the window.

J. Furnishings

1. The provider shall have comfortable customary furniture as appropriate for all living areas. Furniture for the use of residents and children shall be appropriately designed to suit the size and capabilities of these residents and children.

2. The provider shall replace or repair broken, run-down, or defective furnishings and equipment promptly.

K. Doors and Windows

1. When opened, all windows shall have insect screening. This screening shall be readily removable in emergencies and shall be in good repair.

2. All closets, bedrooms, and bathrooms shall have doors that allow egress from both sides.

3. Each window shall have a covering to provide privacy unless otherwise stipulated in the service plan.

L. Storage

1. The provider shall ensure that there are sufficient and appropriate storage facilities.

2. The provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

M. Electrical Systems

1. The provider shall ensure that all electrical equipment, wiring, switches, sockets, and outlets are maintained in good order and safe condition.

2. The provider shall ensure that any room, corridor, or stairway within a facility shall be well lit.

3. The provider shall ensure that exterior areas are well lit when dark.

N. Heating, Ventilation and Air Conditioning (HVAC)

1. The facility shall provide safe HVAC systems sufficient to maintain comfortable temperatures with a minimum of 65 degrees and maximum 80 degrees Fahrenheit in all indoor public and private areas in all seasons of the year.

2. The provider shall not use open flame heating equipment.

3. The use of portable heaters by the residents, staff, and children are strictly prohibited, unless in an emergency situation.

4. The provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of residents and children.

O. Safe Sleep Practices and Infant Furnishings

1. Only one infant shall be placed in each crib. All infants shall be placed on their backs for sleeping.

a. Written authorization from the child's physician is required for any other sleeping position. A notice of exception to this requirement shall be posted on or near the baby's crib and shall specify the alternate sleep position.

b. Written authorization from the child's physician is required for a child to sleep in a car seat or other similar device and shall include the amount of time that the child is to remain in said device. The written authorization shall be updated every three months and as changes occur.

2. Infants shall not be placed in positioning devices for sleeping unless the child has a note on file from the child's physician authorizing the device.

3. Infants who use pacifiers will be offered their pacifier when they are placed to sleep and it shall not be placed back in the mouth once the child is asleep.

4. Bibs shall not be worn by any child while asleep.

5. Infants shall not sleep in an adult bed, on a couch, or in a chair.

6. A safety-approved crib shall be made available for each infant.

a. Effective December 28, 2012, each crib in use shall meet U.S. Consumer Product Safety Commission (CPSC) requirements for full-size cribs as defined in 16 Code of Federal Regulations (CFR) 1219, or non full-size cribs as defined in 16 CFR 1220.

b. A crib meets the requirements of this Section if:

i. the crib has a tracking label which notes that the crib was manufactured on or after June 28, 2011; or

ii. the provider has a registration card which accompanies the crib and notes that the crib was manufactured on or after June 28, 2011; or

iii. the provider has obtained a children's product certificate (CPC) certifying the crib as meeting requirements for full-size cribs as defined in 16 *Code of Federal Regulations* (CFR) 1219, or non full-size cribs as defined in 16 CFR 1220.

7. Each crib shall be equipped with a firm mattress and well-fitting sheets. Mattresses shall be of standard size so that the mattress fits the crib frame without gaps of more than one-half inch. Homemade mattresses are prohibited.

8. The minimum height from the top of the mattress to the top of the crib rail shall be 20 inches at the highest point.

9. The mattress support system shall not be easily dislodged from any point of the crib by an upward force from underneath the crib.

10. Stackable cribs are prohibited.

11. Children sleeping in playpens or mesh-sided cribs is prohibited.

12. Cribs shall be free of toys and other soft bedding, including blankets, comforters, bumper pads, pillows, stuffed animals, and wedges when the child is in the crib.

13. Nothing shall be placed over the head or face of the infant.

14. While residents are awake, napping infants shall be checked on at least every 30 minutes.

P. Care of Children

1. Diapers shall be changed when wet or soiled.

2. While awake, children shall not remain in a crib/baby bed, swing, high chair, carrier, playpen, etc., for more than 30 consecutive minutes.

3. Pacifiers attached to strings or ribbons shall not be placed around a child's neck or attached to a child's clothing.

4. Staff shall adhere to proper techniques for lifting a child. Staff shall not lift a child by one or both of child's arms.

5. Children shall be changed and cleaned immediately following a toileting accident.

6. A child's request for toileting assistance shall be responded to promptly.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:828 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7121. Emergency Preparedness

A. Emergency Plan

1. The provider, in consultation with appropriate state or local authorities, shall establish and follow a written multi-hazard emergency and evacuation plan to protect residents and children in the event of any emergency. The written overall plan of emergency procedures shall:

a. provide for the evacuation of residents and children to safe or sheltered areas. Evacuation plans shall include procedures for addressing both planned and unplanned evacuations to alternate locations within the city and long distance evacuations;

b. provide for training of staff and, as appropriate, residents and children in preventing, reporting, and responding to fires and other emergencies. The plan shall be reviewed with all staff at least annually. Documentation evidencing that the plan has been reviewed with all staff shall include staff signatures and date reviewed;

c. provide for training of staff in their emergency duties for all types of emergencies and the use of any firefighting or other emergency equipment in their immediate work areas;

d. provide for adequate staffing in the event of an emergency;

e. ensure access to medication and other necessary supplies or equipment;

f. include shelter in place, lock down situations, and evacuations with regard to natural disasters, manmade disasters, bomb threats, and national security threats;

g. be appropriate for the area in which the facility is located and address any potential disaster due to that particular location;

h. include a system to account for all residents and children whether sheltering in place, locking down, or evacuating to a pre-determined relocation site;

i. include lock down procedures for situations that may result in harm to persons inside the facility, including but not limited to a shooting, hostage incident, intruder, trespassing, disturbance, or any situation deemed harmful at the discretion of the program director or public safety personnel;

j. account for residents and children and ensure that no one leaves the designated safe area in a lock down situation. Staff shall secure facility entrances, ensuring that no unauthorized individual enters the facility;

k. include an individualized emergency plan (including medical contact information and additional supplies/equipment needed) for each resident and child with special needs;

l. ensure that residents and children who are prescribed prescription medication are able to receive medication if evacuated from facility;

m. include plans for nuclear evacuation if the facility is located within a 10-mile radius of a nuclear power plant or research facility;

n. include emergency contact information for staff in the event evacuation from the facility is necessary.

2. At a minimum, the plan shall be reviewed annually by the program director for accuracy and updated as changes occur. Documentation of review by the program director shall consist of the program director's signature and date;

3. The emergency and evacuation plan shall by submitted to the Licensing Section at least annually, any time changes are made, and upon the request of the Licensing Section.

4. If evacuation of children from the facility is necessary, provider shall have an evacuation pack and all staff shall know the location of the pack. The contents shall be replenished as needed. At a minimum, the pack shall contain the following:

a. hand sanitizer;

b. wet wipes;

c. tissue;

d. diapers for children who are not yet potty trained;

e. plastic bags;

f. food for all ages of children, including infant food and formula;

g. disposable cups; and

h. bottled water.

NOTE: For additional information contact the Office of Emergency Preparedness (Civil Defense) in your area.

B. Drills

1. The provider shall conduct fire drills at least once per month and within three days of admitting a new resident. There shall be at least one drill per shift every 90 days, at varying times of the day and the drills shall be documented. Effective August 1, 2016, documentation shall include:

a. date and time of drill;

b. names of residents and children present;

c. amount of time to evacuate the facility;

d. problems noted during drill and corrections noted; and

e. signatures (not initials) of staff present.

2. The provider shall make every effort to ensure that staff, residents, and children recognize the nature and importance of fire drills.

C. Notification of Emergencies

1. The provider shall immediately notify the Licensing Section, other appropriate agencies, and the resident's legal guardian of any fire, disaster, or other emergency that may present a danger to residents or children or require their evacuation from the facility.

D. Access to Emergency Services

1. The provider shall have access to 24-hour telephone service.

2. The provider shall either prominently post telephone numbers of emergency services on or near each phone located in the facility, including the fire department, police department, medical facility , poison control (1-800-222-1222), ambulance services, 911, the facility's physical address or show evidence of an alternate means of immediate access to these services.

3. The provider shall ensure direct care staff can access emergency services at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:830 (April 2010), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7123. Safety Program

A. Policies and Procedures

1. The provider shall have policies and procedures for an on-going safety program that includes continuous inspection of the facility for possible hazards, continuous monitoring of safety equipment and investigation of all incidents.

B. General Safety Practices

1. The provider shall not possess or maintain or permit any other person to possess or maintain any firearm or chemical weapon on the premises with the exception of law enforcement personnel.

2. The provider shall ensure that all poisonous, toxic, and flammable materials are safely stored in appropriate containers labeled as to contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of residents, staff, children, and visitors.

3. The provider shall ensure that a first aid kit is available in the living units and in all vehicles used to transport residents or children.

4. The provider shall prohibit the use of candles in the facility.

5. Power-driven equipment used by the provider shall be safe and properly maintained. Such equipment shall be used by residents only under the direct supervision of a staff member and according to state law.

6. The provider shall allow residents and children to swim only in areas determined to be safe and under the supervision of a person certified/trained in American Red Cross Basic Water Rescue or equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:831 (April 2010), amended by the Department of Children and Family Services, Licensing Section, LR 42:

Marketa Garner Walters
Secretary

1611#015

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs
(LAC 28:XLV.Chapter 7)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education (BESE) approved for advertisement revisions to *Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs*: §741. Introduction, §743. Minimum Requirements for Traditional Teacher Preparation Programs, and §745. Minimum Requirements for Alternate Teacher Preparation Programs. This Declaration of Emergency, effective October 12, 2016, is for a period of 120 days from adoption, or until finally adopted as Rule.

R.S. 17:7.2 requires BESE to establish qualifications and requirements for the approval of teacher education programs that result in eligibility for certification, subject to the constitutional power and authority of the Board of Regents (BoR) and university system supervisory boards.

Pursuant to the Declaration of Emergency, the proposed revisions to Bulletin 996 establish competency-based program design and practice requirements that take full effect beginning January 1, 2017, which is why BESE has exercised the emergency provision in the adoption of these policy revisions.

Title 28
EDUCATION
Part XLV. Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs
Chapter 7. Louisiana State Standards for Educator Preparation Programs
Subchapter C. Teacher Preparation Programs: Adopted October 2016

§741. Introduction

A. Effective January 1, 2017, for the purposes of program approval, teacher preparation programs shall meet the requirements described in this subchapter.

B. Current approved preparation providers must demonstrate alignment of approved traditional and alternate programs to the program requirements described in this subchapter and be approved by BESE before July 1, 2018.

C. After July 1, 2018, teacher candidates shall be admitted only to traditional and alternate teacher preparation programs that meet the requirements described in this subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§743. Minimum Requirements for Traditional Teacher Preparation Programs

A. A traditional teacher preparation program is a baccalaureate degree program that includes a minimum of 120 credit hours of coursework and required practice experiences. A portion of the total hours must include the minimum number of credit hours in the teaching of reading and literacy as follows.

1. For certification in Birth-K, PK-3 and 1-5, general-special education mild/moderate 1-5, 9 credit hours;

2. For certification in middle grades 4-8 or general-special education mild/moderate 4-8, 6 credit hours;

3. For certification in secondary 6-12, all-level K-12, or general-special education mild/moderate 6-12 programs, 3 credit hours; and

4. For special education areas (early interventionist, hearing impaired, significant disabilities, or visually impaired), 9 credit hours.

B. The program shall sequentially develop and assess teacher candidates' mastery of applicable Louisiana teacher preparation competencies codified in *Bulletin 746* through a combination of general education, content area, and teaching coursework, assessments, and related practice experiences.

1. Traditional teacher preparation programs offered by public universities shall meet general education requirements established by the Board of Regents.

2. For the purposes of program approval, an academic major in the certification content area may serve as the basis for alignment to content knowledge competencies.

C. Programs shall include the following practice experiences, which directly align with and sequentially develop the competencies identified in Bulletin 746.

1. Actual practice experiences shall be provided in classroom settings prior to the residency year; and

2. A one-year residency shall take place in a public or approved non-public school in a classroom in the certification area with a teacher of record who holds a valid Level 1, 2, 3, Type A, or Type B teaching certificate in the area for which the candidate is pursuing certification pursuant to Bulletin 746. The residency may include practice with other teachers in a public or approved non-public school setting. Residents placed in charter schools must be placed with a teacher of record who has demonstrated effectiveness pursuant to state law and Bulletin 130.

a. Beginning July 1, 2018, candidates must hold a valid resident teacher certificate in order to be placed in a one-year residency.

b. For certification in B-K, PK-3, 1-5, or 1-5 integrated to merged, candidates must spend a minimum of 80 percent of the residency school site's instructional time each week engaged in residency activities.

c. For certification in K-12, 4-8, 6-12, 4-8 integrated to merged or 6-12 integrated to merged, candidates must spend a minimum of 60 percent of the residency school site's instructional time each week in the first semester and 80 percent of the residency school site's instructional time each week in the second semester engaged in residency activities.

d. Teacher preparation providers may seek approval to offer an innovative residency model that does not meet the minimum instructional time requirements but meets a specific workforce need and includes high-quality clinical experiences throughout the program and intensive clinical experiences throughout the residency year.

3. The residency shall include a combination of the following experiences:

a. instructional goal-setting and planning, including individual education plan (IEP) and individual accommodations plan (IAP) review and implementation;

b. classroom teaching;

c. analysis of student assessment results, including formative and summative assessment data, student work samples, and observations of student class discussions;

d. parent-teacher conferences and communication; and

e. interactions and collaboration with other teachers.

4. The teacher candidate shall be supervised in all residency experiences by a team comprised of a school-based mentor teacher, the residency school site principal or designee, and program faculty member. The supervision shall include, at minimum, two formal observations of teaching practice per semester, which shall include feedback on performance and analysis of formative and summative student achievement results and candidate performance data. Observations may be conducted by any member of the supervision team.

5. Candidates may complete clinical experiences through general education or content courses that integrate content, pedagogy, and practice.

D. The preparation provider shall assess and document evidence of candidates' teaching competency for all candidates completing one-year residencies.

1. Assessments of teaching competency shall be jointly administered by the preparation provider and the residency school site principal or designee.

2. Assessments of teaching competency shall include, but not are not limited to, the following:

a. observations that occur during the residency year; and

b. measures of teacher candidates' impact on all students' learning, which may include student learning targets.

3. Upon completion of the program, a holistic evaluation of the teacher candidate's eligibility for initial licensure shall be made collaboratively by preparation provider faculty, the residency school site principal or designee, and mentor teacher.

E. To be admitted into a traditional teacher preparation program, candidates must meet the following requirements:

1. Meet minimum GPA requirements of 2.50 or higher grade point average (GPA) on a 4.00 scale; and

2. Pass the Core Academic Skills for Educators assessment or meet alternate requirements pursuant to Bulletin 746.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§745. Minimum Requirements for Alternate Teacher Preparation Programs

A. An alternate teacher preparation program is a program that includes a minimum number of credit or contact hours of coursework or training and required practice experiences. There are three types of alternate teacher preparation programs:

1. The practitioner teacher program may be offered by state-approved colleges or universities and non-university providers with an approved teacher education program in grades PK-3, 1-5, 4-8, 6-12, all-level K-12 (art, dance, foreign language, health and physical education, and music), or integrated to merged approach for grades 1-5, grades 4-8 and grades 6-12.

a. Total hours required in grades PK-3 program—24-33 credit hours (or equivalent 360-495 contact hours);

b. Total hours required in grades 1-5, 4-8, 6-12, all-level (K-12) programs—21-30 credit hours (or equivalent 315-450 contact hours); and

c. Total hours required in general-special education mild/moderate grades 1-5, grades 4-8, and grades 6-12 programs—27-33 credit hours (or equivalent 405-495 contact hours).

2. The master's degree program may be offered by state-approved colleges or universities with an approved teacher education program. Master's degree programs may offer certification in grades PK-3, 1-5, 4-8, 6-12, all-level K-12 (art, dance, foreign language, health and physical education, music), early interventionist birth to five years, general-special education mild-moderate: an integrated to merged approach for grades 1-5, grades 4-8, and grades 6-12.

a. Total hours required in grades PK-3, grades 1-5, grades 4-8, grades 6-12, All-Level K-12, Early Interventionist Birth to Five Years programs—33-39 credit hours; and

b. Total hours required in general-special education mild/moderate: an integrated to merged approach for grades

1-5, grades 4-8 and grades 6-12 programs – 33-42 credit hours.

3. The certification-only program may be offered by state-approved providers with an approved teacher education program in grades PK-3, 1-5, 4-8, 6-12, all-level K-12 (art, dance, foreign language, health and physical education, and music), early interventionist birth to five years, general-special education mild-moderate: an integrated to merged approach for grades 1-5, grades 4-8, and grades 6-12. Total hours required—27-33 credit hours or equivalent contact hours (405-495).

B. For all alternate teacher preparation programs, a portion of the total hours must include the minimum number of credit hours or equivalent contact hours in the teaching of reading and literacy as follows.

1. For certification in PK-3 and 1-5, general-special education mild/moderate 1-5, 9 credit hours or 135 contact hours;

2. For certification in middle grades 4-8 or general-special education mild/moderate 4-8, 6 credit hours or 90 contact hours;

3. For certification in secondary 6-12, all-level K-12, or general-special education mild/moderate 6-12 programs, 3 credit hours or 45 contact hours; and

4. For special education areas (early interventionist, hearing impaired, significant disabilities, or visually impaired), 9 credit hours or 135 contact hours.

C. The program shall sequentially develop and assess teacher candidates' mastery of applicable Louisiana teacher preparation competencies codified in Bulletin 746 through a combination of coursework, assessments, and related practice experiences.

D. Programs shall include the following practice experiences, which directly align with and sequentially develop the competencies identified in Bulletin 746.

1. Clinical experiences shall be provided in classroom settings prior to the residency year as follows:

a. In all programs, a minimum of 9 credit hours or 135 contact hours of training and a minimum of 80 hours of actual practice experiences in classrooms is required prior to the residency.

2. A one-year residency shall take place in a public or approved non-public school in a classroom in the certification area. The residency shall include a combination of the following experiences:

a. instructional goal-setting and planning, including IEP and IAP review and implementation;

b. classroom teaching;

c. analysis of student assessment results, including formative and summative assessment data, student work samples, and observations of student class discussions;

d. parent-teacher conferences and communication; and

e. interactions and collaboration with other teachers.

3. The teacher candidate shall be supervised in all residency experiences by a team comprised of a school-based mentor teacher, the residency school site principal or designee, and program faculty member.

a. The supervision shall include, at minimum, two formal observations of teaching practice per semester, which shall include feedback on performance and analysis of formative and summative student achievement results and candidate performance data. Observations may be conducted by any member of the supervision team.

4. Practitioner teacher programs shall require candidates to complete the residency as a teacher of record. Candidates must hold a valid practitioner teacher license pursuant to Bulletin 746.

5. Master's degree or certification-only alternate programs shall allow candidates to complete the residency as a teacher of record or in a classroom under a teacher of record.

a. Candidates may complete the residency as a teacher of record and must hold a valid Practitioner Teacher License pursuant to Bulletin 746; or

b. Candidates may complete the one-year residency in a classroom a public or approved non-public school in a classroom in the certification area with a teacher of record who holds a valid Level 1, 2, 3, Type A, or Type B teaching certificate in the area for which the candidate is pursuing certification pursuant to Bulletin 746. The residency may include practice with other teachers in a public or approved non-public school setting. Residents placed in charter schools must be placed with a teacher of record who has demonstrated effectiveness pursuant to state law and Bulletin 130.

i. Effective July 1, 2018, candidates must hold a valid Resident Teacher Certificate. The residency may include practice with other teachers in the public or approved non-public school setting.

ii. For certification in PK-3, 1-5, or 1-5 integrated to merged, candidates must spend a minimum of 80 percent of the residency school site's instructional time each week engaged in residency activities; and

iii. For certification in K-12, 4-8, 6-12, 4-8 integrated to merged or 6-12 integrated to merged, candidates must spend a minimum of 60 percent of the residency school site's instructional time each week in the first semester and 80 percent of the residency school site's instructional time each week in the second semester engaged in residency activities.

iv. Teacher preparation providers may seek approval to offer an innovative residency model that does not meet the minimum instructional time requirements but meets a specific workforce need and includes high-quality clinical experiences throughout the program and intensive clinical experiences throughout the residency year.

E. The preparation provider shall assess and document evidence of candidates' teaching competency for all candidates completing one-year residencies.

1. Assessments of teaching competency shall be jointly administered by the preparation provider and the residency school site principal or designee.

2. Assessments of teaching competency shall include, but not are not limited to, the following:

a. observations that occur during the residency year; and

b. measures of teacher candidates' impact on all students' learning, which may include student learning targets.

3. Upon completion of the program, a holistic evaluation of the teacher candidate's eligibility for initial licensure shall be made collaboratively by preparation

provider faculty, the residency school site principal or designee, and mentor teacher.

F. To be admitted into an alternate teacher preparation program, candidates must meet the following requirements:

1. Possess a non-education baccalaureate degree from a regionally accredited university;

2. Meet minimum GPA requirements. For admission into certification-only programs, the GPA may be calculated using the last 60 hours of coursework earned from a regionally accredited university.

a. 2.50 or higher grade point average (GPA) on a 4.00 scale to enter a non-university program;

b. 2.20 or higher GPA on a 4.00 scale to enter a college or university program; and

3. Pass the core academic skills for educators assessment and the required content examinations or meet alternate requirements pursuant to Bulletin 746. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 30 semester hours of coursework specific to the content area.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

James D. Garvey, Jr.
President

1611#002

DECLARATION OF EMERGENCY

Office of the Governor
Board of Examiners of Certified Shorthand Reporters

Applications for Examinations (LAC 46:XXI.301)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S.49:953(B), and under the authority of R.S. 37:2557(B), R.S. 37:2555(G), and R.S. 37:2556(D), the Louisiana Board of Examiners of Certified Shorthand Reporters ("CSR board") declares an emergency and adopts by emergency process the attached rules and accompanying forms as LAC 46:I.301, proposes to adopt changes made to CDR examination procedures.

This Emergency Rule is effective on November 1, 2016 and shall remain in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever comes first.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXI. Certified Shorthand Reporters
Chapter 3. Examinations
§301. Applications for Examinations

A. - F. ...

G. A certified digital reporter (CDR) applicant who is eligible as an official or deputy official reporter will be scheduled for an examination to be given by a designee of the education or examination committee chair. The examination will not be administered for an individual CDR applicant more frequently on an annual basis than the number of examinations scheduled each year by the board in accordance with Subsection A of this Section. A certified digital reporter applicant is not subject to the qualifying exam.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and R.S. 37:2555(F).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:678 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 14:530 (August 1988), LR 16:393 (May 1990), LR 17:578 (June 1991), LR 19:1537 (December 1993), LR 27:183 (February 2001), amended by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters LR 29:1086 (July 2003), LR 35:64 (January 2009), LR 37:3512 (December 2011), LR 42:

Judge Paul A. Bonin
Chairman

1611#016

DECLARATION OF EMERGENCY

Department of Health
Board of Examiners of Nursing Facility Administrators

Registration of Licenses and Certificates
(LAC 46:XLIX.1103)

The Board of Examiners of Nursing Facility Administrators has exercised the emergency provision in accordance with R.S. 49:953(B), to amend its rules governing the qualifications required to obtain a conditional licensed administrator status. The board received input from a number of licensed administrators that currently do not meet the requirements for conditional licensure and who will not be able to renew their administrator license with the current active status due to financial restraints. To eliminate some of the financial restraints and allow these administrators to keep their license current, and since there is not sufficient time to promulgate a change in the rule before the current December 31, 2016 lapse date, the board has determined that an Emergency Rule is necessary.

The board has determined that failure to implement the Emergency Rule will cause a decrease in the number of licensed administrators in Louisiana. The board has determined this emergency rule is necessary to prevent imminent peril to the public health, safety, and welfare. Although the board is working on the changes, they need more time; therefore, they have directed the Emergency Rule. The Rule shall become effective 10/17/2016 and remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever shall first occur.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLIX. Board of Examiners of Nursing Facility Administrators
Chapter 11. Licenses
§1103. Registration of Licenses and Certificates; Status

A. - A.3. …

B. Every person who holds a valid license as a nursing facility administrator as issued by the board in registered active status and has been issued a certificate of registration may elect to go to registered inactive status which is defined

as one who is no longer practicing and elects not to maintain continuing education hours.

1. In such case, to change from a registered inactive status to registered active status, they shall undergo 60 days of on-site re-orientation under supervision of a board-approved preceptor, unless such person has been actively practicing in another state and meets Louisiana continuing education and all board requirements.

C. Upon making an application for a new certificate of registration as either a registered active or registered inactive status, such licensee shall pay an annual registration fee as provided for in Chapter 12 of this Part. Additionally, for a registered active administrator, they shall submit evidence satisfactory to the board that, during the annual period immediately preceding such application for registration, they have attended a continuing education program or course of study as provided in Chapter 9 of these rules and regulations. Unless prior approval is obtained, originals of the certificate(s) of attendance for 18 hours of approved continuing education shall be attached to the annual re-registration application of which no more than 9 hours may be online.

D.1. A licensed nursing home administrator In registered active status no longer practicing in Louisiana may place his license in either a conditional inactive or conditional active status.

2.a. As used in this Subparagraph, a licensed nursing home administrator selecting conditional inactive status shall mean the following:

i. an administrator not actively running a nursing facility; and

ii. not maintaining continuing education requirements for re-registration.

b. As used in this Subparagraph, a licensed nursing home administrator selecting conditional active status shall mean one of the following:

i. an administrator not actively running a nursing facility and age 65 or older;

ii. an administrator with 20 years of experience as an administrator running a nursing facility and not currently actively working in a nursing facility;

iii. an administrator not actively working in a nursing facility in Louisiana and possessing an active license in another state.

3.a. A licensed nursing home administrator who selects conditional inactive status or conditional active status shall continue to register their license annually as provided in Chapter 12 of this Part. Additionally, for a conditional active status, they shall submit evidence satisfactory to the board that, during the annual period immediately preceding such application for registration, they have attended a continuing education program or course of study as provided in Chapter 9 of these rules and regulations.

b. A person selecting conditional inactive status is exempt from continuing education requirements. Should a licensee wish to reactivate to registered active status, they shall undergo 60 days of on-site re-orientation under supervision of a board-approved preceptor, unless such person has been actively practicing in another state and meets Louisiana continuing education requirements.

c. In either case, to change from a conditional active or conditional inactive status to registered active status an applicant must meet all fees and requirements for licensure of a nursing home administrator license.

4. The annual conditional licensure fee shall be assessed as provided for in Chapter 12 of this Part.

E. Upon receipt of such application for registration, the registration fee and the evidence required with respect to continuing education, the board shall issue a certificate of registration to such nursing home administrator.

F. The license of a nursing home administrator who fails to comply with the provisions of this Section shall be suspended by the board and the license shall automatically lapse.

G. Only an individual who has qualified as a licensed and registered nursing home administrator and who holds a valid current registration certificate pursuant to the provisions of these rules for the current annual registration period, shall have the right and the privilege of using the title "nursing home administrator" and have the right and the privilege of using the abbreviation “NFA.” after his name. No other person shall use or shall be designated by such title or such abbreviation or any other words, letters, sign, card, or device tending to, or intended to indicate that such person is a licensed and registered nursing home administrator.

H. The board shall maintain a file on all applicants for licensing and all registered nursing home administrators, which file shall contain the place of residence, name of each applicant; the name and address of current employer or business connection of each applicant; the date of application; complete information of educational and experience qualifications with dates; the license number and registration certificates issued to the applicant; the date on which the board reviewed and acted upon the application; and the board shall maintain a complete file of such other pertinent information as may be deemed necessary.

I. The board shall maintain a register of all licenses and status conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Home Administrators, April 1970, amended and promulgated LR 9:461 (July 1983), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators LR 18:181 (February 1992), amended LR 25:1627 (September 1999), LR 25:2407 (December 1999), repromulgated LR 26:82 (January 2000), LR 26:316 (February 2000), amended by the Board of Examiners of Nursing Facility Administrators, LR 37:594 (February 2011), repromulgated LR 37:887 (March 2011), amended by the Department of Health, Board of Examiners of Nursing Facility Administrators, LR 42:

Mark A. Hebert
Executive Director

1611#005

DECLARATION OF EMERGENCY

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

Home and Community-Based Services Waivers
Community Choices Waiver
Electronic Visit Verification
(LAC 50:XXI.9305)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services adopt LAC 50:XXI.9305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, through collaborative efforts, provide enhanced long-term services and supports to individuals who are elderly or have a disability through the Community Choices Waiver program.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which amended the provisions governing the Community Choices Waiver in order to adopt requirements which mandate that providers of personal assistant services must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services (*Louisiana Register,* Volume 41, Number 3). This Rule is being promulgated to continue the provisions of the April 1, 2015 Emergency Rule. This action is being taken to promote the health and welfare of Community Choices Waiver participants by assuring that they receive the services they need and to ensure that these services are rendered in an efficient and cost-effective manner.

Effective November 26, 2016, the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing the Community Choices Waiver to establish requirements for the use of an EVV system.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services Waivers
Subpart 7. Community Choices Waiver
Chapter 93. Provider Responsibilities
§9305. Electronic Visit Verification

A. Effective for dates of service on or after April 1, 2015, Community Choices Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the Community Choices Waiver provider manual.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 42:

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

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1611#054

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Intermediate Care Facilities for Persons
with Developmental Disabilities
Licensing Standards
(LAC 48:I.8595 and 8599)

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.8595 and §8599 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:953(B)(1)et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing repealed the provisions governing the minimum licensing standards for intermediate care facilities I and II, community homes and group homes, and adopted provisions to incorporate these facilities under a single comprehensive Rule for intermediate care facilities for persons with developmental disabilities (ICFs/DD) (*Louisiana Register*, Volume 38, Number 12).

Act 540 of the 2006 Regular Session of the Louisiana Legislature amended R.S. 29:726(F) to provide for rapid communications in times of disaster or emergencies. In compliance with Act 540, the department promulgated an Emergency Rule to amend the provisions governing ICFs/DD to require timely filing of electronic reports related to census information and other needed information during declared disasters or emergencies (*Louisiana Register*, Volume 42, Number 4). This Emergency Rule is being

promulgated to continue the provisions of the April 7, 2016 Emergency Rule.

This action is being taken to prevent imminent peril to the health, safety or welfare of Louisiana citizens who are residents of ICFs/DD.

Effective December 5, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing standards for intermediate care facilities for persons with developmental disabilities.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 85. Intermediate Care Facilities for Persons with Developmental Disabilities

Subchapter G. Emergency Preparedness

§8595. Emergency Preparedness Plan

A. - B.15.f. ...

C. An ICF/DD shall electronically enter current facility information into the department's ESF-8 Portal or into the current LDH Emergency Preparedness webpage or electronic database for reporting.

1. The following information shall be entered or updated before the fifteenth of each month:

a. operational status;

b. census;

c. emergency contact and destination location information; and

d. emergency evacuation transportation needs categorized by the following types:

i. *red*–high risk residents who will need to be transported by advanced life support ambulance due to dependency on mechanical or electrical life sustaining devices or very critical medical condition;

ii. *yellow*–residents who are not dependent on mechanical or electrical life sustaining devices, but cannot be transported using normal means (buses, vans, cars), may need to be transported by an ambulance; however, in the event of inaccessibility of medical transport, buses, vans or cars may be used as a last resort; and

iii. *green*-residents who do not need specialized transportation may be transported by car, van, bus or wheelchair accessible transportation.

2. An ICF/DD shall also enter or update the facility's information upon request, or as described per notification of an emergency declared by the secretary. Emergency events may include, but are not limited to:

a. hurricanes;

b. floods;

c. fires;

d. chemical or biological hazards;

e. power outages;

f. tornados;

g. tropical storms; and

h. severe weather.

3. Effective immediately, upon notification of an emergency declared by the secretary, all ICFs/DD shall file an electronic report with the ESF-8 Portal or into the current LDH Emergency Preparedness webpage or electronic database for reporting.

a. The electronic report shall be filed, as prescribed by department, throughout the duration of the emergency declaration.

b. The electronic report shall include, but is not limited to, the following:

i. status of operation;

ii. availability of beds;

iii. generator status;

iv. evacuation status;

v. shelter in place status;

vi. mobility status of clients;

vii. range of ages of clients;

ix. intellectual levels/needs of clients; and

x. any other client or facility related information that is requested by the department.

NOTE: The electronic report shall not be used to request resources or to report emergency events.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3207 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

§8599. Notification of Evacuation, Relocation, or Temporary Cessation of Operations

A. In the event that an ICF/DD evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state, local or parish OHSEP, the ICF/DD must immediately give notice to the Health Standards Section as well as the Office for Citizens with Developmental Disabilities (OCDD) and OHSEP as directed by filing an electronic report with the ESF-8 Portal or into the current LDH Emergency Preparedness webpage or electronic database for reporting:

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3208 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1611#055

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Intermediate Care Facilities for Persons
with Intellectual Disabilities
Supplemental Payments
(LAC 50:VII.32917)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:VII.32917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing provides Medicaid reimbursement to non-state intermediate care facilities for persons with intellectual disabilities (ICFs/ID) for services rendered to Medicaid recipients.

The Department of Health and Hospitals, Bureau of Health Services Financing, promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/ID in order to adopt provisions to establish supplemental Medicaid payments for services provided to Medicaid recipients residing in privately-owned facilities that enter into a cooperative endeavor agreement with the department (*Louisiana Register,* Volume 41, Number 8). The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the August 1, 2015 Emergency Rule to establish upper payment limits for supplemental payments to private intermediate care facilities entering into a cooperative endeavor agreement with the department to provide a privately operated living setting to residents discharging from Pinecrest Supports and Services Center, hereafter referred to as Pinecrest (*Louisiana Register*, Volume 42, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 20, 2016 Emergency Rule. This action is being taken to secure new federal funding, and to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation.

Effective November 20, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-state ICFs/ID.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part VII. Long Term Care
Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 329. Reimbursement Methodology
Subchapter A. Non-State Facilities
§32917. Supplemental Payments

A. Effective for dates of service on or after August 1, 2015, monthly supplemental payments shall be made to qualifying privately-owned intermediate care facilities for persons with intellectual disabilities.

1. In order to qualify for the supplemental payment, the private entity must enter into a cooperative endeavor agreement with the department.

B. Effective for dates of service on or after August 1, 2016, monthly supplemental payments shall be made to qualifying privately-owned intermediate care facilities for persons with intellectual disabilities (ICFs/ID) to provide a privately operated living setting to residents discharging from Pinecrest Supports and Services Center.

1. In order to qualify for the supplemental payment, the private entity must enter into a cooperative endeavor agreement with the department to provide a privately operated living setting, with an end goal of increased community placement opportunities, to residents of Pinecrest who desire to discharge and have been deemed ready for discharge by their interdisciplinary teams, and meet the admission protocol/criteria of the contracted party but have not been successful in securing a placement with a private provider.

C. Supplemental payments for services rendered to Medicaid recipients shall not exceed the facility's upper payment limit (UPL) pursuant to 42 CFR 447.272. The UPL will be based on the Centers for Medicare and Medicaid Services' approved ICF transitional rate of $329.26 including provider fee.

D. The supplemental payment will be the difference between the actual Medicaid payment and what would have been paid if the ICF/ID was paid up to the UPL amount.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

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

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1611#056

DECLARATION OF EMERGENCY

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

Personal Care Services—Long-Term
Standards for Participation
Electronic Visit Verification
(LAC 50:XV.12909)

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

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, through collaborative efforts, provide enhanced long-term personal care services and supports to individuals with functional impairments.

The department promulgated an Emergency Rule which amended the provisions governing long-term personal care services (LT-PCS) in order to adopt requirements which mandate that LT-PCS providers must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for long-term personal care services (*Louisiana Register*, Volume 41, Number 3). This Emergency Rule is being promulgated to continue the provisions of the April 1, 2015 Emergency Rule.

This action is being taken to promote the health and welfare of persons with a functional impairment by assuring that they receive the services they need, and to ensure that these services are rendered in an efficient and cost-effective manner.

Effective November 26, 2016, the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing long-term personal care services to establish requirements for the use of an EVV system.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 9. Personal Care Services
Chapter 129. Long Term Care
§12909. Standards for Participation

A. - D.2. ...

E. Electronic Visit Verification. Effective for dates of service on or after April, 1, 2015, providers of long-term personal care services shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services.

1. Reimbursement shall only be made to providers with documented use of the EVV system.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), LR 39:2508 (September 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

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

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1611#057

DECLARATION OF EMERGENCY

Department of Insurance
Office of the Commissioner

Emergency Rule 29—Homeowner and Fire/Commercial
Insurance Policy Disclosure Forms
(LAC 37:XIII.Chapter 153)

The Department of Insurance (Department) hereby exercises the emergency provisions of the Administrative Procedure Act, LSA-R.S. 49:953(B) and, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., adopts Emergency Rule 29 which is necessary to create and promulgate the Homeowner and Fire/Commercial Insurance Policy Disclosure Forms. Emergency Rule 29 establishes the forms developed by the Commissioner of Insurance for use by all property and casualty insurers issuing, delivering or renewing homeowner or fire commercial insurance policies that provide coverage for damage to property in Louisiana. Emergency Rule 29 shall be effective upon adoption in the Louisiana Register and unless extended, shall remain in effect for a period of 120 days or until adoption of the final Regulation 107 through the normal rulemaking process, whichever occurs first.

Emergency action is necessary to provide the forms to be used by all property and casualty insurers issuing homeowners and fire/commercial insurance policies that provide coverage for damage to property in Louisiana to notify all homeowner and fire/commercial policyholders of specific provisions of their policies.

Act 274 of the 2016 Regular Session enacted LSA R.S. 22:1332 (B) (7) which requires the Homeowner Disclosure form mandated by that section to include an additional notice to policyholders if their insurer intends to use claims that do not exceed the policy deductible and that do not result in a payment to the insured or on behalf of the insured

as a basis to increase the cost of the policy's premium in the future or as part of the basis for cancellation of the policy. The Commissioner believes emergency action is necessary because Act 274 of the 2016 Regular Session became effective August 1, 2016 mandating the promulgation of the Homeowner Disclosure form by November 30, 2016 as well as the fact that many policyholders may report potential minor claims without knowing such a claim will be used against them even if the value of the claim does not exceed the policy deductible and the insurance company does not make any payments to the insured or on behalf of the insured. Failure to adopt this Rule on an emergency basis will result in a delay in promulgation of the rule and the implementation of the disclosure form requirements.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 153. Homeowner and Fire/Commercial Insurance Policy Disclosure Forms

§15301. Purpose

A. The purpose of Emergency Rule 29 is to adopt the homeowners and fire/commercial. insurance policy disclosure forms developed by the commissioner of insurance for use by all property and casualty insurers issuing, delivering or renewing homeowners and fire/commercial insurance policies that provide coverage for damages to property in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1319 and 22:1332.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§15303. Applicability and Scope

A. Emergency Rule 29 shall be applicable to all property and casualty insurers for all new homeowner policies and all renewals of existing homeowner policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1319 and 22:1332.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§15305. Disclosure Forms

A. Every property and casualty insurer issuing, delivering or renewing homeowners or fire/commercial insurance policies that provide coverage for damage to property in Louisiana shall present to the insured as an insert in the front of the policy upon issuance, delivery or renewal the appropriate disclosure form.

B. Formatting Instructions. The text of the disclosure form should be formatted as shown in the applicable appendix in bold type of not less than a 14-point font.

C. Appendix A contains the form that sets forth the disclosures required by R.S. 22:1319 for use by all property and casualty insurers issuing fire/commercial policies covering property in Louisiana.

D. Appendix B contains the form that sets forth the disclosures required by R.S. 22:1332(B)(1)-(6) for use by all property and casualty insurers issuing homeowner policies covering property in Louisiana.

E. Appendix C contains the form that sets forth the disclosures required by R.S. 22:1332 (B)(1)-(7) for use by all property and casualty insurers issuing homeowner policies for damage to property in Louisiana that use claims that do not exceed the policy deductible and that do not result in a payment either to the insured or on behalf of the insured to increase the cost of the policy premium in the future or as part of the basis for cancellation of a policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1319 and 22:1332.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§15307. Rule Amendment

A. The commissioner of insurance reserves the right to amend, modify, alter or rescind all or any portion of Emergency Rule 29.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1319 and 22:1332.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§15309. Severability Clause

A. If any provision of this emergency rule, or the application thereof to any circumstance, is held invalid, such determination shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end the provisions of this Emergency Rule are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1319 and 22:1332.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§15311. Effective Date

A. The forms provided in Appendix A and Appendix B of Emergency Rule 29 shall become effective immediately upon adoption and the form provided in Appendix C shall become effective six months after adoption. All forms shall continue in full force and effect until amended, modified, altered or rescinded by the commissioner of insurance.

AUTHORITY NOTE: promulgated in accordance with R.S. 22:11, 22:1319 and 22:1332.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§15313. Appendices

Appendix A

Important Information Required by the Louisiana Department of Insurance

Fire Insurance Policy Coverage Disclosure Summary
(other than Homeowners)
Or
Commercial Insurance Policy Coverage Disclosure Summary
This form is promulgated pursuant to LSA-R.S. 22:1319

THIS IS ONLY A SUMMARY OF YOUR COVERAGE AND DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGES OR ANY OTHER PROVISIONS CONTAINED IN YOUR POLICY. INSURANCE IS A CONTRACT. THE LANGUAGE IN YOUR POLICY CONTROLS YOUR LEGAL RIGHTS AND OBLIGATIONS.

**READ YOUR INSURANCE POLICY FOR
COMPLETE POLICY TERMS AND CONDITIONS**

COVERAGE(S) FOR WHICH PREMIUM WAS PAID

[INSERT PROPERTY COVERAGES]

Deductibles

This policy sets forth certain deductibles that will be applied to claims for damages. When applicable, a deductible will be subtracted from your total claim and you will be paid the balance subject to applicable coverage limits.

- You may be able to reduce your premium by increasing your deductible. Contact your producer (agent) or insurer for details.

NOTICE: This policy [does/does not] set forth a separate deductible for covered losses caused by [hurricane; wind; named storm] as defined in the policy.

Separate Deductible
Examples—Hurricane, Wind or Named Storm Damage.

If applicable, the following illustrates how a separate deductible applying to hurricane, wind or named storm damage is applied under your policy:

The insurer shall comply with LSA-R.S. 22:1319 B(3) by selecting either option A or B below:

A. Developing its own standardized example to reflect how a hurricane, wind, or named storm damage loss will be adjusted under the policy. The standardized example shall set forth a separate loss for each coverage included in the policy for which a premium has been paid. The total of all losses combined shall exceed by at least ten percent (10%) the applicable deductible(s) so that the example demonstrates a net payment to the insured.

B. Utilizing the standardized example prepared by the LDOI if this standardized example properly reflects how a separate deductible is applied to a hurricane, wind, or named storm damage loss under the policy:

The following assumes no co-insurance penalty and a 2% hurricane, wind, or named storm deductible. The amounts of loss to the damaged property are $50,000 (building) and $20,000 (business personal property).

Limits of insurance on building	$ 100,000
Total amount of building loss	$ 50,000
Less 2% deductible ($100,000 X .02)	$ 2,000
Net payment to insured for building loss	$ 48,000
Limits of insurance on the business personal property	$ 50,000
Total amount of business personal property loss	$ 20,000
Less 2% deductible ($50,000 X .02)	- $ 1,000
Net payment to insured for business personal property loss	$ 19,000
Total net payment to insured for building and business personal property loss ($48,000 + $19,000)	$ 67,000

TO SEE EXACTLY HOW YOUR SEPARATE HURRICANE, WIND OR NAMED STORM DEDUCTIBLE WILL APPLY, PLEASE REFER TO YOUR POLICY.

Limitations or Exclusions under this Policy

FLOOD—Flood damage [is/is not] covered, regardless of how caused, when flood is the peril that causes the loss. Flood water includes, but is not limited to, storm surge, waves, tidal water, overflow of a body of water, whether driven by wind or not.

Flood Insurance may be available through the National Flood Insurance Program (NFIP). NFIP flood insurance may provide coverage for damage to your dwelling or building and/or contents subject to the coverage limits and terms of the policy.

Excess Flood Insurance may be available under a separate policy, from this or another insurer, if the amount of the primary flood insurance is not enough to cover the value of your property.

- You may contact your producer (agent) or insurer for more information on the NFIP and excess flood insurance.

MOLD—Damage caused solely by mold [is/is not] covered under this policy.

**FOR ALL OTHER LIMITATIONS OR EXCLUSIONS REFER TO YOUR
POLICY FOR COMPLETE DETAILS ON TERMS AND PROVISIONS**

Appendix B

**Important Information Required by
the Louisiana Department of Insurance**

Homeowners Insurance Policy Coverage Disclosure Summary
This form is promulgated pursuant to LSA-R.S. 22:1332 (B)(1-6)

THIS IS ONLY A SUMMARY OF YOUR COVERAGE AND DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGES OR ANY OTHER PROVISIONS CONTAINED IN YOUR POLICY. INSURANCE IS A CONTRACT. THE LANGUAGE IN YOUR POLICY CONTROLS YOUR LEGAL RIGHTS AND OBLIGATIONS.

**READ YOUR INSURANCE POLICY FOR
COMPLETE POLICY TERMS AND CONDITIONS**

COVERAGE(S) FOR WHICH PREMIUM WAS PAID

[INSERT PERSONAL PROPERTY COVERAGES]

Example:
Coverage A.....Dwelling
Coverage B.....Other Structures
Coverage C.....Personal Property
Coverage D.....Loss of Use
Coverage E.....Personal Liability
Coverage F.....Medical Payments

Deductibles

This policy sets forth certain deductibles that will be applied to claims for damages. When applicable, a deductible will be subtracted from your total claim and you will be paid the balance subject to applicable coverage limits.

- You may be able to reduce your premium by increasing your deductible. Contact your producer (agent) or insurer for details.

NOTICE: This policy [does/does not] set forth a separate deductible for covered losses caused by [hurricane; wind; named storm] as defined in the policy.

Separate Deductible Example—Hurricane, Wind or Named Storm Damage.

If applicable, the following illustrates how a separate deductible applying to hurricane, wind or named storm damage is applied under your policy:

The insurer shall comply with LSA-R.S. 22:1332 B(6) by selecting and inserting either option A or B below:

A. Developing its own standardized example to reflect how a hurricane, wind, or named storm damage loss will be adjusted under the policy. The standardized example shall set forth a separate loss under each of Coverage A, B, C and D and the total of all losses combined shall exceed by at least ten percent (10%) the applicable deductible so that there shall be a net payment to the insured.

B. Utilizing the standardized example prepared by the LDOI if this standardized example properly reflects how a separate deductible is applied to a hurricane, wind, or named storm damage loss under the policy:

If the total insured value of the dwelling or Coverage A is $200,000 and you have a 2% hurricane, wind, or named storm deductible, then your hurricane, wind or named storm deductible would be $200,000.00 X .02 = $4,000.00.

Losses:
Coverage A – Dwelling.....$15,000
Coverage B – Other Structures.....$ 2,500
Coverage C – Personal Property.....$ 3,000
Coverage D – Loss of Use.....$ 2,000
Total amount of all losses.....$22,500
Less 2% hurricane, wind or named storm deductible.....$ 4,000
Net payment to insured.....$18,500

TO SEE EXACTLY HOW YOUR SEPARATE HURRICANE, WIND OR NAMED STORM DEDUCTIBLE WILL APPLY, PLEASE REFER TO YOUR POLICY.

Limitations or Exclusions under this Policy

FLOOD—Flood damage [is/is not] covered, regardless of how caused, when flood is the peril that causes the loss. Flood water includes but is not limited to storm surge, waves, tidal water, overflow of a body of water, whether driven by wind or not.

Flood Insurance may be available through the National Flood Insurance Program (NFIP). NFIP flood insurance may provide coverage for damage to your dwelling and/or contents subject to the coverage limits and terms of the policy.

Excess Flood Insurance may be available under a separate policy from this or another insurer if the amount of the primary flood insurance is not enough to cover the value of your property.

- You may contact your producer (agent) or insurer for more information on the NFIP and excess flood insurance.

MOLD—Damage caused solely by mold [is/is not] covered under this policy.

**FOR ALL OTHER LIMITATIONS OR EXCLUSIONS REFER TO YOUR
POLICY FOR COMPLETE DETAILS ON TERMS AND PROVISIONS**

Claim Filing Process

There may be time limitations for filing a claim and filing of a satisfactory proof of loss. There may also be time limitations for repairing and replacing damaged property that could cause you to not recover the replacement cost for the insured loss of your property, if applicable.

Payment of Claims

Depending on the terms of the insurance policy, some losses may be based on actual cash value (ACV) and other losses based on replacement cost (RC).

- ACV is the amount needed to repair or replace the damaged or destroyed property, minus the depreciation.

- RC involves the initial payment of actual cash value (ACV) of a loss, and the subsequent payment of the additional amount that is actually and necessarily expended to repair or replace the damaged or destroyed property.

**Refer to your policy for the terms and conditions describing how a particular loss is to be paid.

Payment and Adjustment of Claims

Pursuant to LSA-R.S. 22:1892 and 22:1973, except in the case of catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim and/or a claim for reasonable medical expenses within fourteen (14) days after notification of loss by the claimant.

In the case of catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim within thirty (30) days after notification of loss by the claimant unless the Commissioner of Insurance promulgates a rule to extend the time period for initiating a loss adjustment for damages arising from a presidentially declared emergency or disaster or a gubernatorially declared emergency or disaster for up to an additional thirty (30) days. Thereafter, one additional extension of the period of time for initiating a loss adjustment may be allowed by the Commissioner of Insurance if approved by the Senate Committee on Insurance and the House Committee on Insurance.

All insurers shall make a written offer to settle any property damage claim, including a third-party claim, within thirty (30) days after the receipt of satisfactory proof of loss of that claim.

Failure to make such payment within thirty (30) days after receipt of such satisfactory written proofs and demand thereof or failure to make a written offer to settle any property damage claim, including a third-party claim, within thirty (30) days after receipt of a satisfactory proof of loss of that claim may result in a late penalty against the insurer in addition to the payment of the claim.

If the insurer is found to be arbitrary, capricious, or without probable cause in settling any property damage claim, the insurer must pay the insured, in addition to the amount of the loss, fifty percent (50%) damages on the amount found to be due from the insurer to the insured, or one thousand dollars ($1,000.00), whichever is greater, as well as attorney fees and costs, if applicable.

Appendix C

**Important Information Required by
the Louisiana Department of Insurance**

Homeowners Insurance Policy Coverage Disclosure Summary
This form is promulgated pursuant to LSA-R.S. 22:1332 (B)(1-7)

THIS IS ONLY A SUMMARY OF YOUR COVERAGE AND DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGES OR ANY OTHER PROVISIONS CONTAINED IN YOUR POLICY. INSURANCE IS A CONTRACT. THE LANGUAGE IN YOUR POLICY CONTROLS YOUR LEGAL RIGHTS AND OBLIGATIONS.

**READ YOUR INSURANCE POLICY FOR
COMPLETE POLICY TERMS AND CONDITIONS**

COVERAGE(S) FOR WHICH PREMIUM WAS PAID

[INSERT PERSONAL PROPERTY COVERAGES]

Example:
Coverage A.....Dwelling
Coverage B.....Other Structures
Coverage C.....Personal Property
Coverage D.....Loss of Use
Coverage E.....Personal Liability
Coverage F.....Medical Payments

Deductibles

This policy sets forth certain deductibles that will be applied to claims for damages. When applicable, a deductible will be subtracted from your total claim and you will be paid the balance subject to applicable coverage limits.

- You may be able to reduce your premium by increasing your deductible. Contact your producer (agent) or insurer for details.

- If you file a claim that does not exceed the policy deductible and that does not result in a payment either to you or on your behalf, that claim will be used to increase the cost of your policy's premium in the future or as part of the basis for cancellation of your policy.

NOTICE: This policy [does/does not] set forth a separate deductible for covered losses caused by [hurricane; wind; named storm] as defined in the policy.

Separate Deductible Example—Hurricane, Wind or Named Storm Damage.

If applicable, the following illustrates how a separate deductible applying to hurricane, wind or named storm damage is applied under your policy:

The insurer shall comply with LSA-R.S. 22:1332 B(6) by selecting and inserting either option A or B below:

A. Developing its own standardized example to reflect how a hurricane, wind, or named storm damage loss will be adjusted under the policy. The standardized example shall set forth a separate loss under each of Coverage A, B, C and D and the total of all losses combined shall exceed by at least ten percent (10%) the applicable deductible so that there shall be a net payment to the insured.

B. Utilizing the standardized example prepared by the LDOI if this standardized example properly reflects how a separate deductible is applied to a hurricane, wind, or named storm damage loss under the policy:

If the total insured value of the dwelling or Coverage A is $200,000.00 and you have a 2% hurricane, wind, or named storm deductible, then your hurricane, wind or named storm deductible would be $200,000.00 X .02 = $4,000.00.

Losses:

Coverage A – Dwelling	$15,000
Coverage B – Other Structures	$ 2,500
Coverage C – Personal Property	$ 3,000
Coverage D – Loss of Use	$ 2,000
Total amount of all losses	$22,500
Less 2% hurricane, wind or named storm deductible	$ 4,000
Net payment to insured	$18,500

TO SEE EXACTLY HOW YOUR SEPARATE HURRICANE, WIND OR NAMED STORM DEDUCTIBLE WILL APPLY, PLEASE REFER TO YOUR POLICY.

Limitations or Exclusions under this Policy

FLOOD—Flood damage [is/is not] covered, regardless of how caused, when flood is the peril that causes the loss. Flood water includes but is not limited to storm surge, waves, tidal water, overflow of a body of water, whether driven by wind or not.

Flood Insurance may be available through the National Flood Insurance Program (NFIP). NFIP flood insurance may provide coverage for damage to your dwelling and/or contents subject to the coverage limits and terms of the policy.

Excess Flood Insurance may be available under a separate policy from this or another insurer if the amount of the primary flood insurance is not enough to cover the value of your property.

- You may contact your producer (agent) or insurer for more information on the NFIP and excess flood insurance.

MOLD—Damage caused solely by mold [is/is not] covered under this policy.

FOR ALL OTHER LIMITATIONS OR EXCLUSIONS REFER TO YOUR POLICY FOR COMPLETE DETAILS ON TERMS AND PROVISIONS

Claim Filing Process

There may be time limitations for filing a claim and filing of a satisfactory proof of loss. There may also be time limitations for repairing and replacing damaged property that could cause you to not recover the replacement cost for the insured loss of your property, if applicable.

Payment of Claims

Depending on the terms of the insurance policy, some losses may be based on actual cash value (ACV) and other losses based on replacement cost (RC).

- ACV is the amount needed to repair or replace the damaged or destroyed property, minus the depreciation.
- RC involves the initial payment of actual cash value (ACV) of a loss, and the subsequent payment of the additional amount that is actually and necessarily expended to repair or replace the damaged or destroyed property.

** Refer to your policy for the terms and conditions describing how a particular loss is to be paid.

Payment and Adjustment of Claims

Pursuant to LSA-R.S. 22:1892 and 22:1973, except in the case of catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim and/or a claim for reasonable medical expenses within fourteen (14) days after notification of loss by the claimant.

In the case of catastrophic loss, the insurer shall initiate loss adjustment of a property damage claim within thirty (30) days after notification of loss by the claimant unless the Commissioner of Insurance promulgates a rule to extend the time period for initiating a loss adjustment for damages arising from a presidentially declared emergency or disaster or a gubernatorially declared emergency or disaster for up to an additional thirty (30) days. Thereafter, one additional extension of the period of time for initiating a loss adjustment may be allowed by the Commissioner of Insurance if approved by the Senate Committee on Insurance and the House Committee on Insurance.

All insurers shall make a written offer to settle any property damage claim, including a third-party claim, within thirty (30) days after the receipt of satisfactory proof of loss of that claim.

Failure to make such payment within thirty (30) days after receipt of such satisfactory written proofs and demand thereof or failure to make a written offer to settle any property damage claim, including a third-party claim, within thirty (30) days after receipt of a satisfactory proof of loss of that claim may result in a late penalty against the insurer in addition to the payment of the claim.

If the insurer is found to be arbitrary, capricious, or without probable cause in settling any property damage claim, the insurer must pay the insured, in addition to the amount of the loss, fifty percent (50%) damages on the amount found to be due from the insurer to the insured, or one thousand dollars ($1,000.00), whichever is greater, as well as attorney fees and costs, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1319 and 22:1332.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

James J. Donelon
Commissioner

1611#008

DECLARATION OF EMERGENCY

Department of Insurance
Office of the Commissioner

Emergency Rule 30—Suspension of Right to Cancel or Nonrenew—Residential, Commercial Residential, or Commercial Property Insurance due to Historic Flooding (LAC 37:XI.Chapter 51)

The Department of Insurance hereby exercises the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted by *Louisiana Revised Statutes* 22:1 et seq., adopts Emergency Rule 30 which maintains and continues in effect the provisions of Emergency Rule 28 that became effective

August 12, 2016. Emergency Rule 30 shall be effective October 13, 2016 and shall remain effective through Thursday, February 9, 2017.

Emergency Rule 30 is issued pursuant to the transfer of authority to suspend provisions of regulatory statutes and implementing regulations from the Governor to the Commissioner of Insurance in Executive Order No. JBE 2016-58, signed by Governor John Bel Edwards on August 17, 2016, amended on September 12, 2016, by Executive Order No. JBE 2016-67, and subsequently amended on October 11, 2016, by Executive Order No. JBE 2016-71. The transfer of authority in Executive Order No. JBE 2016-58 is authorized in the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721 et seq., and rules promulgated by the commissioner relative to the Louisiana Insurance Code are authorized in R.S. 22:11 and are promulgated through the aforementioned Administrative Procedure Act.

On August 12, 2016, Governor John Bel Edwards declared a state of emergency within the state of Louisiana in response to historic flooding in Louisiana. This state of emergency, declared pursuant to Proclamation No. 111 JBE 2016, extends from Friday, August 12, 2016, to Monday, September 12, 2016. Louisiana citizens have suffered damage due to this historic flooding. In some places, it could be several weeks before electricity is restored. The homes of many Louisiana citizens were destroyed, precluding habitation. The damage caused by this historic flooding has resulted in the closing of businesses and financial institutions, the temporary suspension of mail service, interruption of communication services, the temporary displacement of persons from their homes, loss of personal belongings, and temporary loss of employment. This disruption has affected the ability of these citizens to timely pay their insurance premiums, access their insurance policies, and communicate with insurance agents and their respective insurance companies for insurance-related matters. This historic flooding has created a mass disruption to the normalcy previously enjoyed by Louisianans and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens.

Insurers have been working diligently to adjust and pay claims. However, due to a shortage of building materials, contractors, and construction workers, many policyholders who have received, or will soon receive, claim payments from insurers will find that they are unable to repair or reconstruct their residential, commercial residential, or commercial property within normal time frames. In many places, it could be months before residential, commercial residential, or commercial property damaged by the historic flood can be repaired or reconstructed. This inordinate time period to repair or reconstruct residential, commercial residential, or commercial property continues to affect the ability of Louisiana insureds to maintain or obtain personal residential, commercial residential, or commercial property insurance. For these reasons, Executive Order No. JBE 2016-58, amended by Executive Order No. JBE 2016-67 signed by Governor John Bel Edwards on September 12, 2016, and subsequently amended by Executive Order No. JBE 2016-71, signed on October 11, 2016, remains in effect through Thursday, February 9, 2017.

The commissioner will be hindered in the proper performance of his duties and responsibilities under the Louisiana Insurance Code, as well as his duties and responsibilities regarding the referenced state of emergency, without the authority to suspend certain statutes in the Louisiana Insurance Code and the rules and regulations that implement the Louisiana Insurance Code and without the adoption of Emergency Rule 30, which relates to the cancellation and nonrenewal of all personal residential, commercial residential, or commercial property insurance subject to the Louisiana Insurance Code.

Therefore, Emergency Rule 30 is issued and shall apply to all insurers, property and casualty insurers, surplus lines insurers, and any and all other entities doing business in Louisiana and/or regulated by the Commissioner, regarding any and all types of homeowners insurance and/or residential property insurance, commercial insurance, fire and extended coverage insurance, credit property and casualty insurance, property and casualty insurance, all surplus lines insurance, and any and all other insurance regulated entities doing business in Louisiana and/or regulated by the commissioner.

Emergency Rule 30 is applicable to insureds who, as of 12:01 a.m. on August 12, 2016, had a personal residential, commercial residential, or commercial property insurance policy covering a dwelling, residential property, or commercial property located in one of the following parishes: Acadia, Ascension, Assumption, Avoyelles, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, West Baton Rouge, and West Feliciana, and any such parishes that may receive a major disaster declaration by the President of the United States or such officer acting under his authority.

Emergency Rule 30 is available on the Internet at www.ldi.state.la.us and is available for inspection between the hours of 8 a.m. until 4:30 p.m. at the Louisiana Department of Insurance, 1702 N. Third Street, Baton Rouge, LA 70802.

Title 37
INSURANCE
Part XI. Rules

Chapter 51. Emergency Rule 30—Suspension of Right to Cancel or Nonrenew Residential, Commercial Residential, or Commercial Property Insurance Due To Historic Flooding

§5101. Benefits, Entitlements, and Protections

A. The benefits, entitlements, and protections of Emergency Rule 30 shall be applicable to insureds who, as of 12:01 a.m. on August 12, 2016, had a personal residential, commercial residential, or commercial property insurance policy covering a dwelling, residential property, or commercial property located in one of the following parishes: Acadia, Ascension, Assumption, Avoyelles, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany,

Tangipahoa, Vermilion, Washington, West Baton Rouge, and West Feliciana, and any such parishes that may receive a major disaster declaration by the President of the United States or such officer acting under his authority.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, and Executive Order No. JBE 2016-71.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5103. Applicability

A. Emergency Rule 30 shall apply to any and all types of personal residential, commercial residential, or commercial property insurance covering a dwelling, residential property, or commercial property located in one of the parishes set forth in Section 5101.A that sustained damage as a result of the August 2016 historic flood or its aftermath, including but not limited to, any and all types of homeowners insurance and/or residential property insurance, commercial insurance, fire and extended coverage insurance, credit property and casualty insurance, property and casualty insurance, and any and all other insurance regulated by the Commissioner that falls within the intent and purpose of Emergency Rule 30.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, and Executive Order No. JBE 2016-71.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5105. Cancellation or Nonrenewal Suspended

A. Any statutory or regulatory provision, or any policy provisions contained in any and all policies of insurance set forth in Section 5103.A above, that authorizes any insurer, surplus lines insurer, or any other entity regulated by the Commissioner to cancel or nonrenew, on the grounds of a material change in the risk being insured, any personal residential, commercial residential, or commercial property insurance policy covering a dwelling, residential property, or commercial property located in Louisiana that sustained damages as a result of the August 2016 historic flood or its aftermath, is suspended and unenforceable, and such cancellations or nonrenewals shall be prohibited through Thursday, February 9, 2017, unless extended by the Commissioner. Any such notice of cancellation or nonrenewal issued on or after August 12, 2016, through February 9, 2017, shall be null and void and have no force or effect. Furthermore, any such notice shall be reissued *de novo* to the insured in accordance with existing statutory requirements, and any such notice shall not be issued prior to February 10, 2017.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, and Executive Order No. JBE 2016-71.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5107. Insured's Obligation

A. The insured is obligated to exercise good faith with regard to undertaking the repairs or reconstruction of the dwelling or residential property.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, and Executive Order No. JBE 2016-71.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5109. Insurer's Obligation

A. The insurer or surplus lines insurer or any other entity regulated by the commissioner is obligated to provide the insured with sufficient time to effectuate the repairs or reconstruction to the dwelling or residential property and to recognize the inordinate conditions that exist in the state of Louisiana with regard to the ability of the insured to engage a contractor, engage construction workers, obtain materials, and otherwise undertake to accomplish the necessary repairs or reconstruction of the dwelling, residential property, or commercial property.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, and Executive Order No. JBE 2016-71.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5111. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 30 upon the written request by the insurer if the commissioner determines that compliance with Emergency Rule 30 may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, and Executive Order No. JBE 2016-71.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5113. Purpose and Intent

A. The provisions of Emergency Rule 30 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana who desire to maintain or obtain personal residential, commercial residential, or commercial property.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, and Executive Order No. JBE 2016-71.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5115. Authority

A. The commissioner reserves the right to amend, modify, alter, or rescind all or any portion of Emergency Rule 30. Additionally, the commissioner reserves the right to extend Emergency Rule 30.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, and Executive Order No. JBE 2016-71.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5117. Severability

A. If any Section or provision of Emergency Rule 30 is held invalid, such invalidity or determination shall not affect other sections or provisions or the application of Emergency Rule 30 to any persons or circumstances to which provisions can be given effect without the invalid Sections or provisions, and the application to any such person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, and Executive Order No. JBE 2016-71.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5119. Effective Date

Emergency Rule 30 shall be effective upon adoption and shall remain effective through Thursday, February 9, 2017.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58, Executive Order No. JBE 2016-67, and Executive Order No. JBE 2016-71.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

James J. Donelon
Commissioner

1611#001

DECLARATION OF EMERGENCY

Department of Insurance
Office of the Commissioner

Emergency Rule 31—Privacy of Consumer
(LAC 37:XIII.Chapter 99)

The Department of Insurance (department) hereby exercises the emergency provisions of the Administrative Procedures Act (LSA-R.S.49:953(B) and, pursuant to the authority of the Louisiana Insurance Code, LSA-22:1 et seq., adopts Emergency Rule 31.

Emergency Rule 31 amends Regulation 76 to bring it into compliance with the Fixing America's Surface Transportation ("FAST") Act, which was passed by the United States Congress and signed into law (Public Law 114-94; December 4, 2015). The FAST Act amended the Gramm-Leach-Bliley Act to provide an exemption from the annual privacy notice requirements required under Gramm-Leach-Bliley. As Regulation 76 mirrors the duties and responsibilities of those in the business of insurance with regards to the privacy of insurance consumer's information, any amendments to Gramm-Leach-Bliley that were passed into law also affect the privacy notice requirements in Regulation 76. The FAST Act amendment serves the purpose, in both federal law and the amendment to Regulation 76, to relieve those in the business of insurance to whom it applies from duplicative privacy notice requirements, while at the same time continuing to preserve the privacy rights of insurance consumers.

The commissioner believes emergency action is necessary to promptly relieve those in the business of insurance from burdensome and costly mailings of the annual privacy notices, which, under the FAST Act, and amendment to Regulation 76, are no longer required if certain conditions are met. Most entities in the business of insurance mail these annual privacy notices to its customers at all times during the year, to coincide with the yearly anniversary of sending out the initial privacy notice. Therefore, by relieving those entities in the business of insurance of this burdensome and costly mailing as quickly as possible, those in the business of insurance may devote these resources to consumer service. Also, with the passage of the FAST Act, the current regulation is inconsistent with federal law. The department must bring Regulation 76 into compliance with federal law so as to maintain its regulatory authority.

Emergency Rule 31 shall be effective upon adoption and unless extended, shall remain in effect for a period of 120 days or until adoption of the final Regulation 76 through normal rulemaking process, whichever occurs first.

Title 37
INSURANCE
Part XIII. Regulations

Chapter 99. Regulation 76—Privacy of Consumer

§9901. Authority

A. This regulation is adopted pursuant to R.S. 49:953(B) and R.S. 22:2 which charges the commissioner of insurance with the duty to enforce and administer all of the provisions of the *Insurance Code*, the purpose of which is to regulate the business of insurance in all of its phases in the public interest. Sections 501(b) and 505(a)(6) of the Gramm-Leach-Bliley Act specifically designate the Department of Insurance as the agency to establish the appropriate standards covering any person engaged in providing insurance under state law and the Fixing America's Surface Transportation Act, which provides for certain annual privacy reporting exemptions. R.S. 22:11 and R.S. 22:1595 grants the commissioner of insurance authority to promulgate rules and regulations as are necessary for the implementation of the provisions of title R.S. 22:1604 specifically refers to the protection of the interests of insurance policyholders in this state with respect to financial institution insurance sales, and R.S. 22:1595 grants the commissioner of insurance authority to promulgate rules and regulations as may be necessary to effectuate the provisions of Chapter 5, Financial Institution Sales in Title 22.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:1595, 22:1604, Gramm-Leach-Bliley Act, Public Law 106-102-Nov. 12, 1999, and Fixing America's Surface Transportation Act, Public Law 114-94-Dec. 4, 2015).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:548 (April 2001), amended LR 42:

Subchapter B. Privacy and Opt Out Notices for Financial Information

§9913. Annual Privacy Notice to Customers Required

A.1. - C. …

D. Exemption from Annual Privacy Notice. A licensee that:

1. provides nonpublic personal information to nonaffiliated third parties only in accordance with this Emergency Rule 31, Regulation 76 and R.S.22:1591-R.S.22:1605; and

2. has not changed is policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with this section, shall not be required to provide an annual disclosure under this section until such time as the licensee fails to comply with any criteria described in Paragraphs 1 and 2 of this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:1595, 22:1604, Gramm-Leach-Bliley Act, Public Law 106-102–Nov. 12, 1999, and Fixing America's Surface Transportation Act, Public Law 114-94-Dec. 4, 2015).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:552 (April 2001), amended LR 42:

Subchapter D. Exceptions to Limits on Disclosures of Financial Information

§9951. Severability

A. If any provision or item of Regulation 79 or the Emergency Rule 31, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items or applications of Regulation 79 or Emergency Rule 31 which can be given effect without the invalid provision, item, or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:1595, 22:1604, Gramm-Leach-Bliley Act, Public Law 106-102-Nov. 12, 1999, and Fixing America's Surface Transportation Act, Public Law 114-94-Dec. 4, 2015).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:548 (April 2001), amended LR 42:

§9953. Effective Date

A. Emergency Rule 31 shall be effective upon adoption and unless extended, shall remain in effect for a period of 120 days or until adoption of the final Regulation 76 through normal rulemaking process, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 22:3, 22:1595, 22:1604, Gramm-Leach-Bliley Act, Public Law 106-102-Nov. 12, 1999, and Fixing America's Surface Transportation Act, Public Law 114-94-Dec. 4, 2015).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner; LR 27:548 (April 2001), amended LR 42:

James J. Donelon
Commissioner

1611#007

Rules

RULE

Department of Agriculture and Forestry
Office of Animal Health and Food Safety
and
Board of Animal Health

Alternative Livestock—White-Tailed Deer and Other Captive Cervids (LAC 7:XXI.Chapter 17)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq. the Department of Agriculture and Forestry ("department"), through the Office Animal Health and Food Safety, and the Board of Animal Health has amended LAC 7:XXI.1705-1725 relative to white tailed deer and other captive cervids in order to align the needs for disease control and facilitate commerce for the alternative livestock industry. LAC 7:XXI.Chapter 17 aligns the need for disease control and facilitates commerce for the alternative livestock industry. The Rule clarifies requirements for the commissioning and decommissioning of farm raised white tailed deer pens, updates definitions used in Chapter 17, amends the requirements for approval a license and sets forth requirements to be followed in the event of a change of ownership of a farm. The Rule removes the harvesting permit fee and provides that a late fee of $125 may be assessed if the annual farm raising license fee is not timely paid. The Rule modifies the obligations of a farm-raising licensee with respect to identification of farm raised alternative livestock and also require licensees to keep records for 60 months instead of 36 months. The Rule allows licensure of an area not less than 250 acres and remove a maximum number of acres. The Rule removes the requirement of obtaining a harvesting permit prior to harvesting or killing farm raised alternative livestock. The Rule removes outdated provisions and maintains consistency with the goals of the department and the industry.

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Animals and Animal Health
Chapter 17. Alternative Livestock—White-tailed Deer and other Captive Cervids (Formerly Chapter 15)

§1705. Definitions (Formerly §1503)

A. For purposes of these rules and regulations, the following words and phrases shall have the meaning given herein.

Alternative Livestock—any imported or domestically raised exotic deer and antelope, elk or farm-raised white-tailed deer.

Chronic Wasting Disease (*CWD*)—a transmissible spongiform encephalopathy of cervids.

Commissioner—the commissioner of agriculture and forestry.

* * *

Department—the Louisiana Department of Agriculture and Forestry.

Elk—any animal of the species and genus *Cervus canadensis*.

* * *

Quarantine—the requirement, resulting from an order of the department or the state veterinarian's office, to secure and physically isolate an animal or animals in a specified confined are.

White-Tailed Deer—any animal of the species and genus *Odocoileus virginianus*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1671 (September 1998), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 38:961 (April 2012), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:971 (May 2014), amended LR 42:1864 (November 2016).

§1707. Issuance of Farm-Raising License; Renewals (Formerly §1505)

A. …

B. The department shall not issue any farm-raising license until the application for the farm-raising license and the information requested, including the required plan for the operation of the farm, is approved by the department and the proposed farm passes the department's requirements and inspection.

C. Any changes in any information submitted in the original application, occurring during or after the application process, shall be submitted in writing to the department. The department must approve, in writing, any change or modification, which shall be in writing, in the written farm operation plan submitted with the original application before such change or modification, may go into effect.

D. - G. …

H. A farm-raising license is non-transferrable without written approval from the department. In the event of a change in ownership of a farm, the new owner or operator shall submit a transfer application to the department. The transfer application shall detail any changes in the approved farm operation plan. The transferee shall meet all requirements set forth in this Chapter in order for the transfer to be approved.

1. Upon receipt of the transfer application and all additional requested information, the department shall issue approval or denial of the transfer request within 30 days. If a transfer is denied, the applicant may, within 7 days of receipt of the denial, file an appeal of the department's decision with the Board of Animal Health. The appeal will be conducted in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1672 (September 1998), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:972 (May 2014), amended LR 42:1864 (November 2016).

§1709. Fees
(Formerly §1507)

A. - A.2. …

B. Delinquent Fees

1. Any farm raised license renewal not received by August 31 may be assessed a late fee of $125.

C. Farm-Raised Alternative Livestock Tag Fee

1. Each farm-raised alternative livestock harvested or killed shall have a farm- raised harvest tag attached to the left ear or left antler of the carcass at the time of kill and the tag shall remain with the carcass at all times, except as provided in §1709.C.3.

2. The farm-raised alternative livestock tag shall be provided by the department at a cost of $5 per tag.

3. No farm-raised tag shall be required for farm-raised alternative livestock which are to be taken directly to a state or federally approved slaughter facility or which are sold or traded alive for breeding or stocking purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101 and R.S. 3:3107.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1672 (September 1998), LR 39:3060 (November 2013), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:972 (May 2014), amended LR 42:1865 (November 2016).

§1711. Farm-Raising Licensing Requirements
(Formerly §1509)

A. - A.11. …

B. Farm Inspection. An applicant shall have the proposed farm physically inspected and approved by the department before a farm-raising license may be issued by the department. To obtain department approval a proposed farm shall:

1. be located in a rural area of the state;

2. be securely enclosed by an enclosure system, including fencing, that meets the following specifications:

a. a minimum height, above the relevant ground, of 8 feet;

b. enclose an area of not less than 250 acres to be eligible for harvesting as provided by §1709 of these rules and regulations. Applicants seeking eligibility to harvest on farms with enclosures of less than 300 acres must demonstrate good cause why an enclosure of a different size is not inconsistent with the intent of part I of chapter 19-A of title 3 of the *Revised Statutes*; No farm less than 300 acres will be approved unless more than 60 percent of the farm is wooded or heavy brush.

c. a minimum gauge wire of 12 1/2;

d. fencing material of chain link, woven wire, solid panel or welded panel or, if made with any other material, approved in writing by the department, however, welded wire fences shall not be used unless it was approved by LDWF and installed prior to April 22, 1997, but, such welded wire fences, when replaced or partially replaced, shall be replaced by fencing required by these rules and regulations;

3. have drainage sufficient to leave a majority of the farm free from extended periods of standing water;

4. have adequate space and if the total enclosed area of the farm is less than 50 acres, allow at least 5,000 square feet for the first elk or farm-raised white-tailed deer placed on the farm and at least 2,500 square feet for each subsequent elk or farm-raised white-tailed deer;

5. have no condition which may cause noncompliance with or substantial difficulty in complying with part I of chapter 19-A of title 3 of the *Revised Statutes*, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine;

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1673 (September 1998), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:973 (May 2014), amended LR 42:1865 (November 2016).

§1713. Grounds for Refusal to Issue or Renew a Farm-Raising License
(Formerly §1511)

A. - A.4. …

5. the proposed farm does not pass the department's inspection;

6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1673 (September 1998), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:974 (May 2014), amended LR 42:1865 (November 2016).

§1715. Obligations of the Farm-Raising Licensee
(Formerly §1513)

A. Identification of Farm-Raised Alternative Livestock

1. All farm-raised white-tailed deer shall be identified by means of an electronic implant implanted as follows:

a. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear;

b. all farm-raised white-tailed deer being brought into Louisiana shall have the electronic implant implanted before entering this state and prior to being released on the farm;

c. farm-raised white-tailed deer born in this state shall have an electronic implant implanted the first time the farm raised white-tailed deer is captured alive and before the farm-raised white-tailed deer leaves the farm;

d. each electronic implant code shall be listed on the farm-raised white-tailed deer's health certificate and on the bill of sale or certificate of transfer.

2. All farm-raised alternative livestock other than farm-raised white-tailed deer shall be permanently and individually identified as follows:

a. by means of an electronic implant or by a permanent ear tattoo and ear tag;

b. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear;

c. prior to entering the state, alternative livestock, other than farm-raised white-tailed deer, shall be identified as required herein;

d. alternative livestock born in this state, other than farm-raised white-tailed deer, shall be identified as required herein, the first time any such animal is captured alive and before any such animal leaves the farm;

e. the identification number or electronic implant code, and the location thereof, shall be listed on the health certificate and the bill of sale or certificate of transfer.

3. - 4. …

B. Record Keeping

1. Each licensee shall maintain records, for not less than 60 months, of all sales, deaths, kills, trades, purchases, or transfers of any farm-raised alternative livestock. The records shall include:

a. - f. …

2. Sellers, traders or transferors of farm-raised alternative livestock, any carcass, or any part thereof, shall furnish the purchaser or transferee with a bill of sale or letter of transfer as verification of the farm-raised status. A copy of the bill of sale shall be submitted to the department within 10 business days of the transaction.

3. The furnishing of any false information shall be a violation of these rules and regulations.

C. - C.2. …

3. Any licensee who discovers a breach or opening in the enclosure system or fence that would allow farm-raised alternative livestock to leave from or wild white-tailed deer to enter into the enclosed area shall notify, orally and in writing, the department of the breach or opening and the department shall notify LDWF within 12 hours.

4. In the event of such a breach or opening the licensee shall immediately close the breach or opening and make all reasonable efforts to determine if farm-raised alternative livestock left from or wild white-tailed deer entered into the area enclosed by the fence.

D. Other Obligations of the Farm Licensee

1. A licensee shall make all reasonable efforts to remove white-tailed deer from the farm prior to completion of the fencing and enclosure system of the farm. Removal of the white-tailed deer may include the following steps:

a. upon completion of fencing and enclosure, LDAF shall inspect the enclosure for the presence of native white-tailed deer and inspection of enclosure;

b. if the inspection reveals the presence of native white-tailed deer, the licensee shall attempt to eradicate the deer concurrent with one legal hunting season:

i. the licensee may enroll in LDWF's DMAP for harvest tags to facilitate eradication;

c. final inspection of the premises for the presence of native white-tailed deer shall be performed by the department, with input from LDWF. The final decision regarding licensure shall be made by the department.

2. A licensee shall control the population of farm-raised alternative livestock on the farm.

3. A licensee shall make all efforts that a reasonable licensee would make to capture any farm-raised alternative livestock that escapes from the fenced area of the farm and to remove wild white-tailed deer that enters the fenced area of the farm.

4. A licensee shall, in writing, notify the department, at least 10 days prior to placing any alternative livestock on the farm if such alternative livestock was not listed on the original application or on any modification previously approved, in writing, by the department.

5. A licensee upon cessation of operations, or upon revocation or nonrenewal of the farm-raising license shall make all reasonable efforts to remove and dispose of all farm-raised alternative livestock on the farm in accordance with the farm operation plan submitted to and approved by the department or in accordance with specific written instructions issued by the department in the event that circumstances warrant removal and disposal of the farm-raised alternative livestock to be made in a manner different from the farm operation plan. Farm-raised alternative livestock on the farm may be transferred to another licensed farm or eradicated concurrent with one legal hunting season. If, at the end of one legal hunting season, farm-raised alternative livestock remain on the property, the licensee may request LDAF harvest tags as needed.

a. Prior to decommissioning of the farm and removal of the enclosure, the licensee shall test 10 percent of cervids 12 months and older for CWD using a USDA approved method of testing.

b. Prior to decommissioning of the farm and removal of the enclosure, LDWF and LDAF shall conduct a final inspection of the farm to ensure that all reasonable efforts to remove and dispose of all farm-raised alternative livestock on the farm have been made. Final approval for decommissioning of the farm and removal of the enclosure shall be granted by LDAF.

6. - 8. …

9. A licensee shall allow authorized representatives of LDAF to inspect the farm at any time and all books and records at any reasonable time.

10. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1674 (September 1998), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:974 (May 2014), amended LR 42:1865 (November 2016).

§1717. Health Certificates and Health Requirements (Formerly §1515)

A. - A.3. …

4. have written proof of a negative tuberculin skin test or a serological test for tuberculosis that meets the following requirements:

a. the tuberculin skin test or serological test for tuberculosis is one of the official tuberculosis tests approved by the U.S. Department of Agriculture for use on the species of alternative livestock for which permission to enter the state is being sought;

b. the test was administered and read in accordance with the USDA requirements for the administering and reading of that test.

B. - F.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1675 (September 1998), amended by the Department of Agriculture and Forestry, Board of Animal Health, LR 38:961 (April 2012), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 39:3247 (December 2013), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:975 (May 2014), amended LR 42:1866 (November 2016).

§1719. Harvesting or Killing of Farm-Raised Alternative Livestock (Formerly §1517)

A. - B. …

C. The commissioner may establish, by written order, other dates and conditions for the harvesting or killing of farm-raised alternative livestock as the commissioner deems necessary to carry out the purposes of part I of chapter 19-A of title 3 of the *Revised Statutes*. Such orders shall be issued by the commissioner in January of each year or as soon thereafter as is practical and published in the January issue of the *Louisiana Register* or in the first available issue after any such order is issued.

D. Except as provided by §1709.C.3 of these regulations, any farm-raised alternative livestock harvested or killed, shall have a farm-raised tag attached to the left ear or left antler of the carcass at the time of the kill and the tag shall remain with the carcass at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1675 (September 1998), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:977 (May 2014), amended LR 42:1867 (November 2016).

§1721. Prohibitions (Formerly §1519)

A. No farm-raised alternative livestock shall be released into the wild.

B. Farm-raised white-tailed deer meat shall not be bought, sold, traded, or moved in commerce in any way except when taken to state or federally approved slaughter house. Whitetail deer antlers and capes may be sold if the farm of origin is not under quarantine by the department.

C. Farm-raised alternative livestock sold for slaughter, the sale of which is prohibited, shall be handled in accordance with state and federal meat inspection laws and regulations.

D. It is a violation of these regulations to sell, purchase, trade, transport, or otherwise transfer any farm-raised alternative livestock for any purpose other than immediate slaughter at a state or federally approved slaughter facility if such farm-raised alternative livestock originates from a herd which is under quarantine for *Brucellosis* or tuberculosis.

E. Failure to comply with any provision of part I of chapter 19-A of title 3 of the *Revised Statutes*, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine is prohibited and each act or omission or each day of a continuing violation shall constitute a separate violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1676 (September 1998), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:977 (May 2014), amended LR 42:1867 (November 2016).

§1723. Enforcement (Formerly §1521)

A. The department's authorized representatives may, at any time, enter and inspect all farms on which farm-raised alternative livestock are located for the purposes of issuing, renewing or reviewing farm-raising licenses and to insure compliance with part I of chapter 19-A of title 3 of the *Revised Statutes*, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine.

B. Authorized representatives of the department may inspect, during any reasonable hours, any records regarding or relating to any farm-raised alternative livestock.

C. Farm-raised alternative livestock which escapes from the enclosure system of the farm, if not captured by a licensee within 96 hours of the escape, may be captured or killed by authorized representatives of the department or by LDWF or any law enforcement agency by whatever means deemed necessary by that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1676 (September 1998), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:977 (May 2014), amended LR 42:1867 (November 2016).

§1725. Penalties (Formerly §1523)

A. …

B. The commissioner may, in addition to suspending or revoking any farm-raising license, impose upon any person charged with violating any provisions of part I of chapter 19-A of title 3 of the *Revised Statutes*, these rules and regulations, the written farm operation plan submitted to and approved by the department and any quarantine, a fine for up to $100 per violation for each violation such person is found guilty.

C. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:282 (February 1998), amended LR 24:1676 (September 1998), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:978 (May 2014), amended LR 42:1867 (November 2016).

Mike Strain, DVM
Commissioner

1611#040

RULE

Department of Agriculture and Forestry
Office of Forestry

Forest Productivity Program (LAC 7:XXXIX.Chapter 13)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through authority granted in accordance with Act 591 of 1970 and R.S. 3:4402, the Department of Agriculture and Forestry ("department"), through the Office of Forestry, has amended the above cited regulation. LAC 7:XXXIX.1307 allows private landowners to cost share an two additional services at a higher rate through the Forest Productivity Program. Section 1307 will also remove the services/practices that are not often used or are able to be cost-shared with the introduction of new services/practices and rates. Section 1311 exempts prescribed burning from the list of practices which require the landowner to maintain the land in forestry usage for 10 years from the date the department approves the cooperative agreement. This will encourage prescribed burning, which helps reduce the frequency and intensity of wildfires. Section 1315 reduces the forestry practice implementation period from 24 months to 11 months in order to align the program with the state fiscal year.

Title 7
AGRICULTURE AND ANIMALS
Part XXXIX. Forestry
Chapter 13. Forestry Productivity Program
§1307. Extent of State Participation

A. - C. …

D. The maximum cost share rates are established as follows. Fifty percent of the cost per acre shall not exceed the following rates:

1. regeneration:
   a. pine (loblolly, slash or shortleaf, planting and seedling cost): $50/acre;
   b. containerized pine (loblolly, slash or shortleaf, planting and seedling cost): $60/acres;
   c. hardwood (planting and seedling cost): $90.00/acre;
   d. containerized hardwood (planting and seedling cost): $110/acre;
   e. labor only (pine or hardwood): $25/acre;
   f. labor only (containerized pine or hardwood): $35/acre;
   g. longleaf pine (planting and seedling cost): $60/acre;
   h. containerized longleaf pine (planting and seedling cost): $80/acre;
2. site preparation:
   a. light (disking, mowing, or sub-soiling): $15/acre;
   b. burn (cut-over areas or agriculture lands): $25/acre;
   c. chemical: $60/acre;
   d. mechanical: $100/acre;
   e. post-site preparation (aerial, ground, or injection): $50/acre;
   f. herschal drag: $40/acre;
3. control of competing vegetation:
   a. chemical release (aerial, ground, or injection): $50.00/acre;
   b. prescribed burn: $20/acre.

E. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4412 and R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1679 (September 1998), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 28:267 (February 2002), LR 34:2338 (November 2008), LR 41:2102 (October 2015), LR 42:1868 (November 2016).

§1311. Obligations of the Landowner

A. …

B. The landowner shall maintain the land subject to the cooperative agreement in forestry usage in accordance with the cooperative agreement for a period of at least 10 years from the date the department issues a certification of performance of the terms of the cooperative agreement. This requirement shall not apply when the approved practice is prescribed burning.

C. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1680 (September 1998), LR 42:1868 (November 2016).

§1315. Forestry Practice Implementation Period

A. Each landowner shall have 11 months to complete the forestry practice or practices authorized by the cooperative agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413 and R.S. 3:4415.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1680 (September 1998), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 28:267 (February 2002), LR 42:1868 (November 2016).

Mike Strain, DVM
Commissioner

1611#039

RULE

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools—Length of the Initial Term for Type 3B Charter Schools (LAC 28:CXXXIX.519)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education approved for advertisement to revise §519, Local School Board Consideration of Charter Application, Awarding of Charters, of *Bulletin 126—Charter Schools*. Act 91 of the 2016 Regular Legislative Session provides for the unification of public schools in Orleans Parish under the oversight of the Orleans Parish School Board. The revisions align the process for determining the length of initial type 3B charter terms to the process provided for in Act 91 of the 2016 Regular Legislative Session.

Title 28
EDUCATION
Part CXXXIX. Bulletin 126—Charter Schools
Chapter 5. Charter School Application and Approval Process
§519. Local School Board Consideration of Charter Application, Awarding of Charters

A. - B.3.d.ii. …

4. The length of the initial term for the type 3B charter school shall be equal to the number of years remaining on the charter school's former type 5 charter contract or the number of years approved by BESE for the renewal term of the type 5 charter school if the charter contract for the type 5 charter school was set to expire at the conclusion of the school year in which the charter school makes a request to transfer to the local school board pursuant to this Section.

5. - 6.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 37:2385 (August 2011), amended LR 39:3065 (November 2013), LR 39:3249 (December 2013), LR 42:1869 (November 2016).

Shan N. Davis
Executive Director

1611#020

RULE

Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District
Return of Schools to Local School Board
(LAC 28:CXLV.505)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to §505, Return of Schools to Local School Board, of *Bulletin 129—The Recovery School District*. Act 91 of the 2016 Regular Legislative Session provides for the unification of public schools in Orleans Parish under the oversight of the Orleans Parish School Board. This revision adds language from Act 91 of the 2016 Regular Legislative Session that provides for specific responsibilities of BESE as it relates to the potential postponement of the unification of schools in Orleans Parish for specified reasons.

Title 28
EDUCATION
Part CXLV. Bulletin 129—The Recovery School District
Chapter 5. Failed Schools
§505. Return of Schools to Local School Board

A. - B.1. …

2. A non-failing charter school is eligible for transfer from the jurisdiction of the recovery school district provided it meets all of the following.

a. The charter school will have been under the jurisdiction of the Recovery School District for a minimum of five years. A charter school shall be considered to have been under the jurisdiction of the RSD for five years when five complete school years have passed since the approval of the transfer to the RSD by BESE under R.S. 17:10.5 or 17:10.7, regardless of changing operators or site codes for the charter school since that time. The decision to transfer will be considered at the earliest during the charter school's fifth year under the jurisdiction of the RSD, with the proposed transfer occurring at the conclusion of that same school year.

2.b. - 4. …

5. BESE shall only approve a charter school board request to transfer to the charter school to the jurisdiction ~~to~~ of the local school board if the following requirements are met:

a. - b.vi.(b). …

C. Unification of Schools Pursuant to R.S. 17:10.7.1

1. No sooner than July 1, 2018, and no later than July 1, 2019, type 5 charter schools located in Orleans Parish shall be transferred to the jurisdiction of the Orleans Parish School Board pursuant to the timelines and procedures detailed in R.S. 17:10.7.1.

2. The transfer of charter schools from the RSD to the Orleans Parish School Board pursuant to R.S. 17:10.7.1 shall occur on July 1, 2018, unless such transfer is postponed by a majority vote of the full membership of the Orleans Parish School Board or the full membership of BESE.

3. BESE or the Orleans Parish School Board may approve such postponement only if one or more of the following apply.

a. The Orleans Parish School Board is not financially stable.

b. The Orleans Parish School Board lacks a comprehensive expulsion and reentry program for students.

c. The Orleans Parish School Board cannot assure the stability of employee retirement benefits.

d. The Orleans Parish School Board cannot ensure or provide sufficient insurance coverage.

e. The superintendent for the Orleans Parish School Board and the superintendent of the RSD provide written certification that it is not feasible to meet the time lines, tasks, and benchmarks established in the plan to effect the return of schools from the Recovery School District to the jurisdiction of the Orleans Parish School Board as provided in R.S. 17:10.7.1.

f. The advisory committee created pursuant to R.S. 17:10.7.1, by a majority vote of its full membership, officially requests the Orleans Parish School Board or BESE consider such postponement.

4. Any action taken by the Orleans Parish School Board or BESE to postpone the final transfer of schools from the RSD to the Orleans Parish School Board must occur no later than January 31, 2018, and in no instance shall such postponement extend the final transfer date beyond July 1, 2019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), R.S. 17:10.5(C), and R.S. 17:10.7(C).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:878 (March 2011), amended LR 38:354 (February 2012), LR 38:1396 (June 2012), LR 39:82 (January 2013), LR 39:1022 (April 2013), LR 39:3255 (December 2013), LR 42:1869 (November 2016).551 (April 2016), LR 42:1869 (November 2016).

Shan N. Davis
Executive Director

1611#021

RULE

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs (LAC 28:CLXV.103 and 515)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 139—Louisiana Child Care and Development Fund Programs*: §103, Definitions; and §515, Payments Made on Behalf of Households. Act 3 of the 2012 Regular Legislative Session required the state board with unifying the early childhood system to prepare all children for kindergarten. The revisions adjust Child Care Assistance Program (CCAP) eligibility and rates for families with children with special needs so that quality child care is more accessible and affordable for such families.

Title 28
EDUCATION
Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs
Chapter 1. Child Care Assistance Program
§103. Definitions

* * *

Special Needs Child Care—for the purpose of CCAP daily rates, child care for a child through age has a current individualized family services plan (IFSP) or individual education plan (IEP) in accordance with the Individuals with Disabilities Education Act (IDEA). Incentive payments up to 26 percent higher than the regular rates can be allowed for a special needs child care. For children qualifying for the special needs child care rate, child care teachers shall be invited to participate in the IEP or IFSP team.

* * *

AUTHORITY NOTE: Promulgated in accordance with 45 CFR part 98 and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2109 (October 2015), amended LR 42:42 (January 2016), LR 42:1870 (November 2016).

Chapter 5. CCAP Household Eligibility
§515. Payments Made on Behalf of Households

A. The state maximum daily rates for CCAP care are as follows.

Child Care Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Type III Early Learning Center	$21.50	$22.50	$27.00	$28.25
School Child Care Center	$15.00	$16.00	$18.75	$20.00
Family Child Care Provider	$15.00	$16.00	$18.75	$20.00
In-Home Provider	$14.50	$15.50	$18.25	$19.50
Military Child Care Centers	$21.50	$22.50	$27.00	$28.25

B. - F.5. …

AUTHORITY NOTE: Promulgated in accordance with 45 CFR parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2116 (October 2015), amended LR 42:44 (January 2016), LR 42:1870 (November 2016).

Shan N. Davis
Executive Director

1611#022

RULE

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network (LAC 28:CLXVII.101, 103, 313, 503, 509-517, 521, 703-709, and 713)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 140—Louisiana Early Childhood Care and Education Network*: §101, Purpose §103, Definitions; §313, Academic Approval for Type III Early Learning Centers; §503, Coordinated Observation Plan and Observation Requirements; §509, Performance Rating Calculations for Publicly-Funded Sites; §511 Performance Rating Calculations for Community Networks; §512, Performance Ratings for Publicly-Funded Sites; §513, Informational Metrics of Best Practices; §515, Reporting for the Accountability System; §517, Data Verification; §521, Performance Profile Appeals Procedure; §703, Coordinated Enrollment Process; §705, Implementation Timeline; §707, Demonstrated Progress Toward Implementation; §709, Community Network Request for Funding for Publicly-Funded Programs; and §713, Request for Departmental Review. Bulletin 140 is a set of regulations focused specifically on early childhood community networks, which ensure one organization within each local community network coordinates across programs, set clear expectations for implementation of coordinated enrollment as required by Act 717 of the 2014 Regular Legislative Session and establish processes to ensure fairness and equity for providers and families, and establish a unified quality and improvement system. The first year of implementation of policy contained in Bulletin 140 was a learning year and the policy itself calls for revision of policy prior to the start of the 2016-2017 year.

The revisions reflect key shifts based on results from the 2015-2016 learning year. First, the revisions communicate differences in quality by weighting domains equally and using a four-level scale in order to help families understand differences. Second, the revisions honor quality and improvement by providing for the release of an annual honor roll that will recognize sites that are rated "excellent." Sites and networks that improve scores or ratings will also be recognized as "top gains." Third, the revisions provide that sites that consistently fail to reach minimum expectations by earning an "unsatisfactory" rating for two years in any three-year period will lose approval and funding. Fourth, the revisions provide that high scores, low scores, and concerning patterns will trigger additional third-party

observations, whereby third-party scores will be used instead of local observations. Fifth, the revisions add elements to reports concerning parent choice and funding decision-making, and support communities in order for local systems to continue to improve. Sixth, the revisions provide that type III early learning centers shall participate in the quality rating and improvement system in order to receive or renew academic approval. Approval will be tied to performance within the accountability system for future years.

Title 28
EDUCATION
Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network

Chapter 1. General Provisions

§101. Purpose

A. The purpose of this bulletin is to establish the duties and responsibilities of the early childhood care and education network, local community networks, community network lead agencies, and publicly-funded early childhood care and education programs; establish performance and academic standards for kindergarten readiness; define kindergarten readiness; and create a uniform assessment and accountability system for publicly-funded early childhood care and education sites and community networks that includes a performance profile indicative of performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2580 (December 2015), amended LR 42:1871 (November 2016).

§103. Definitions

* * *

Assurances—see *program partner assurances*.

* * *

Program Partner Assurances—assurances that early childhood care and education programs must submit to the department in order to access their public funding.

* * *

School Year—for purposes of this bulletin, July 1-June 30.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.23 and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2580 (December 2015), amended LR 42:1871 (November 2016).

Chapter 3. Early Childhood Care and Education Network

§313. Academic Approval for Type III Early Learning Centers

A. All type III early learning centers shall meet the performance and academic standards of the early childhood care and education network regarding kindergarten readiness as provided in this bulletin.

B. - C. …

D. Initial Academic Approval for an Applicant for a New Type III Early Learning Center License for Fiscal Years 2016-2017 and Beyond

1. In order to obtain the initial academic approval required to be licensed as a type III early learning center, a center applying for a new type III license must:

a. submit a signed copy of the current program partner assurances to the department, thereby agreeing to comply with the provisions of this bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. An applicant for a new type III early learning center license who has held a type III early learning center license and received a corrective action plan as provided in §313 at any time during the current or preceding fiscal year shall not be allowed to apply for academic approval for the fiscal year in which the center received a corrective action plan and the following fiscal year.

E. Renewal of Academic Approval for Type III Early Learning Centers for the Fiscal Years 2016-2017 and 2017-2018

1. Academic approval shall be renewed annually for fiscal years 2016-2017 and 2017-2018 for any type III early learning center that:

a. has current academic approval;

b. is in compliance with the provisions of this bulletin; and

c. has submitted a signed copy of the current annual program partner assurances to the department, and is thereby agreeing to comply with the provisions of this bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. Type III early learning centers shall annually submit a signed copy of the annual program partner assurances to the department prior to July 1, or as requested by the department, whichever occurs earlier.

F. Renewal of Academic Approval for Existing Type III Early Learning Centers for Fiscal Year 2018-2019 and Beyond

1. Academic approval shall be renewed annually for fiscal years 2018-2019 and beyond for any type III early learning center that:

a. has current academic approval;

b. is in compliance with the provisions of this bulletin;

c. has not had two unsatisfactory performance ratings within any consecutive three school years; and

d. has submitted a signed copy of the current annual program partner assurances to the department, and is thereby agreeing to comply with the provisions of this bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. Early learning centers shall annually submit a signed copy of annual program partner assurances to the

department prior to July 1, or as requested by the department, whichever is earlier.

G. A center that has its academic approval terminated may not apply for academic approval for the fiscal year in which academic approval was terminated or the following fiscal year.

H. Academic approval shall be valid for the fiscal year, July 1-June 30, for which it is granted.

I. Academic approval is granted to a specific owner and a specific location and is not transferable. If a type III early learning center changes owners or location, it is considered a new operation, and academic approval for the new owner or location must be obtained prior to beginning operations under new ownership or at the new location.

J. Upon a change of ownership or change of location, the academic approval granted to the original owner or at the original location becomes null and void.

K. Renewal

1. Prior to July 1 of each year, the department shall send notice to each type III early learning center that has academic approval providing one of the following:

a. renewal of academic approval for the center;

b. notice of the center's failure to comply with specific requirements in Subsection A of this Section and specific corrective actions that must be taken by a specified date in order for academic approval to be renewed; or

c. if an early learning center has received the notice outlined in Subparagraph L.2.a of this Section within the academic year and the center has not provided the required certifications and completed the stated corrective actions, the department may terminate the center's academic approval as provided in Subparagraph L.2.c of this Section and send notice of termination of the center's academic approval.

L. Denial, Termination or Refusal to Renew Academic Approval

1. The department may deny terminate, or refuse to renew academic approval for:

a. violations of any provisions of this bulletin;

b. failure to timely comply with a corrective action plan provided by the department;

c. any act of fraud, such as the submission of false or altered documents or information;

d. failure to timely submit a signed copy of the annual program partner assurances; or

e. two unsatisfactory performance ratings within any consecutive three school years.

2. Notice

a. If a type III early learning center is in violation of any provision of this bulletin, the department shall notify the center in writing and may specify any corrective actions in a corrective action plan that shall be required to retain academic approval.

b. Within 30 calendar days of receiving such notice, the center shall submit certification in writing to the department that the corrective actions specified in the corrective action plan have been taken or are in the process of being taken in compliance with the schedule provided in the corrective action plan and certification that the center will remain in compliance with the corrective action plan and all applicable regulations.

c. If the type III early learning center does not respond in a timely or satisfactory manner to the notice and corrective action plan or adhere to the implementation schedule required in the corrective action plan, the department may terminate or refuse to renew the center's academic approval.

d. The department shall provide written notice of denial, termination or refusal to renew academic approval to the center.

e. The denial, termination or refusal to renew a center's academic approval shall be effective when notice of the denial, termination, or refusal to renew is given.

M. Appeal Procedure

1. BESE shall have the authority to grant an appeal of the denial, termination or refusal to renew academic approval for a type III early learning center.

2. The appeal procedure shall be used when needed to address unforeseen and aberrant factors impacting type III early learning centers or when needed to address issues that arise when the literal application of the academic approval regulations does not consider certain unforeseen and unusual circumstances.

3. A type III early learning center may request an appeal of the denial, termination, or refusal to renew its academic approval by submitting a written request for an appeal to the department within 15 calendar days of being given notice of the denial, termination, or refusal to renew its academic approval.

4. All appeal requests shall clearly state the specific reasons for requesting the appeal and the reasons why the appeal should be granted and shall include any necessary supporting documentation.

5. The department shall review all timely submitted appeal requests and make recommendations to BESE during the first regularly scheduled BESE meeting following receipt of the appeal requests, or during the second regularly scheduled BESE meeting if an appeal request is received within 10 working days of the next regularly scheduled BESE meeting. Within this interval, the department shall notify the center of its recommendation and allow the center to respond in writing. The department's recommendation and the center's response shall be submitted to BESE for final disposition.

6. An early learning center that appeals the termination or refusal to renew its academic approval shall retain its academic approval during the appeal process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.36(C) and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2584 (December 2015), amended LR 42:1871 (November 2016).

Chapter 5. Early Childhood Care and Education Accountability System

§503. Coordinated Observation Plan and Observation Requirements

A. - B.4.c. …

5. The department shall monitor observer accuracy within each observation period by comparing the domain-level results from classroom observations conducted by the department's third-party contractors to the domain-level results from classroom observations conducted by the community network for each observer.

a. Within each observation period, for observations conducted by a community network observer that have been compared to domain-level results conducted by the

department's third-party contractors, if more than 20 percent of the domain-level results are different by more than one point for the community network observer, that observer and lead agency shall be issued a notice in writing by the state regarding their level of accuracy.

b. Within each observation period, for observations conducted by a community network observer that have been compared to domain-level results conducted by the department's third-party contractors, if more than 33 percent of the domain-level results are different by more than one point for the community network observer, that observer shall be shadow scored by another community network observer in the next observation period.

c. Within each observation period, for observations conducted by a community network observer that have been compared to domain-level results conducted by the department's third-party contractors, if 50 percent or more of the domain-level results are different by more than one point for the community network observer, the department may determine that the community network observer shall not be able to conduct observations for that community network for the next observation period.

i. If the observer is no longer able to conduct observations for the community network, the department shall notify the observer and the lead agency that the observer shall not be able to conduct observations for that community network for the next observation period.

ii. A lead agency or community network observer may request in writing that the department review its decision in Subparagraph 5.c of this Subsection within 15 calendar days of receiving the decision.

iii. All requests for departmental review shall clearly state the specific reasons for requesting the review and the action being sought, and shall include all necessary supporting documentation.

iv. The department shall respond to the request for departmental review within 30 calendar days after receiving it.

v. The department may waive the action in Subparagraph 5.c of this Subsection in cases of extenuating circumstances or if the action would result in no other assessor being available to conduct required observations.

d. Observers who are receive notification from the department under Clause 5.c.i of this Subsection must meet the reliability requirements of 80 percent accuracy through annual recertification prior to being permitted to complete observations for the community network.

C. Coordinated Observation Plan

1. Each community network shall develop and maintain, no later than September 30 of each year, a written annual plan for coordinated observation using *CLASS*® that at a minimum includes:

a. - d.ii. …

iii. the community network conducts inter-rater reliability observation checks for 10 percent of all classrooms observed during the fall observation period and for 10 percent of all classrooms observed during the spring observation period, and that these reliability observation checks include every observer for the community network at least once annually; and

C.1.d.iv. - D.3. …

E. The department shall publicly release the reliability requirements for third-party contractors hired by the department annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2586 (December 2015), amended LR 42:1872 (November 2016).

§509. Performance Rating Calculations for Publicly-Funded Sites

A. The performance rating for each publicly-funded site shall be based on the average of the dimension-level toddler and PreK observation results from the fall and spring observation periods for all toddler and PreK classrooms within the site, excluding the negative climate dimension.

1. BESE may include a weight for improvement beginning with the 2016-2017 school year.

2. Sites that have classrooms that receive a score of 3.5 or above for the negative climate dimension shall receive a notice in writing at the end of the observation period in which they received that score. If a site receives a notice for two consecutive observation periods, an indicator of high negative climate may be reported on the performance profile.

B. Any classroom in a publicly-funded site that does not have the observations required in LAC 28:XCI.503 or does not have all results reported, shall have third-party scores for that classroom reported when available. If no third-party scores are available for that classroom, but there are observation scores for comparable classrooms within the site as required in LAC 28:XCI.503, the department shall assign the average domain score for the comparable classrooms to each missing *CLASS*® score. The department may assign a score of 1 to each missing *CLASS*® domain score if no comparable local or third-party scores are available. If this occurs, the score of 1 for missing or not-reported observation results shall be included in the performance rating calculation for that site. In these circumstances, the number of missing or not-reported observation results shall be reported on the performance profile.

B.1. - C.2. …

a. For the 2015-2016 learning year, if the observation results conducted by community networks are consistently different by more than one point from observation results conducted by the department's third-party contractors, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractors, including those results that do not differ by at least one point.

b. Beginning with the 2016-2017 school year, if observation results conducted by community networks are consistently different by more than one point from observation results conducted by the department's third-party contractors, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractors, including those results that do not differ by at least one point.

D. The performance rating for each site shall be based on the following numerical scale:

1. 6.0-7.0—excellent;
2. 4.50-5.99—proficient;
3. 3.0-4.49—approaching proficient;
4. 1.0-2.99—unsatisfactory.

E. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2587 (December 2015) , amended LR 42:1873 (November 2016).

§511. Performance Rating Calculations for Community Networks

A. Community networks shall receive two performance ratings which shall be calculated as follows.

1. *CLASS*® observation results shall be one of the community network performance ratings.

2. An equitable access score for four-year-olds shall be one of the community network performance ratings.

3. BESE may include a weight for improvement on equitable access beginning with the 2017-2018 school year.

B. The *CLASS*® observation results shall be determined by averaging the results of all fall and spring dimension-level toddler and PreK observation results for all toddler and PreK classrooms within the community network excluding negative climate.

1. Any classroom in a site that does not have the observations required in LAC 28:XCI.503, or has not had all observation results reported, shall have third-party scores for that classroom reported when available. If no third-party scores are available for that classroom, but there are observation scores for comparable classrooms within that site as required in LAC 28:XCI.503, the department shall assign the average domain score for the comparable classrooms to each missing *CLASS*® domain score. The department may assign a score of 1 to each missing *CLASS*® domain score if no comparable local or third-party score is available. If this occurs, the score of 1 for missing observation or not-reported results shall be included in the performance rating calculation for the community network. In these circumstances the number of missing or not-reported observation results shall be reported on the community network's performance profile.

1.a. - 2.b.i. …

ii. For every year after the 2015-2016 school year, if the observation results conducted by a community network are consistently different by more than one point from observation results conducted by the department's third-party contractor, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractor for that site, including those results that do not differ by at least one point.

C. The equitable access score performance rating shall be determined by calculating the access achieved by the community network for all at-risk four-year-old children in the community network coverage area. Points are earned on a four-level rating scale according to:

Percentage of At-Risk Four-Year-Olds Served	Rating
90-100 percent	Excellent
80-89.99 percent	Proficient
70-79.99 percent	Approaching Proficient
0-69.99 percent	Unsatisfactory

D. The *CLASS*® observation results performance rating for each community network shall be based on the following numerical scale:

1. 6.0-7.0—excellent;
2. 4.5-5.99—proficient;
3. 3.0-4.49—approaching proficient;
4. 1.0-2.99—unsatisfactory.

E. - G. …

H. Prior to the start of the 2017-2018 school year, a workgroup of Early Childhood Care and Education Advisory Council members shall be formed to study the inclusion of additional metrics in the performance rating calculations and review R.S. 17:407.21 et seq., for potential statutory changes, and shall make recommendations regarding the use of any additional performance rating calculation metrics in LAC 28:XCI.509.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:1874 (November 2016).

§512. Performance Ratings for Publicly-Funded Sites

A. Unsatisfactory Publicly-Funded Sites

1. Beginning with the 2016-2017 school year, publicly-funded sites rated as "unsatisfactory," as defined in LAC 28:XCI.509, for two school years in any consecutive three school year period, shall lose their public funding and have their academic approval terminated.

2. The state superintendent may grant exception to Subsection A of this Section if the publicly-funded site serves a special population, or if taking the required action in Subsection A of this Section would create an extraordinary burden for families or place children at risk of harm.

3. The department shall conduct an annual needs analysis for families in regions that may be impacted by publicly-funded sites losing their public funding to support access to early childhood programs.

B. Rewards and Recognition

1. Beginning in the 2016-2017 school year, sites and community networks that are rated "excellent" shall be included in an annual honor roll published by the department and be eligible for financial rewards, as funds are available and as determined by the department.

2. No later than the 2017-2018 school year, sites and community networks that demonstrate significant improvement in their overall score or rating shall be labeled "top gains" on their performance profile and be eligible for financial rewards, as funds are available and as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1874 (November 2016).

§513. Informational Metrics of Best Practices

A. Informational metrics are measures of a publicly-funded site and a community network's use of the following early childhood care and education best practices. The performance profile shall report the publicly-funded site and community network's use of the best practices identified as investment in quality measures, which shall include, but is not limited to:

1. teacher/child ratios. Publicly-funded sites maintain teacher/child ratios based on the age of children that are at or better than the minimum standards required in BESE *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*:

a. to achieve gold-level ratios, publicly-funded sites use the following teacher/child ratios and group sizes;

Age	Teacher/Child Ratio	Maximum Group Size
Birth to 1 year	1:4	8
1 year to 2 years	1:4	8
2 years to 3 years	1:6	12
3 years to 4 years	1:8	16
4 years to 5 years	1:10	20

b. to achieve silver-level ratios, publicly-funded sites use the following teacher/child ratios and group sizes;

Age	Teacher/Child Ratio	Maximum Group Size
Birth to 1 year	1:4	8
1 year to 2 years	1:6	12
2 years to 3 years	1:8	16
3 years to 4 years	1:10	20
4 years to 5 years	1:12	24

c. to achieve bronze-level ratios, publicly-funded sites use the minimum ratio standards required in BESE *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*;

2. teacher preparation. Publicly-funded sites ensure lead teachers meet or exceed credential requirements for publicly-funded classrooms provided in BESE *Bulletin 746—Louisiana Standards for State Certification of School Personnel*;

3. standards-based curriculum. Publicly-funded sites use a curriculum that is aligned to BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*.

B. The performance profile may report informational metrics in the following categories:

1. child assessment that informs instruction;
2. investment in quality measures;
3. family engagement and supports; and
4. community network supports (reported at the community network level only):

a. the number of children served in new publicly-funded early childhood seats;

b. the percent of publicly-funded early childhood seats that are filled.

C. Each year and in collaboration with the Early Childhood Care and Education Advisory Council, the department shall review the results of the accountability system, including but not limited to the performance of programs on each domain of the *CLASS®*, how the performance profile ratings are calculated, and the observer reliability substitution rates, and recommend any improvements for this bulletin. To develop these recommendations, the department shall work collaboratively with the Early Childhood Care and Education Advisory Council, which shall establish a workgroup for this purpose. The department, with assent shown by vote of the Advisory Council, can decide in a given year that no review is needed.

D. Contingent on available funding, the department shall conduct an external implementation evaluation of Louisiana's early childhood care and education network to answer questions that include but are not limited to whether the system:

1. is based on performance ratings that are valid and reliable;
2. meaningfully differentiates between levels of program quality; and
3. delivers a robust set of quality improvement supports and incentives for improvement, as well as consequences for failure to improve. The results of the study shall be shared with the Early Childhood Care and Education Advisory Council and BESE.

E.1. The LDE is required to collect data designed to strengthen the state's ability to track and monitor implementation of new and ongoing policies and supports, program quality, and child outcomes, positioning Louisiana to:

a. provide targeted supports to teachers, programs, and schools; and

b. be evaluation-ready when funds and evaluators become available.

2. The LDE shall explore critical data elements being collected by other states, seek recommendations from the Early Childhood Advisory Council on critical data elements and present a report on the findings to BESE no later than January 2017.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:1875 (November 2016).

§515. Reporting for the Accountability System

A. Lead agencies shall report to the department, in the manner specified by the department, the following:

1. classroom counts:

a. by October 1, the number of classrooms serving infant, toddler and PreK children in each publicly-funded site on October 1;

b. by February 1, the number of classrooms serving infant, toddler, and PreK children in each publicly-funded site on February 1; and

c. by February 1, the number of classrooms in the February 1 count that have been added or removed since the October 1 count;

A.2. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2589 (December 2015), amended LR 42:1875 (November 2016).

§517. Data Verification

A. The department shall provide all non-survey data contributing to the performance profile for publicly-funded sites and community networks to each lead agency prior to publishing the performance rating.

B. In 2015-2016, the department shall provide lead agencies 30 calendar days for final review, correction, and verification of data for the performance profiles. For all subsequent years, the department shall provide lead agencies 10 calendar days for final review, correction, and verification of data for performance profiles.

1. The lead agency shall create and implement a community network data certification procedure that requires review of all performance profile data for each site during the data certification period.

2. The department may request the certification procedure from each lead agency.

3. Data corrections shall not be grounds for an appeal or waiver request as all data corrections shall be made prior to the release of profiles regardless of the source of any errors.

4. Data corrections may only be submitted for the following reasons:

a. *CLASS*® observations results have been reported incorrectly; or

b. *CLASS*® observation results were not reported.

5. The department shall review all data corrections and grant approval of those corrections that are proven valid.

6. The department may request additional documentation to support the validity of the changes.

C. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2590 (December 2015), amended LR 42:1876 (November 2016).

§521. Performance Profile Appeals Procedure

A. BESE shall have the authority to grant an appeal of a publicly-funded site or community network's performance profile.

B. The appeal procedure shall be used when needed to address unforeseen and aberrant factors impacting publicly-funded sites and community networks or when needed to address issues that arise when the literal application of the accountability system regulations does not consider certain unforeseen and unusual circumstances. Failure to complete observations or use of third-party scores are not sufficient reasons for requesting an appeal. Data corrections shall not be grounds for an appeal or waiver request as all data corrections shall be made prior to the release of profiles regardless of the source of any errors.

C. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2590 (December 2015), amended LR 42:1876 (November 2016).

Chapter 7. Coordinated Enrollment

§703. Coordinated Enrollment Process

A. - B.4. …

C. In collaboration with representatives of providers of child care, Head Start, and prekindergarten services, the lead agency shall develop policies and procedures for how the requirements of Subsection B of this Section will be implemented. These policies and procedures shall be submitted to the department prior to initiation of the enrollment process, and shall include training for providers and parents on the eligibility criteria for different programs, the matching process for the network, and the complaint process for providers and parents as needed.

D. - F. …

G. Request for Departmental Review

1. Any parent or caregiver may request that the department review the placement of his or her child resulting from the coordinated enrollment process.

2. A request for departmental review shall be submitted in writing to the department within 30 calendar days of placement of the child or of the event upon which the request for review is based.

3. All requests for departmental review shall clearly state the specific reasons for requesting the review and the action being sought, and shall include all necessary supporting documentation.

4. The department shall respond to the request for departmental review within 30 calendar days after receiving it.

5. Written notice of the process in outlined in Paragraph 2 of this Subsection, as well of the complaint process described in LAC 28:XCI.311.A-F, and the appropriate contact information for the department, shall be made available to any parent or caregiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2591 (December 2015), amended LR 42:1876 (November 2016).

§705. Implementation Timeline

A. - D. ….

E. Prior to the start of the school year, BESE shall review this Chapter and revise as necessary based on learnings from the previous year. A work group of the Early Childhood Care and Education Advisory Council shall be formed to study the effectiveness of the coordinated enrollment process and make recommendations to the council and BESE for changes for implementation in the following school year. This research may include, but not be limited to, defining key indicators of effectiveness, conducting focus groups of all provider types, reviewing data on the placement of new early childhood seats opened statewide, and reviewing other available information. The department, with assent shown by vote of the Advisory Council, may decide in a given year that no review is needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2592 (December 2015), amended LR 42:1876 (November 2016).

§707. Demonstrated Progress toward Implementation

A. …

B. The department may require community networks to complete an enrollment self-assessment each year. This self-assessment shall include, but is not limited to, the outcomes of the prior year's coordinated enrollment process, specifically how family choice resulted in these outcomes.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2592 (December 2015), amended LR 42:1876 (November 2016).

§709. Community Network Request for Funding for Publicly-Funded Programs

A. By December 1 of each fiscal year, the lead agency shall develop, in collaboration with representatives of providers of child care, Head Start, and prekindergarten services, and submit a funding request for the following fiscal year to the department on behalf of the community network that is based on the coordinated enrollment results, which shall include the following:

1. the number of applications received for each age of at-risk children;
2. the number of seats requested at each publicly-funded site;
3. the number of seats recommended by the lead agency to receive funding with a prioritization by site and age of children served by funding source;
4. the criteria and process used to develop the community network request;
5. the recommended plan to maximize all funding sources to increase service to at-risk children;
6. the number of seats being requested in a mixed delivery setting; and
7. the number of eligible children served in the network by specific program type.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2592 (December 2015), amended LR 42:1877 (November 2016).

§713. Request for Departmental Review

A. Any publicly-funded program may request that the department review an enrollment decision or funding request of its lead agency or local enrollment coordinator. All programs shall be given written notice of the opportunity to request a departmental review of a lead agency or local enrollment coordinator's enrollment decision or funding request, as well as the complaint process described in LAC 28:XCI.311.A-F, and the appropriate contact information for the department.

B. A request for departmental review shall be submitted in writing to the department no later than 30 calendar days after the day on which community networks must submit funding requests to the department or the day in which the community network submitted the funding request to the department, whichever is later.

C. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2593 (December 2015), amended LR 42:1877 (November 2016).

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1611#023

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook
for School Administrators
(LAC 28:CXV.1103, 2307, 2318, 2907, 3309, and 3701)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education (BESE) has amended Part CXV, *Bulletin 741—Louisiana Handbook for School Administrators*: §1103, Compulsory Attendance; §2307, Literacy Screening; §2318, The TOPS University Diploma; §2907, Connections Process; §3309, Curriculum; and §3701, Abbreviations/Acronyms. In March 2010, BESE approved a proposal submitted by the Louisiana Department of Education (LDE) that required all public schools with kindergarten through third grade enrollment to administer the *Dynamic Indicators of Basic Early Literacy Skills, 7th Edition (DIBELS Next)* as the approved kindergarten through third grade reading assessment.

In August 2013, BESE amended the March 2010 *DIBELS Next* requirement that all public schools with a kindergarten through third grade enrollment, or some variation thereof, administer the *DIBELS Next* reading assessment, to include a condition requiring *DIBELS Next,* unless the LDE approved an alternate reading assessment in lieu of *DIBELS Next* through a waiver, submitted by the local education agency (LEA).

The proposed revisions add to the list of accepted kindergarten through third grade literacy assessments, those alternate reading assessments that have been consistently requested by LEAs in waiver applications approved by BESE since 2013. The proposed revisions will reduce the number of waiver requests for kindergarten through third grade alternate reading assessments. The revisions also update the name of the high school equivalency assessment from the general educational development (GED) test to *HiSET*®.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 11. Student Services

§1103. Compulsory Attendance

A. - B.4.a. …

b. achieved a passing score on *HiSET*® exam; and

B.4.c. - N. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112, R.S. 17:221.3-4, R.S. 17:226.1, and R.S. 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1273 (June 2005), amended LR 32:546 (April 2006), LR 32:1030 (June 2006), LR 33:2351 (November 2007), LR 35:641 (April 2009), LR 35:1097 (June 2009), LR 35:1475 (August 2009), LR 36:482 (March 2010), LR 36:1224 (June 2010), LR 37:1126 (April 2011), LR 37:2132 (July 2011), LR 38:1000 (April 2012), LR 38:1225 (May 2012), LR 38:1399 (June, 2012), LR 39:2205 (August 2013), LR 41:372 (February 2015), LR 41:2594 (December 2015), LR 42:1877 (November 2016).

Chapter 23. Curriculum and Instruction
Subchapter A. Standards and Curricula
§2307. Literacy Screening

A. Each LEA shall require that every child enrolled in kindergarten-third grade be given a BESE-approved literacy screening within the first 30 days of the school year. The results of this screening shall be used to plan instruction and provide appropriate and timely intervention. The results of the screening will also provide information required by R.S. 17:182, student reading skills; requirements; reports.

1. For students with significant hearing or visual impairment, nonverbal students, or students with significant cognitive impairment, the LEA shall provide an alternate assessment recommended by the LDE.

2. Each LEA shall report to the LDE screening results by child within the timeframes and according to the guidance established by the LDE.

3. For grades 1-3, the school should use the prior year's latest screening level to begin appropriate intervention until the new screening level is determined.

4. Screening should be used to guide instruction and intervention.

B. Each LEA may choose one of the following assessments for each grade level to meet kindergarten-third grade literacy screening requirements. LEAs must apply for a waiver to use an assessment not on the list.

Grade	Skill	BESE-Approved Literacy Screenings
Kindergarten	Phonological Awareness	(a) Dynamic Indicators of Basic Early Literacy Skills (DIBELS) Next First Sound Fluency; or (b) System to Enhance Educational Performance (iSTEEP) Initial Sound Fluency; or (c) Fountas and Pinnell Initial Sounds; or (d) Strategic Teaching and Evaluation of Progress (STEP) Phonemic Awareness First Sounds.
First Grade	Phonics	(a) DIBELS Next Nonsense Word Fluency-CLS; or (b) *i*STEEP Nonsense Word Fluency; or (c) Easy Curriculum Based Measures (easyCBM) Word Reading Fluency; or (d) Fountas and Pinnell Phonograms; or (e) STEP Reading Record; or (f) Test of Word Reading Efficiency (TOWRE); or (g) Word Reading Efficiency Test (WRET).
Second Grade	Oral Reading Fluency	(a) DIBELS Next Oral Reading; or (b) *i*STEEP Oral Reading Fluency; or (c) Fountas and Pinnell Oral Reading Rate; or (d) STEP Reading Rate/Fluency.
Third Grade	Comprehension	(a) DIBELS Next Retell (Passage 1 only); or (b) *i*STEEP Advanced Literacy; or (c) Fountas and Pinnell Comprehension; or (d) STAR Reading; or (e) STEP Comprehension; or (f) Scholastic Reading Inventory/Houghton Mifflin Harcourt Reading Inventory (SRI/HMH RI).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005), amended LR 38:1224 (May 2012), LR 39:2214 (August 2013), LR 42:1878 (November 2016).

§2318. The TOPS University Diploma

A. - C. …

1. For incoming freshmen in 2008-2009 through 2013-2014 who are completing the Louisiana basic core curriculum, the minimum course requirements for graduation shall be the following.

NOTE: For courses indicated with *, an Advanced Placement (AP) or International Baccalaureate (IB) course designated in Course Requirements table found at http://www.louisianabelieves.com/docs/default-source/jumpstart/course-substitutions.pdf.

a. - h. …

2. For incoming freshmen in 2008-2009 through 2013-2014 who are completing the Louisiana Core 4 curriculum, the minimum course requirements shall be the following.

NOTE: For courses indicated with *, an Advanced Placement (AP) or International Baccalaureate (IB) course designated in Course Requirements table found at http://www.louisianabelieves.com/docs/default-source/jumpstart/course-substitutions.pdf.

2.a. - 6.a.vi. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 2016), LR 42:1062 (July 2016), LR 42:1878 (November 2016).

Chapter 29. Alternative Schools and Programs
§2907. Connections Process

A. …

B.1. LEAs may choose to implement the Connections Process which replaces Louisiana's PreGED/Skills Option

Program. Connections is a one-year process for overage students to receive targeted instruction and accelerated remediation aimed at attaining a high school diploma, high school equivalency diploma (by passage of tests *HiSET*® exams), or state-approved skills certificate. The process includes a connections profile to track the following elements:

B.1.a. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1308 (June 2005), amended LR 34:2032 (October 2008), LR 37:2131 (July 2011), LR 38:1000 (April 2012), LR 38:3133 (December 2012), LR 39:2226 (August 2013), LR 42:1878 (November 2016).

Chapter 33. Home Study Programs

§3309. Curriculum

A. - A.4. …

B. In order to receive a Louisiana State equivalency diploma, the student must pass the *HiSET*® exam. Completion of a home study program does not entitle the student to a regular high school diploma.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1312 (June 2005), amended LR 37:1137 (April 2011), LR 39:2229 (August 2013), LR 42:1879 (November 2016).

Chapter 37. Glossary

§3701. Abbreviations/Acronyms

ADA—Americans with Disabilities Act.

AP—advanced placement.

BESE—Board of Elementary and Secondary Education.

CPR—cardiopulmonary resuscitation.

CTE—career/technical education.

CTSO—career and technical student organizations.

CTTIE—career and technical trade and industrial education.

DECA—An association of marketing students.

FBLA—Future Business Leaders of America.

FCCLA—Family, Career, and Community Leaders of America.

FFA—National FFA Organization.

GEE 21—Graduation Exit Examination for the 21st Century.

GLEs—grade-level expectations.

HOSA—Health Occupations Students of America.

IAP—individualized accommodation program.

IB—international baccalaureate.

IBC—industry-based certification.

IDEA—Individuals with Disabilities Education Act; the special education law.

IEP—individualized education program.

JROTC—Junior Reserve Officer Training Corps.

LDE—Louisiana Department of Education.

LEA—local education agency.

LEAP 21—Louisiana Educational Assessment Program for the 21st Century.

LHSAA—Louisiana High School Athletic Association.

LMA—Louisiana Montessori Association.

MFP—Minimum Foundation Program.

MPS—minimum proficiency standards.

NAEP—national assessment of educational progress.

NCLB—No Child Left Behind.

OFAT—out-of-field authority to teach.

SAE—supervised agriculture experience.

SAPE—substance abuse prevention education.

TAT—temporary authority to teach.

TOPS—Taylor Opportunity Program for Students.

TSA—Technology Student Organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1316 (June 2005), amended LR 39:2230 (August 2013), LR 42:1879 (November 2016).

Shan N. Davis
Executive Director

1611#024

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.417)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted Section 417 of *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §417, Educational Leader in Special Education Ancillary Certificate. Act 130 of the 2016 Regular Legislative Session establishes an Educational Leader in Special Education certificate. This certificate authorizes the holder to serve as a supervisor, director, or coordinator of special education. It also enables educators who do not hold a standard teaching certificate but who do hold a valid Louisiana ancillary certificate in a special education-related field to obtain a leadership certificate specific to special education leadership roles. Additionally, the applicant must have three years of work experience in his/her area of certification, 240 documented hours of leadership experience, a graduate degree from a regionally accredited institution, and a passing score on the requisite educational leader exam. The revisions align policy with Act 130 of the 2016 Regular Legislative Session.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 4. Ancillary School Service Certificates

Subchapter A. General Ancillary School Certificates

§417. Educational Leader in Special Education Ancillary Certificate

A. The educational leader in special education ancillary certificate authorizes an individual to serve as a supervisor, director, or coordinator of special education in a school or district setting.

B. Issuance—this certificate is issued upon the request of the Louisiana employing authority.

C. Renewal Guidelines—this certificate is valid for a period of five years and may be renewed thereafter at the

request of the Louisiana employing authority. Candidates must successfully meet the standards of effectiveness for at least three years during the five-year renewal period pursuant to Bulletin 130 and R.S. 17:3902. Such renewal shall constitute a renewal of the special education ancillary certificate only and shall not qualify the candidate for the educational leader certificate level 1 (ELC 1), educational leader certificate level 2 (ELC 2), or educational leader certificate level 3.

D. The candidate must:

1. hold one of the below valid Louisiana ancillary certificates:

a. assessment teacher;
b. educational consultant;
c. educational diagnostician;
d. certified school psychologist (level B or level A);
e. qualified speech pathologist;
f. speech therapist;
g. speech-language pathologist;
h. speech and hearing therapist;
i. qualified school social worker; or
j. qualified licensed audiologist;

2. have at least three years of experience working with students in the area of certification;

3. have completed a graduate degree program from a regionally-accredited institution of postsecondary education;

4. provide documented evidence of leadership experiences (240 clock hours or more) at the school; or

5. have a passing score on the school leaders licensure assessment (SLLA) or other equivalent assessment as determined by the state board through its rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, R.S. 17:411, and R.S. 17:429.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1879 (November 2016).

Shan N. Davis
Executive Director

1611#025

RULE

Board of Regents
Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.301, 701, 703, and 2107)

The Board of Regents (BOR) has amended its scholarship/grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6). (SG16172R)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 3. Definitions
§301. Definitions

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Award Amount—

a. through the 2015-2016 academic year (college), an amount equal to tuition at the school attended, for those students attending a Louisiana public college or university, as determined by the commission, which may be used by the student to pay any educational expense included in that student's "cost of attendance." The amount paid for TOPS and TOPS-Tech Awards shall be as follows:

i. for students with the TOPS Opportunity, Performance, and Honors Award attending a Louisiana public college or university and enrolled in an academic degree program, the amount shall equal the actual cost of tuition;

ii. for students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or an out-of-state college or university if all of the conditions of §703.I are met and enrolled in an academic degree program, the amount shall equal the weighted average award amount;

iii. for students with the TOPS Opportunity, Performance, and Honors Award attending a Louisiana public college or university and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the actual cost of tuition;

iv. for students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or who attend an eligible cosmetology or proprietary school and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the average award amount (TOPS-Tech);

v. for students with the TOPS-Tech Award attending an eligible public college or university that does not offer an academic undergraduate degree at the baccalaureate level or higher and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the actual cost of tuition;

vi. for students with a TOPS-Tech Award attending an eligible college or university that offers an academic undergraduate degree at the baccalaureate level or higher and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the average award amount (TOPS-Tech);

vii. for students with the TOPS Opportunity, Performance, and Honors Award enrolled in a Louisiana professional school, the amount shall be equal to the tuition charged or the tuition charged a student pursuing a baccalaureate degree at the highest cost public school, whichever is less or the weighted average award amount, depending upon whether the Louisiana professional school is a public or private school;

viii. for students with the TOPS Opportunity, Performance and Honors Award enrolled in a Louisiana graduate degree program, the amount shall be equal to the tuition or the tuition charged for a student while pursuing a baccalaureate degree at the highest cost public school in the state, whichever is less;

b. beginning with the 2016-2017 academic year (college), the award amount determined by the administering agency in accordance with Clauses a.i-a.viii above during the 2016-2017 academic year (college), plus any increase in the award amount specifically authorized by the Louisiana Legislature.

* * *

Eligible Noncitizen—

a. an individual who can provide documentation from the U.S. Citizenship and Immigration Services (USCIS) or its successor that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident, including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the United States must provide documentation from the USCIS to verify permanent residency. For 1997, 1998 and 1999 high school graduates, an eligible noncitizen shall be treated as meeting the citizenship requirements for an award under this Part;

b. beginning with the 2018-2019 academic year (high school) and later, a student who is not a citizen of the United States but who is the child of a non-United States citizen who is either serving in any branch of the United States armed forces or has been honorably discharged from any branch of the United States armed forces shall be treated as meeting the citizenship requirements for an award under this Part.

* * *

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 40:53 (January 2014), LR 40:281 (February 2014), LR 41:649, 658 (April 2015), LR 41:2595 (December 2015), LR 42:1880 (November 2016).

Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§701. General Provisions

A. - E.1.b. ...

2.a. The TOPS Performance Award provides a $400 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1(H), or LAC 28:IV.503.D, 509.C, or 701.E.2.b. If a student attends an eligible summer session, quarter, term, or equivalent unit and requests that their TOPS Award be paid for that session, semester, quarter, term, or equivalent unit, the stipend will also be paid since payment of a TOPS Award for a summer session, quarter, term, or equivalent unit will count toward the eight semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

3.a. The TOPS Honors Award provides an $800 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1(H), or LAC 28:IV.503.D, 509.C or 701.E.3.b. If a student attends an eligible summer session, quarter, term, or equivalent unit and requests that their TOPS Award be paid for that session, semester, quarter, term, or equivalent unit, the stipend will also be paid since payment of a TOPS Award for a summer session, quarter, term, or equivalent unit will count toward the eight semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

4.a. Through the 2009-2010 academic year (college), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provided therein, plus any applicable TOPS stipend and a

sum of not more than $150 per semester or $300 annually for the actual cost of books and other instructional materials.

b. Beginning with the 2010-2011 academic year (college), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students with the TOPS Opportunity, Performance and Honors Award participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provided therein, plus a sum of $300 per semester or $600 per academic year to be applied toward the cost of books and other instructional materials. In addition, those students with the Performance Award shall receive $400 per semester or $800 per academic year for other educational expenses and those students with the Honors Award shall receive $800 per semester or $1,600 per academic year for other educational expenses. If the student attends an eligible summer session, quarter, term, or equivalent unit and requests that their TOPS Award be paid for that session, semester, quarter, term, or equivalent unit in accordance with this Paragraph, the amounts stipulated herein will also be paid since payment of a TOPS Award for a summer session, quarter, term, or equivalent unit will count toward the eight semester limit for TOPS.

E.5. - G.2. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1645-1648 (December 1997), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999), LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26:1995 (September 2000), LR 26:2000 (September 2000), repromulgated LR 27:1848 (November 2001), amended LR 28:447 (March 2002), LR 28:2331 (November 2002), LR 29:880 (June 2003), LR 29:2372 (November 2003), LR 30:1161 (June 2004), LR 31:2213 (September 2005), LR 35:228 (February 2009), LR 36:2854 (December 2010), LR 40:1002 (May 2014), LR 41:663 (April 2015), LR 42:1881 (November 2016).

§703. Establishing Eligibility

A. - A.5.g.viii. …

6. have achieved an ACT score, as defined in §301 of at least:

a. if qualifying under the terms of §703.A.5.a, b, or g:

i. the state's reported prior year ACT composite average, truncated to a whole number, but never less than 20 for the Opportunity Award; or

ii. a 23 for the Performance Award; or

iii. a 27 for the Honors Award; or

b. if qualifying under §703.A.5.c:

i. is a Louisiana resident, except as defined in Subparagraph h of the definition of *Louisiana resident* in §301:

(a). the state's reported prior year average, truncated to a whole number plus 3 points, but never less than 23 for the Opportunity Award; or

(b). a 26 for the Performance Award; or

(c). a 30 for the Honors Award; and

ii. is a Louisiana resident as defined in Subparagraph h of the definition of *Louisiana resident* in §301:

(a). the state's reported prior year average, truncated to a whole number, plus 2 points, but never less than 22 for the Opportunity Award; or

(b). a 25 for the Performance Award; or

(c). a 29 for the Honors Award; and

c.i. if completed the 12th grade level of an approved home study program during or before the academic year (high school) 2003-2004 and qualifying under §703.A.5.d:

(a). the state's reported prior year average, truncated to a whole number, plus 3 points, but never less than 23 for the Opportunity Award; or

(b). a 26 for the Performance Award; or

(c). a 30 for the Honors Award; and

ii. if completed the 12th grade level of an approved home study program during or after academic year (high school) 2004-2005 and through academic year (high school) 2006-2007 and qualifying under §703.A.5.d:

(a). the state's reported prior year average, truncated to a whole number plus 2 points, but never less than 22 for the Opportunity Award; or

(b). a 25 for the Performance Award; or

(c). a 29 for the Honors Award; and

iii. if completed the 12th grade level of an approved home study program during or after the academic year (high school) 2007-2008 and after, and qualifying under §703.A.5.d:

(a). the state's reported prior year average, truncated to a whole number, plus 2 points, but never less than 22 for the Opportunity Award; or

(b). a 24 for the Performance Award; or

(c). a 28 for the Honors Award; and

d.i. if qualifying under §703.A.5.e by graduating from a high school defined in §1701.A.5; which is limited to the Opportunity Award only; the state's reported prior year average, truncated to a whole number, plus 3 points, but never less than 23;

ii. if qualifying under §703.A.5.e by successfully completing the 12th grade level a home study program approved by BESE and conducted outside the United States and its territories during or before the academic year (high school) 2003-2004 or during or after the academic year (high school) 2008-2009; which is limited to the Opportunity Award only; the state's reported prior year average, truncated to a whole number, plus 3 points, but never less than 23;

iii. if qualifying under §703.A.5.e by successfully completing the 12th grade level a home study program approved by BESE and conducted outside the United States and its territories during or after the academic year (high school) 2004-2005 and through the academic year (high school) 2007-2008; which is limited to the Opportunity Award only; the state's reported prior year average, truncated to a whole number, plus 2 points, but never less than 22;

e. if qualifying under §703.A.5.f, which is limited to the Performance Award only, a 24; and

7. not have a criminal conviction, except for misdemeanor traffic violations, and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

8. agree that awards will be used exclusively for educational expenses.

B. Students qualifying:

1. under §703.A.5.a and b during or before academic year (high school) 2006-2007, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.50 for the Performance or Honors Awards;

2. under §703.A.5.a and b during or after academic year (high school) 2007-2008, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.00 for the Performance or Honors Awards;

3. under §703.A.5.a and b in academic year (high school) 2020-2021 must have attained a TOPS cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.25 for the Performance; or

c. a 3.50 for the Honors Award;

4. under §703.A.5.f and graduating in academic year (high school) 2000-2001 through 2005-2006, must have attained a TOPS cumulative high school grade point average, based on a 4.00 maximum scale, of at least a 3.00 for the Performance Award.

C. - J.4.b.ii. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:651, 664 (April 2015), LR 41:1486 (August 2015), LR 41:2596, 2599 (December 2015), LR 42:1882 (November 2016).

Chapter 21. Miscellaneous Provisions and Exceptions

§2107. Funds and Funding

A. - B. …

C. Insufficient Funds Appropriated

1. All BOR-administered state scholarship and grant program awards are contingent upon the annual appropriation of funds by the Louisiana Legislature.

2. In the event appropriated funds are insufficient to fully reimburse institutions for awards and stipends for all students determined eligible for the TOPS Opportunity, Performance, Honors and Tech Awards for a given academic year, each student's award, including stipends for TOPS Performance and Honors awards, shall be reduced by an equal percentage on a pro rata basis.

3. A student whose award is reduced pursuant to this section shall not be required to accept payment of his award or enroll or maintain continuous enrollment in an eligible college or university during the time period during which there is a funding shortfall. A student who exercises this option:

a. shall be eligible to receive his remaining TOPS award upon enrollment in an eligible college or university, provided the student meets the continuation requirements for his award except as specifically set forth in this Section; and

b. shall exhaust all award eligibility within five years of the reduction of his award, provided that if the student requests and is granted an exception to the requirement to enroll full time or to maintain continuous enrollment in school in accordance with §1901 of these rules, the time period within which the student must exhaust his award eligibility shall be extended by the number of semesters/terms for which he receives an exception.

4. The provisions of this Section shall not apply to the stipend for books and other instructional materials provided to persons serving in the Louisiana National Guard as set forth in §701.E.4.a and b of these rules or to the TOPS-Tech Early Start Program.

D. Stop Payment of Uncleared Checks. The LASFAC may stop payment on checks which are issued as scholarship or grant awards but not negotiated by September 1 following the close of the academic year for which they were issued.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:1998 (September 2000), repromulgated LR 27:1869 (November 2001), amended LR 28:449 (March 2002), LR 28:777 (April 2002), LR 28:2333 (November 2002), LR 31:40 (January 2005), LR 38:3162 (December 2012), LR 42:1883 (November 2016).

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RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Operating Time of Emergency Engines
(LAC 33:III.311)(AQ366)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.311 (AQ366).

The regulatory permit for stationary internal combustion engines currently limits operating time of emergency engines to 500 hours per 12-consecutive month period at LAC 33:III.311.E.1. This Rule will revise the allowable

operating time of emergency engines to be consistent with federal regulations (i.e., 40 CFR 60.4211(f) of subpart IIII, 40 CFR 60.4243(d) of subpart JJJJ, and 40 CFR 63.6640(f) of subpart ZZZZ). Most stationary internal combustion engines are subject to one (and sometimes two) of the following federal standards:

- Subpart IIII—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines;
- Subpart JJJJ—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines;
- Subpart ZZZZ—National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

These provisions restrict the operating time of emergency engines as follows.

- Emergency engines may be operated for maintenance checks and readiness testing for a maximum of 100 hours per calendar year, provided that the tests are recommended by federal, state, or local government; the manufacturer; the vendor; or the insurance company associated with the engine. The owner or operator may petition the department for approval of additional hours to be used for maintenance checks and readiness testing, but a petition is not required if the owner or operator maintains records indicating that federal, state, or local standards require maintenance and testing of emergency engine beyond 100 hours per calendar year.
- Emergency engines may be operated for up to 50 hours per calendar year in non-emergency situations. The 50 hours of operation in non-emergency situations are counted as part of the 100 hours per calendar year for maintenance and testing.
- There is no time limit on the use of emergency engines in emergency situations.

The basis and rationale for this Rule are to revise the regulatory permit for stationary internal combustion engines to limit the operating time of emergency engines consisted with 40 CFR 60 subpart IIII, 40 CFR 60 subpart JJJJ, and 40 CFR 63 subpart ZZZZ. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 3. Regulatory Permits

§311. Regulatory Permit for Stationary Internal Combustion Engines

A. - D.2. …

E. Operating Time of Emergency Engines

1. Emergency engines may be operated for maintenance checks and readiness testing for a maximum of 100 hours per calendar year, provided that the tests are recommended by the federal, state, or local government; manufacturer; vendor; or insurance company associated with the engine. The owner or operator may petition the department for approval of additional hours to be used for maintenance checks and readiness testing, but a petition is not required if the owner or operator maintains records indicating that federal, state, or local standards require maintenance and testing of emergency engines beyond 100 hours per calendar year.

2. Emergency engines may be operated for up to 50 hours per calendar year in non-emergency situations. The 50 hours of operation in non-emergency situations are counted as part of the 100 hours per calendar year for maintenance and testing.

3. There is no time limit on the use of emergency engines in emergency situations.

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

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

F. - M. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:459 (March 2009), amended LR 37:3221 (November 2011), amended by the Office of the Secretary, Legal Division, LR 40:780 (April 2014), LR 42:1884 (November 2016).

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RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Reportable Quantity List for Pollutants
(LAC 33:I.3905, 3917, and 3931)(OS093)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Office of the Secretary regulations, LAC 33:I.3905 and 3931 (OS093).

This Rule amends LDEQ's existing reportable quantity (RQ) list under LAC 33:I.3931 to reflect the following federal lists:

- the Environmental Protection Agency's list of extremely hazardous substances under 40 CFR 355, appendix A; and
- the Department of Transportation's list of hazardous substances under 49 CFR 172.101.

In addition, RQs have been established for any material on which maintenance of a material safety data sheet (MSDS) is required under the Occupational Safety and Health Administration's hazard communication standard as found in 29 CFR 1910.1200 et seq., and that does not appear on any of the lists incorporated by reference.

Finally, the LDEQ-specific RQs in the table under LAC 33:I.3931.B have been deleted, except for brine from solution mining, oil, produced water, and sweet pipeline gas (methane/ethane). This action is required to align LDEQ's RQ list with that of the Louisiana Department of Public

Safety and Corrections (i.e., State Police) under LAC 33:V.10111.D. The basis and rationale for this Rule are to revise the RQ list under LAC 33:I.3931 to be consistent with State Police reporting requirements under LAC 33:V.10111.D. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part I. Office of the Secretary
Subpart 2. Notification

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter A. General

§3905. Definitions

A. The following terms as used in these regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

* * *

Compressed Gas—any material (or mixture) which exerts in the packaging a gauge pressure of 200 kPa (29.0 psig/43.8 psia) or greater at 20 degrees C (68 degrees F).

* * *

Discharge—the placing, releasing, spilling, percolating, draining, pumping, leaking, mixing, leaching, migrating, seeping, emitting, disposing, by-passing, or other escaping of pollutants on or into the air, waters of the state, or the ground. A release shall not include a federal or state permitted release.

* * *

Flammable Liquid—as defined in 49 CFR 173.120.

* * *

Release—the accidental or intentional spilling, leaking, pumping, pouring, emitting, escaping, leaching, or dumping of hazardous substances or other pollutants into or on any land, air, water, or groundwater. A release shall not include a federal or state permitted release.

* * *

Unauthorized Discharge—a continuous, intermittent, or one-time discharge, whether intentional or unintentional, anticipated or unanticipated, from any permitted or unpermitted source which is in contravention of any provision of the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.) or of any permit or license terms and conditions, or of any applicable regulation, compliance schedule, variance, or exception of the administrative authority.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 30:2060(H), 30:2076(D), 30:2183(I), 30:2204(A) and 30:2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), amended by the Office of Secretary, Legal Affairs Division, LR 33:2080 (October 2007), LR 33:2627 (December 2007), LR 36:1242 (June 2010), amended by the Office of the Secretary, Legal Division, LR 42:1885 (November 2016).

Subchapter C. Requirements for Non-Emergency Notification

§3917. Notification Requirements for Unauthorized Discharges That Do Not Cause Emergency Conditions

A. Except as noted in Subsection D below, in the event of an unauthorized discharge that exceeds a reportable quantity specified in Subchapter E of this Chapter, but that does not cause an emergency condition, the discharger shall promptly notify DPS by telephone at (225) 925-6595 (collect calls accepted 24 hours a day) within 24 hours after learning of the discharge.

B. - C. …

D. In the event an unauthorized discharge that does not cause an emergency condition exceeds a reportable quantity specified in LAC 33:I.3931.A.1.c, LAC 33:I.3931.A.1.d, LAC 33:I.3931.B.2, or LAC 33:I.3931.B.3, but no other reportable quantity specified in Subchapter E of this Chapter, the discharger shall promptly notify DPS as described in Subsection A of this Section only if the discharge could reasonably be expected to escape the confinement of the facility or to an area to which the general public has unrestricted access.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), and 2204(A).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), repromulgated LR 20:182 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2443 (November 2000), repromulgated LR 27:38 (January 2001), amended LR 30:1668 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:2080 (October 2007), LR 36:1240 (June 2010), amended by the Office of the Secretary, Legal Division, LR 42:1885 (November 2016).

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. Incorporation by Reference of Federal Regulations

1. Except as provided in Subsection B of this Section, the following federal reportable quantity (RQ) lists are incorporated by reference:

a. 40 CFR 117.3, July 1, 2016, table 117.3—reportable quantities of hazardous substances designated pursuant to section 311 of the Clean Water Act;

b. 40 CFR 302.4, July 1, 2016, table 302.4—list of hazardous substances and reportable quantities;

c. 40 CFR 355, July 1, 2016, appendix A—the list of extremely hazardous substances and their threshold planning quantities; and

d. 49 CFR 172.101, July 1, 2016, appendix A—list of hazardous substances and reportable quantities.

2. The following administrative reporting exemptions are hereby incorporated by reference:

a. 40 CFR 302.6(d) and (e), July 1, 2016; and

b. 40 CFR 355. 31, July 1, 2016.

B. Modifications or Additions

1. The following table contains modifications to the federal RQ lists incorporated by reference in Subsection A of this Section, as well as RQs for additional pollutants.

Pollutant	Pounds
Acetaldehyde - Barium compounds	Repealed.
Brine from Solution Mining	5000
n Butyl alcohol - Nitric acid	Repealed.
Oil	1 barrel
Phthalic anhydride - Polynuclear aromatic hydrocarbons***	Repealed.
Produced water	1 barrel
Propionaldehyde - Sulfur dioxide	Repealed.
Sweet pipeline gas (Methane/Ethane)	42000 (1,000,000 scf)
Vinyl acetate - Methyl ethyl ketone	Repealed.

2. The RQ for any material on which maintenance of a material safety data sheet (MSDS) is required under the Occupational Safety and Health Administration's hazard communication standard as found in 29 CFR 1910.1200 et seq., and that does not appear on any of the lists incorporated by reference in Subsection A of this Section or in the table set forth in Subsection B of this Section shall be 5000 pounds, except that the RQ for all:

a. compressed or refrigerated flammable gases shall be 100 pounds;

b. flammable liquids shall be 100 pounds; and

c. other liquids requiring maintenance of an MSDS shall be 1000 pounds.

3. Notwithstanding Subparagraph B.2.a of this Section, for facilities that meet the criteria described in LAC 33:V.10111.E.2, the RQ for compressed or refrigerated flammable gases shall be 1000 pounds.

4. The controlled release of hydrogen for maintenance, during the start-up or shutdown of industrial equipment, or for other purposes is not reportable provided the release cannot be reasonably expected to affect the public safety beyond the boundaries of the facility.

C. …

D. State Hazardous Material Reportable Quantity Exemptions

1. LAC 33:V.10111.E.1.b-d.

E. Spill Prevention and Control. The provisions of LAC 33:IX.Chapter 9 shall not apply to those substances listed in LAC 33:I.3931.A.1.c, LAC 33:I.3931.A.1.d, or LAC 33:I.3931.B.2, but in no other reportable quantity list specified in Subchapter E of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 32:2248 (December 2006), LR 33:640 (April 2007), LR 33:2628 (December 2007), LR 34:69 (January 2008), LR 34:866 (May 2008), repromulgated LR 34:981 (June 2008), amended LR 35:1106 (June 2009), LR 36:1242 (June 2010), LR 36:2272 (October 2010), amended by the Office of the Secretary, Legal Division, LR 42:1885 (November 2016).

Herman Robinson
General Counsel

1611#027

RULE

Office of the Govenor
Real Estate Commission

Documentation (LAC 46:LXVII.305)

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Commission has amended LAC 46:LXVII.305. The purpose of this Rule is to ensure that individuals making application to become a broker have first served as an active real estate licensee for an appropriate amount of time.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate
Subpart 1. Real Estate
Chapter 3. Initial License Applications
§305. Documentation

A. - A.4. …

5. applicants for an initial individual real estate broker license shall provide proof that they have been licensed as an active real estate licensee for four years, with two of the four years occurring immediately preceding submission of a broker license application.

B. - B.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 32:1445 (August 2006), repromulgated LR 37:2999 (October 2011), amended LR 42:1886 (November 2016).

Bruce Unangst
Executive Director

1611#042

RULE

Department of Health
Bureau of Health Services Financing

Healthcare Services Provider Fees
Emergency Ambulance Service Providers
(LAC 48:I.Chapter 40)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.4001, 4003 and 4007 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 46:2625. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 1. General

Chapter 40. Provider Fees

§4001. Specific Fees

A. Definition

Net Operating Revenue—the gross revenues of an emergency ground ambulance service provider for the provision of emergency ground ambulance transportation services, excluding any Medicaid reimbursement, less any deducted amounts for bad debts, charity care and payer discounts.

* * *

B. - D. ...

E. Medical Transportation Services. Effective for dates of service on or after August 1, 2016, qualifying emergency ground ambulance service providers shall be assessed a fee of 1 1/2 percent of the net operation revenue.

1. Qualifying Criteria. Ambulance service providers must meet the following requirements in order to be assessed a fee of 1 1/2 percent of the net operating revenue. The ambulance service provider must be:

a. licensed by the state of Louisiana;

b. enrolled as a Louisiana Medicaid provider;

c. a provider of emergency ground ambulance transportation services as defined in 42 CFR 440.170 and Medical and Remedial Care and Services Item 24.a; and

d. a non-federal, non-public provider in the State of Louisiana, as defined in 42 CFR 433.68(c)(1), of emergency ground ambulance services that is contracted with a unit of local or parish government in the state of Louisiana for the provision of emergency ground ambulance transportation on a regular 24 hours per day and 7 days per week basis.

F. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and PL 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1887 (November 2016).

§4003. Due Date for Submission of Reports and Payment of Fees

A. ...

B. Medical Transportation Services. Effective August 1, 2016, qualified ambulance service providers will be assessed a fee at the end of each quarter not to exceed 1 1/2 percent of the net operating revenue of emergency ground ambulance service providers.

1. Qualified ambulance service providers will provide the Department of Health (department) a monthly net operating revenue report for emergency ground ambulance transportation services by the fifteenth business day of the following month.

2. Qualified ambulance service providers will be issued a quarterly notice within 30 days from the end of the quarter. Payment will be due to the department by qualified ambulance service providers within 30 days from date of notice.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and PL 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 26:1479 (July 2000), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1887 (November 2016).

§4007. Delinquent and/or Unpaid Fees

A. Interest on Unpaid Provider Fees Other Than Medical Transportation Provider Fees. When the provider fails to pay the fee due, or any portion thereof, on or before the date it becomes delinquent, interest at the rate of 1 1/2 percent per month compounded daily shall be assessed on the unpaid balance until paid. In the case of interest on a penalty assessed, such interest shall be computed beginning 15 days from the date of notification of assessment until paid.

B. Collection of Delinquent Provider Fee other than Medical Transportation Provider Fees

B.1. - D. ...

E. Emergency Ground Ambulance Service Provider Fees

1. Penalties and Interest for Non-Payment of Assessment

a. If the department audits a qualifying ambulance service provider's records and determines the net operating revenue reported is incorrect for the assessment collected, the department shall fine the qualifying ambulance service provider .15 percent of the corrected assessment. The fine is payable within 30 days of the invoice.

b. If a qualifying ambulance service provider fails to fully pay its assessment on or before the due date, the department shall assess a late penalty of .15 percent of the quarterly calculated assessment. The department shall reserve the right to suspend all Medicaid payments to a qualifying ground ambulance service provider until the provider pays the assessment and penalty due in full or until the provider and the department reach a negotiated settlement.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and PL 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:1114 (October 1994), LR 26:1479 (July 2000), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1887 (November 2016).

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

Rebekah E. Gee MD, MPH
Secretary

1611#066

RULE

Department of Health
Bureau of Health Services Financing

Healthcare Services Provider Fees
Hospital Fee Assessments
(LAC 48:I.4001)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.4001 as authorized by R.S. 36:254. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 1. General
Chapter 40. Provider Fees
§4001. Specific Fees

A. - E.1.d. ...

F. Hospital Services

1. Effective January 1, 2017, a hospital stabilization assessment fee shall be levied and collected in accordance with article VII, section 10.13 of the Constitution of Louisiana and House Concurrent Resolution (HCR) 51 of the 2016 Regular Session of the Louisiana Legislature setting forth the hospital stabilization formula.

a. The total assessment for each state fiscal year shall be equal to, but shall not exceed, the lesser of the following:

i. the state portion of the cost, excluding any federal financial participation, of the reimbursement enhancements provided for in HCR 51, which are directly attributable to payments to hospitals; or

ii. one percent of the total inpatient and outpatient net patient revenue of all hospitals included in the assessment, as reported in the Medicare cost report ending in state fiscal year 2015.

2. The assessment shall be allocated to each assessed hospital on a pro rata basis by calculating the quotient of the total assessment divided by the total inpatient and outpatient hospital net patient revenue of all assessed hospitals, as reported in the Medicare cost report ending in state fiscal year (SFY) 2015, and multiplying the quotient by each assessed hospital's total inpatient and outpatient hospital net patient revenue. If a hospital was not required to file a Medicare cost report or did not file a Medicare cost report ending in SFY 2015, the hospital shall submit to the department its most applicable calendar year total of inpatient and outpatient hospital net patient revenue in a form prescribed by the department.

3. The assessment will be levied and collected on a quarterly basis and at the beginning of each quarter that the assessment is due. Prior to levying or collecting the assessment for the applicable quarterly period, the department shall publish in the *Louisiana Register* the total amount of the quarterly assessment and the corresponding percentage of total inpatient and outpatient hospital net patient revenue that will be applied to the assessed hospitals.

4. Hospitals meeting the definition of a rural hospital, as defined in R.S. 40:1189.3, shall be excluded from this assessment.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1888 (November 2016).

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

Rebekah E. Gee MD, MPH
Secretary

1611#067

RULE

Department of Health
Bureau of Health Services Financing

Medicaid Eligibility
Medically Needy Program
(LAC 50:III.2313)

The Department of Health, Bureau of Health Services Financing has repealed and replaced all of the rules governing the Medically Needy Program, and adopted LAC 50:III.2313 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 3. Eligibility Groups and Factors
Chapter 23. Eligibility Groups and Medicaid Programs
§2313. Medically Needy Program

A. The Medically Needy Program (MNP) provides Medicaid coverage when an individual's or family's income and/or resources are sufficient to meet basic needs in a categorical assistance program, but not sufficient to meet medical needs according to the MNP standards.

1. The income standard used in the MNP is the federal medically needy income eligibility standard (MNIES).

2. Resources are not applicable to modified adjusted gross income (MAGI) related MNP cases.

3. MNP eligibility cannot be considered prior to establishing income ineligibility in a categorically related assistance group.

B. MNP Eligibility Groups

1. Regular Medically Needy

a. Prior to the implementation of the MAGI income standards, parents who met all of the parent and caretaker relative (PCR) group categorical requirements and whose income was at or below the MNIES were eligible to receive

Regular MNP benefits. With the implementation of the MAGI-based methodology for determining income and household composition and the conversion of net income standards to MAGI equivalent income standards, individuals who would have been eligible for the Regular Medically Needy Program are now eligible to receive Medicaid benefits under the parent and caretaker relative eligibility group. Regular medically needy coverage is only applicable to individuals included in the MAGI-related category of assistance.

b. Individuals in the non-MAGI [formerly aged (A-), blind (B-), or disability (D-)] related assistance groups cannot receive Regular MNP.

c. The certification period for Regular MNP cannot exceed six months.

2. Spend-Down Medically Needy

a. Spend-Down MNP is considered after establishing financial ineligibility in categorically related Medicaid programs and excess income remains. Allowable medical bills/expenses incurred by the income unit, including skilled nursing facility coinsurance expenses, are used to reduce (spend-down) the income to the allowable MNP limits.

b. The following individuals may be considered for Spend-Down MNP:

i. individuals who meet all of the parent and caretaker relative group requirements;

ii. non-institutionalized individuals (non-MAGI related); and

iii. institutionalized individuals or couples (non-MAGI related) with Medicare co-insurance whose income has been spent down.

c. The certification period for spend-down MNP begins no earlier than the spend-down date and shall not exceed three months.

3. Long Term Care (LTC) Spend-Down MNP

a. Individuals residing in Medicaid LTC facilities, not on Medicare-coinsurance with resources within the limits, but whose income exceeds the special income limits (three times the current federal benefit rate), are eligible for LTC Spend-Down MNP.

C. The following services are covered in the Medically Needy Program:

1. inpatient and outpatient hospital services;
2. intermediate care facilities for persons with intellectual disabilities (ICF/ID) services;
3. intermediate care and skilled nursing facility (ICF and SNF) services;
4. physician services, including medical/surgical services by a dentist;
5. nurse midwife services;
6. certified registered nurse anesthetist (CRNA) and anesthesiologist services;
7. laboratory and x-ray services;
8. prescription drugs;
9. early and periodic screening, diagnosis and treatment (EPSDT) services;
10. rural health clinic services;
11. hemodialysis clinic services;
12. ambulatory surgical center services;
13. prenatal clinic services;
14. federally qualified health center services;
15. family planning services;
16. durable medical equipment;
17. rehabilitation services (physical therapy, occupational therapy, speech therapy);
18. nurse practitioner services;
19. medical transportation services (emergency and non-emergency);
20. home health services for individuals needing skilled nursing services;
21. chiropractic services;
22. optometry services;
23. podiatry services;
24. radiation therapy; and
25. behavioral health services.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1888 (November 2016).

Rebekah E. Gee MD, MPH
Secretary

1611#068

RULE

Department of Health
Bureau of Health Services Financing

Medicaid Eligibility
New Adult Eligibility Group
(LAC 50:III.2317)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:III.2317 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 3. Eligibility Groups and Factors
Chapter 23. Eligibility Groups and Medicaid Programs
§2317. New Adult Eligibility Group

A. - C.2. ...

3. not entitled to, or enrolled in Medicare Part A or Medicare Part B;

4. not otherwise eligible for and enrolled in mandatory coverage under the Medicaid State Plan;

a. parents, children or disabled persons receiving Supplemental Security Income (SSI) benefits are excluded from enrollment as a new adult; and

5. parents or other caretaker relatives living with a dependent child(ren) under age 19 who are receiving benefits under Medicaid, the Children's Health Insurance Program, or otherwise enrolled in minimum essential coverage as defined in 42 CFR 435.4.

D. ...

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

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

42:755 (May 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1889 (November 2016).

Rebekah E. Gee MD, MPH
Secretary

1611#069

RULE

Department of Health
Bureau of Health Services Financing

Medical Transportation Program
Emergency Ambulance Services
Enhanced Reimbursements
(LAC 50:XXVII.331)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:XXVII.331 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXVII. Medical Transportation Program
Chapter 3. Emergency Medical Transportation
Subchapter B. Ground Transportation
§331. Enhanced Reimbursements for Qualifying Emergency Ground Ambulance Service Providers

A. Effective for dates of service on or after August 1, 2016, qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48:I.4001.E.1.a-d shall receive enhanced reimbursement for emergency ground ambulance transportation services rendered during the quarter through the Supplemental Payment Program described in Louisiana Medicaid State Plan Amendment Transmittal Number 11-23.

B. Calculation of Average Commercial Rate

1. The enhanced reimbursement shall be determined in a manner to bring the payments for these services up to the average commercial rate level as described in Subparagraph C.3.h. The average commercial rate level is defined as the average amount payable by the commercial payers for the same service.

2. The department shall align the paid Medicaid claims with the Medicare fees for each healthcare common procedure coding system (HCPCS) or current procedure terminology (CPT) code for the ambulance provider and calculate the Medicare payment for those claims.

3. The department shall calculate an overall Medicare to commercial conversion factor for each ambulance provider by dividing the total amount of the average commercial payments for the claims by the total Medicare payments for the claims.

4. The commercial to Medicare ratio for each provider will be re-determined at least every three years.

C. Payment Methodology

1. The enhanced reimbursement to each qualifying emergency ground ambulance service provider shall not exceed the sum of the difference between the Medicaid payments otherwise made to these providers for the provision of emergency ground ambulance transportation services and the average amount that would have been paid at the equivalent community rate.

2. The enhanced reimbursement shall be determined in a manner to bring payments for these services up to the community rate level.

a. *Community Rate*—the average amount payable by commercial insurers for the same services.

3. The specific methodology to be used in establishing the enhanced reimbursement payment for ambulance providers is as follows.

a. The department shall identify Medicaid ambulance service providers that qualify to receive enhanced reimbursement Medicaid payments for the provision of emergency ground ambulance transportation services.

b. For each Medicaid ambulance service provider identified to receive enhanced reimbursement Medicaid payments, the department shall identify the emergency ground ambulance transportation services for which the provider is eligible to be reimbursed.

c. For each Medicaid ambulance service provider described in Subparagraph C.3.a of this Section, the department shall calculate the reimbursement paid to the provider for the provision of emergency ground ambulance transportation services identified under Subparagraph C.3.b of this Section.

d. For each Medicaid ambulance service provider described in Subparagraph C.3.a of this Section, the department shall calculate the provider's equivalent community rate for each of the provider's services identified under Subparagraph C.3.b of this Section.

e. For each Medicaid ambulance service provider described in Subparagraph C.3.a of this Section, the department shall subtract an amount equal to the reimbursement calculation for each of the emergency ground ambulance transportation services under Subparagraph C.3.c of this Section from an amount equal to the amount calculated for each of the emergency ground ambulance transportation services under Subparagraph C.3.d of this Section.

f. For each Medicaid ambulance service provider described in Subparagraph C.3.a of this Section, the department shall calculate the sum of each of the amounts calculated for emergency ground ambulance transportation services under Subparagraph C.3.e. of this Section.

g. For each Medicaid ambulance service provider described in Subparagraph C.3.a of this Section, the department shall calculate each provider's upper payment limit by totaling the provider's total Medicaid payment differential from Subparagraph C.3.f of this Section.

h. The department shall reimburse providers identified in Subparagraph C.3.a of this Section up to 100 percent of the provider's average commercial rate.

D. Effective Date of Payment

1. The enhanced reimbursement payment shall be made effective for emergency ground ambulance transportation services provided on or after August 1, 2016. This payment is based on the average amount that would have been paid at the equivalent community rate.

2. After the initial calculation for fiscal year 2015-2016, the department will rebase the equivalent community rate using adjudicated claims data for services from the most

recently completed fiscal year. This calculation may be made annually but shall be made no less than every three years.

E. Maximum Payment

1. The total maximum amount to be paid by the department to any individually qualified Medicaid ambulance service provider for enhanced reimbursement Medicaid payments shall not exceed the total of the Medicaid payment differentials calculated under Subparagraph C.3.f of this Section

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1890 (November 2016).

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

Rebekah E. Gee MD, MPH
Secretary

1611#070

RULE

Department of Health
Bureau of Health Services Financing

Nursing Facilities—Licensing Standards
(LAC 48:I.Chapters 97-99)

The Department of Health, Bureau of Health Services Financing has repealed and replaced LAC 48:I.Chapters 97-99 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2009.1-2116. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 97. Nursing Facilities
Subchapter A. General Provisions
§9701. Definitions

Abuse—the willful infliction of injury or the causing of the deterioration of a resident by means including, but not limited to, physical, verbal, emotional, psychological, sexual abuse, exploitation, or extortion of funds or other things of value to such an extent that the resident's health, moral, or emotional well-being is endangered.

1. The determination of abuse shall not be mitigated by a resident's age, ability to comprehend or disability. Abuse determination shall be based on the reasonable person concept.

Administrator—any individual who is or may be charged with the general administration of a nursing facility and who has been licensed and registered by the Board of Examiners of Nursing Home Administrators in accordance with the provisions of *Louisiana Revised Statute* 37:2501.

Advanced Practice Registered Nurse (*APRN*)—a licensed registered nurse who is certified by a nationally recognized certifying body as having an advanced nursing specialty and who meets the criteria for an advanced practice registered nurse as established by the Louisiana State Board of Nursing. An advanced practice registered nurse shall include:

1. certified nurse midwife;
2. certified registered nurse anesthetist;
3. clinical nurse specialist; or
4. nurse practitioner.

Alzheimer's Special Care Unit—any nursing facility as defined in R.S. 40:2009.2, that segregates or provides a special program or special unit for residents with a diagnosis of probable Alzheimer's disease or related disorder so as to prevent or limit access by a resident to areas outside the designated or separated area, or that advertises, markets, or otherwise promotes the nursing facility as providing specialized Alzheimer/dementia care services.

Ancillary Service—a service such as, but not limited to:

1. podiatry;
2. dental;
3. audiology;
4. vision;
5. physical therapy;
6. speech pathology;
7. occupational therapy
8. psychological; and
9. social services.

Applicant—the legal entity that applies for the license to open, conduct, manage or maintain a nursing facility.

Biological—a preparation used in the treatment or prevention of disease that is derived from living organisms or their by-product.

Change of Information (*CHOI*)—any change in facility information required by regulation or statute to be submitted to the department that does not change the ownership structure and/or respective ownership interests held by stakeholders of the current legal entity.

Change of Ownership (*CHOW*)—any change in the legal entity responsible for the operation of the nursing facility. Management agreements are generally not changes of ownership if the former owner continues to retain policy responsibility and approve or concur in decisions involving the nursing facility's operation. However, if these ultimate legal responsibilities, authorities and liabilities are surrendered and transferred from the former owner to the new manager, then a change of ownership has occurred. Examples of actions that constitute a change of ownership include, but are not limited to:

1. *unincorporated sole proprietorship*—transfer of title and property of another party constitutes change of ownership;

2. *corporation*—the merger of the provider's corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation, constitutes change of ownership:

a. transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute a change of ownership. Admission of a new member to a nonprofit corporation is not a change of ownership;

3. *limited liability company*—the removal, addition or substitution of a member in a limited liability company does not constitute a change of ownership; or

4. *partnership*—in the case of a partnership, the removal, addition or substitution of a partner, unless the partners expressly agree otherwise as permitted by applicable state law, constitutes a change of ownership.

Charge Nurse—an individual who is licensed by the state of Louisiana to practice as an RN or LPN and designated as a charge nurse by the nursing facility.

Chemical Restraint—a psychopharmacologic drug that is used for discipline or convenience and not required to treat medical symptoms.

Controlled Dangerous Substance—a drug, substance or immediate precursor in schedule I through V of R.S. 40:964.

Culture Change—the common name given to the national movement for the transformation of older adult services, based on person-directed values and practices where the voices of elders and those working with them are considered and respected. Core person-directed values are:

1. choice;
2. dignity;
3. respect;
4. self-determination; and
5. purposeful living.

Designated Contact—resident's legal representative or interested family member.

Dietary Manager—a person who:

1. is a licensed dietitian;
2. is a graduate of a dietetic technician program;
3. has successfully completed a course of study, by correspondence or classroom, which meets the eligibility requirements for certification by the Dietary Manager's Association;
4. has successfully completed a training course at a state approved school (vocational or university) which includes course work in foods, food service supervision and diet therapy. Documentation of an eight-hour course of formalized instruction in diet therapy conducted by the employing nursing facility's qualified dietitian is permissible if the course meets only the foods and food service supervision requirements; or
5. is currently enrolled in an acceptable course of not more than 12 months which will qualify an individual upon completion.

Director of Nursing (*DON*)—a registered nurse, licensed by the state of Louisiana, who directs and coordinates nursing services in a nursing facility.

Drug Administration—an act in which a single dose of a prescribed drug or biological is given to a resident by an authorized person in accordance with all laws and regulations governing such acts. The complete act of administration entails:

1. removing an individual dose from a previously dispensed, properly labeled container (including a unit dose container);
2. verifying the dose with the physician's orders;
3. giving the individual dose to the proper resident;
4. monitoring the ingestion of the dose; and
5. promptly recording the time and dose given.

Drug Dispensing—an act which entails the interpretation of an order for a drug or biological and, pursuant to the order, the proper selection, measuring, labeling, packaging, and issuance of the drug or biological for a resident or for a service unit of the nursing facility by a licensed pharmacist, physician or dentist.

Legal Representative—a resident's legal guardian or other responsible person as determined by the specific legally recognized status of the relationship (e.g., full interdiction, partial interdiction, continuing tutorship, competent major, or other legally recognized status).

Licensed Bed—a bed set up, or capable of being set up, within 24 hours in a nursing facility for the use of one resident.

Licensed Dietitian—a dietitian who is licensed to practice by the Louisiana Board of Examiners in Dietetics and Nutrition.

Licensed Practical Nurse (*LPN*)—an individual currently licensed by the Louisiana State Board of Practical Nurse Examiners to practice practical nursing in Louisiana.

Locked Unit or Specialized Care Unit—a restricted section or area of the nursing facility which limits free access of residents suffering from severe dementia, Alzheimer's or other disease process or condition which severely impairs their ability to recognize potential hazards. Such units shall not be established for the sole purpose of housing individuals with mental illness.

Louisiana Department of Health (*LDH*)–the 'department', previously known as the Department of Health and Hospitals or DHH.

LSC Appeal—equivalent method of compliance related to *Life Safety Code* (LSC) requirements for participation, granted or approved by state and/or federal certification agencies.

Major Alteration—any repair or replacement of building materials and equipment which does not meet the definition of minor alteration.

Medication Attendant Certified (*MAC*)—a person certified by LDH to administer medications to nursing facility residents.

Medical Director—a physician licensed in Louisiana who directs and coordinates medical care in a nursing facility.

Minor Alteration—repair or replacement of building materials and equipment with materials and equipment of a similar type that does not diminish the level of construction below that which existed prior to the alteration. This does not include any alteration to the function or original design of the construction.

Misappropriation—taking possession of a resident's personal belongings without the resident's permission to do so, or the deliberate misplacement, exploitation or wrongful temporary or permanent use of a resident's belongings or money without the resident's consent.

Neglect—the failure to provide the proper or necessary medical care, nutrition or other care necessary for a resident's well-being, unless the resident exercises his/her right to refuse the necessary care.

Nursing Facility—any private home, institution, building, residence or other place, serving two or more persons who are not related by blood or marriage to the operator, whether operated for profit or not, and including those places operated by a political subdivision of the State of Louisiana which undertakes, through its ownership or management, to provide maintenance, personal care, or nursing services for persons who, by reason of illness or physical infirmity or

age, are unable to properly care for themselves. The term does not include the following:

1. a home, institution or other place operated by the federal government or agency thereof, or by the State of Louisiana;

2. a hospital, sanitarium or other medical institution whose principal activity or business is the care and treatment of persons suffering from tuberculosis or from mental diseases;

3. a hospital, sanitarium or other medical institution whose principal activity or business is the diagnosis, care and treatment of human illness through the maintenance and operation of organized facilities;

4. any municipal, parish or private child welfare agency, maternity hospital or lying-in home required by law to be licensed by some department or agency;

5. any sanitarium or institution conducted by and for Christian Scientists who rely on the practice of Christian Science for treatment and healing;

6. any nonprofit congregate housing program which promotes independent living by providing assistance with daily living activities such as cooking, eating, dressing, getting out of bed and the like to persons living in a shared group environment who do not require the medical supervision and nursing assistance provided by nursing facilities. No congregate housing program, except those licensed or operated by the state of Louisiana, shall:

a. use the term "nursing facility" or any other term implying that it is a licensed health care facility; or

b. administer medications or otherwise provide any other nursing or medical service; or

7. any adult residential care facility.

Physical Restraint—any physical or mechanical device, material or equipment attached or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body.

Physician—an individual currently licensed by the Louisiana State Board of Medical Examiners to practice medicine and/or surgery in Louisiana.

Physician Assistant—a person who is a graduate of a program accredited by the Council on Medical Education of the American Medical Association or its successors, or who has successfully passed the national certificate examination administered by the National Commission on the Certification of Physicians' Assistants, or its predecessors, and who is approved and licensed by the Louisiana Board of Medical Examiners to perform protocol services under the supervision of a physician or group of physicians approved by the board to supervise such assistant.

Reasonable Person Concept—the degree of actual or potential harm one would expect a reasonable person in a similar situation to suffer as a result of alleged abuse, neglect or misappropriation of a resident's funds.

Registered Nurse (*RN*)—an individual currently licensed by the Louisiana State Board of Nursing to practice professional nursing in Louisiana.

Registered Pharmacist—an individual currently licensed by the Louisiana Board of Pharmacy to practice pharmacy in Louisiana.

Resident—an individual admitted to the nursing facility by, and upon, the recommendation of a physician, and who is to receive the medical and nursing care ordered by the physician.

Resident Activities Director—an individual responsible for directing or providing the activity services of a nursing facility.

Resident Communication System—a system that registers calls electronically from its place of origin (the resident's bed, toilet or bathing facility) to the place of receivership.

Restorative Care—activities designed to resolve, diminish or prevent the needs that are inferred from the resident's problem; includes the planning, implementation and evaluation of said activities.

Sheltering in Place—the election to stay in place rather than evacuate when an executive order or proclamation of emergency or disaster is issued for the parish in which the nursing facility is located and a voluntary or mandatory evacuation has been declared for its geographic location.

Social Service Designee—an individual responsible for arranging or directly providing medically-related social services in the facility to assist in attaining and maintaining the highest practicable physical, mental, and psychosocial well-being of each resident.

Specialized Mental Health Services—for the purposes of pre-admission screening and resident review (PASRR), specialized services means any service or support recommended by an individualized level II determination that a particular nursing facility resident requires due to mental illness, intellectual disability or related condition, that supplements the scope of services that the nursing facility must provide under reimbursement as nursing facility services.

Specialized Rehabilitative Services—include, but are not limited to:

1. physical therapy;
2. speech language pathology;
3. occupational therapy; and
4. mental health rehabilitative services.

Sponsor—an adult relative, friend or guardian of a resident who has an interest or responsibility in the resident's welfare.

State Fire Marshal (*OSFM*)—Louisiana Department of Public Safety and Corrections, Office of the State Fire Marshal.

Written Notification-notification in hard copy or electronic format.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1891 (November 2016).

§9703. Licensing Process

A. All nursing facilities shall be licensed by the department. It shall be unlawful to operate a nursing facility without possessing a current, valid license issued by the department. The department is the only licensing authority for nursing facilities in Louisiana. Each nursing facility shall be separately licensed.

B. An institution that is primarily for the care and treatment of mental diseases cannot be a skilled nursing facility or nursing facility.

C. A nursing facility shall be in compliance with all required federal, state and local statutes, laws, ordinances, rules, regulations and fees.

D. A nursing facility license shall:

1. be issued only to the person or entity named in the license application;

2. be valid only for the nursing facility to which it is issued and only for the specific geographical address of that nursing facility;

3. be valid for up to one year from the date of issuance, unless revoked, suspended, modified or terminated prior to that date, or unless a provisional license is issued;

4. expire on the expiration date listed on the license, unless timely renewed by the nursing facility;

5. not be subject to sale, assignment, donation or other transfer, whether voluntary or involuntary; and

6. be posted in a conspicuous place on the licensed premises at all times.

E. A separately licensed nursing facility shall not use a name which is substantially the same as the name of another such nursing facility licensed by the department, unless such nursing facility is under common ownership with other nursing facilities.

F. No branches, satellite locations or offsite campuses shall be authorized for a nursing facility.

G. No new nursing facility shall accept residents until the nursing facility has written approval and/or a license issued by the department.

H. Notice of Fees. Fees shall be required for:

1. a replacement license for changes such as:

a. name;

b. address; or

c. bed capacity;

2. a duplicate license; and

3. a change in licensee or premises.

I. Plan Review. Construction documents (plans and specifications), plan review application and applicable plan review fees as established by the Office of State Fire Marshal (OSFM) are required to be submitted, reviewed and found to be acceptable for licensure by the OSFM as part of the licensing procedure prior to obtaining an initial license.

J. Construction Document Preparation. Construction documents shall be submitted to OSFM in accordance with OSFM requirements.

K. Any increase in licensed bed capacity requires facility need review approval (FNR) and a plan review, as applicable by state law.

L. LSC Appeal Request Equivalent Methods of Compliance. OSFM may accept equivalent methods of compliance with the physical environment provisions of these rules in consultation with LDH.

1. If a *Life Safety Code* (LSC) appeal is requested, the nursing facility shall:

a. submit the LSC appeal request and applicable fees as established by OSFM to OSFM;

b. demonstrate how patient safety and quality of care offered is not compromised by the LSC appeal request;

c. demonstrate the undue hardship imposed on the nursing facility if the LSC appeal request is not granted; and

d. demonstrate its ability to completely fulfill all other requirements of service.

2. The OSFM will make a written determination of the requests.

a. LSC appeal request determinations are subject to review in any change in circumstance and are subject to review or revocation upon any change in circumstances related to the LSC appeal determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1893 (November 2016).

§9705. Initial Licensing Application Process

A. An initial application for licensing as a nursing facility shall be obtained from the department. A completed initial license application packet for a nursing facility shall be submitted to and approved by the department prior to an applicant providing nursing facility services. The completed initial licensing application packet shall include:

1. a completed nursing facility licensure application and the non-refundable licensing fee as established by statute. All fees shall be submitted by certified or company check or U.S. Postal money order only, made payable to the department. All state owned nursing facilities are exempt from fees;

2. a copy of the released architectural plan review project report for the nursing facility from OSFM;

3. a copy of the on-site inspection report with determination as acceptable for occupancy by OSFM;

4. a copy of the health inspection report with approval of occupancy from the Office of Public Health (OPH);

5. a disclosure of the name and address of all individuals with 5 percent or more ownership interest, and in the instance where the nursing facility is a corporation or partnership, the name and address of each officer or director, and board members;

6. a disclosure of the name of the management firm and employer identification number, or the name of the lessor organization, if the nursing facility is operated by a management company or leased in whole or in part by another organization;

7. if applicable, clinical laboratory improvement amendments (CLIA) certificate or CLIA certificate of waiver;

8. a floor sketch or drawing of the premises to be licensed; and

9. any other documentation or information required by the department for licensure.

B. If the initial licensing packet is incomplete when submitted, the applicant will be notified of the missing information and will have 90 days from receipt of the notification to submit the additionally requested information. If the additionally requested information is not submitted to the department within 90 days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a nursing facility must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

C. Once the initial licensing application packet has been approved by the department, notification of the approval shall be forwarded to the applicant. Within 90 days of receipt of the approval notification, the applicant must notify the department that the nursing facility is ready and is requesting

an initial licensing survey. If an applicant fails to notify the department within 90 days, the initial licensing application shall be closed. After an initial licensing application has been closed, an applicant who is still interested in becoming a nursing facility must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

D. Applicants shall be in compliance with all appropriate federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the nursing facility will be issued an initial license to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1894 (November 2016).

§9707. Types of Licenses

A. The department shall have the authority to issue the following types of licenses.

1. Full Initial License. The department shall issue a full license to the nursing facility when the initial licensing survey finds that the nursing facility is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations and fees. The initial license shall specify the capacity of the nursing facility. The license shall be valid for a period of 12 months unless the license is modified, revoked, suspended, or terminated.

2. Provisional Initial License. The department may issue a provisional initial license to the nursing facility when the initial licensing survey finds that the nursing facility is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the residents or participants. The provisional license shall be valid for a period not to exceed six months.

a. At the discretion of the department, the provisional initial license may be extended for an additional period not to exceed 90 days in order for the nursing facility to correct the noncompliance or deficiencies.

b. The nursing facility shall submit a plan of correction to the department for approval and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional initial license.

c. A follow-up survey shall be conducted prior to the expiration of the provisional initial license.

i. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, a full license may be issued.

ii. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional initial license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee if no timely informal reconsideration or administrative appeal of the deficiencies is filed pursuant to this Chapter.

3. Annual Renewal License. The department may issue a full license that is annually renewed to an existing licensed nursing facility, which is in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations.

a. The nursing facility shall submit:

i. a completed application;

ii. appropriate fees; and

iii. any other documentation or information that is required by the department for license renewal.

b. The license shall be valid for a period of 12 months unless the license is modified, revoked, suspended, or terminated.

4. Provisional License. The department, in its sole discretion, may issue a provisional license to an existing licensed nursing facility for a period not to exceed six months.

a. At the discretion of the department, the provisional license may be extended for an additional period not to exceed 90 days in order for the nursing facility to correct the noncompliance or deficiencies.

b. When the department issues a provisional license to an existing licensed nursing facility, the provider shall submit a plan of correction to the department for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license.

c. The department shall conduct an on-site follow-up survey at the nursing facility prior to the expiration of the provisional license.

i. If the on-site follow-up survey determines that the nursing facility has corrected the deficient practices and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the nursing facility license.

ii. If the on-site follow-up survey determines that the nursing facility has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional license shall expire and the provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee if no timely informal reconsideration or administrative appeal of the deficiencies is filed pursuant to this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1895 (November 2016).

§9709. Changes in Licensee Information

A. Any change regarding the nursing facility name, "doing business as" name, mailing address, phone number or any combination thereof, shall be reported in writing to the department within five days of the change. Any change regarding the nursing facility name or "doing business as" name requires a change to the nursing facility license and shall require the appropriate fee for the issuance of an amended license.

B. A change of ownership (CHOW) of the nursing facility shall be reported in writing to the department at least five days prior to the change of ownership.

1. The license of a nursing facility is not transferable or assignable. The license cannot be sold.

2. In the event of a CHOW, the new owner shall submit the legal CHOW document, all documents required for a new license, and the applicable licensing fee. Once all of the application requirements are completed and approved

by the department, a new license shall be issued to the new owner.

3. A nursing facility that is under license revocation, provisional licensure or denial of license renewal may not undergo a CHOW.

C. Any request for a duplicate license shall be accompanied by the appropriate fee.

D. A nursing facility that intends to change the physical address of its geographic location is required to have OSFM approval for plan review and approval for occupancy of the new location, Office of Public Health approval, compliance with other applicable licensing requirements, and an on-site licensing survey prior to the occupancy of the new location to be licensed.

1. Written notice of intent to relocate shall be submitted to HSS at the time plan review request is submitted to OSFM.

2. Relocation of the nursing facility's physical address results in a new anniversary date and the full licensing fee shall be paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1895 (November 2016).

§9711. Renewal of License

A. To renew a license, a nursing facility shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The licensure application packet shall include:

1. the license renewal application;

2. a copy of the current onsite inspection report with approval of occupancy from OSFM and the Office of Public Health;

3. the licensure renewal fee; and

4. any other documentation required by the department.

B. the department may perform an onsite survey and inspection upon annual renewal of a license.

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license shall result in the voluntary non-renewal of the nursing facility license.

D. The renewal of a license does not in any manner affect any sanction, civil fine, or other action imposed by the department imposed against the nursing facility.

E. If an existing licensed nursing facility has been issued a notice of license revocation, suspension, or termination, and the nursing facility license is due for annual renewal, the department shall deny the license renewal application and shall not issue a renewal license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1896 (November 2016).

§9713. Licensing Surveys

A. Prior to the initial license being issued to the nursing facility, an initial licensing survey shall be conducted on-site at the nursing facility to assure compliance with licensing standards. The nursing facility shall not provide services to any resident until the initial licensing survey has been performed and the nursing facility found in compliance with the licensing standards. The initial licensing survey shall be an announced survey.

B. Once an initial license has been issued, the department may conduct licensing and other surveys at intervals deemed necessary by the department to determine compliance with licensing standards and regulations, as well as other required statutes, laws, ordinances, rules, regulations and fees. These surveys shall be unannounced.

C. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices. The department shall issue written notice to the provider of the results of the follow-up survey.

D. An acceptable plan of correction shall be required for any survey where deficiencies have been cited.

E. If deficiencies have been cited during a licensing survey, the department may issue appropriate sanctions, including but not limited to:

1. civil fines;

2. directed plans of correction;

3. denial of license renewal;

4. provisional licensure;

5. license revocation; or

6. any other sanctions or actions authorized under state law or regulation.

F. Surveyors and staff, on behalf of the department, shall be:

1. given access to all areas of the nursing facility and all relevant files during any licensing survey or other survey; and

2. allowed to interview any facility staff, resident, or participant as necessary to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1896 (November 2016).

§9715. Statement of Deficiencies

A. Notice to nursing facility of statement of deficiencies. When the department has reasonable cause to believe through an on-site survey, a complaint investigation, or other means that there exists or has existed a threat to the health, safety, welfare or rights of a nursing facility resident, the department shall give written notice of the deficiencies.

B. The survey team shall conduct an exit conference and give the nursing facility administrator or his/her designee the preliminary finding of fact and the possible deficiencies before leaving the nursing facility.

C. The department shall send confirmed written notice to the nursing facility administrator.

D. The department's written notice of deficiencies shall be consistent with the findings delineated at the conference and shall:

1. specify the deficiencies;

2. cite the legal authority which established such deficiencies; and

3. inform the administrator that the nursing facility has 10 calendar days from receipt of written notice within which to request a reconsideration of the proposed agency action.

E. Any statement of deficiencies issued by the department to the nursing facility shall be posted in a conspicuous place on the licensed premises.

F. In accordance with R.S. 40:2010.10, all nursing facilities shall provide notification to the applicant during the admission process that the applicant may receive a copy of the annual licensing survey as well as the telephone number to report complaints, and the applicant shall sign stating they have been so notified.

G. Any statement of deficiencies issued by the department to a nursing facility shall be available for disclosure to the public 14 days following the date the statement of deficiency is made available to the nursing facility.

H. Unless otherwise provided in statute or in this licensing rule, a provider shall have the right to an informal reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the violation, noncompliance or deficiency shall not be the basis for the reconsideration.

2. The provider's written request for informal reconsideration shall be considered timely if received within 10 calendar days of facility's receipt of the statement of deficiencies.

3. The request for informal reconsideration of the deficiencies shall be made to the department's Health Standards Section.

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.13 et seq., and as provided for license denials, revocations, and denial of license renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

5. The provider shall be notified in writing of the results of the informal reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1896 (November 2016).

§9717. Initial License Denial, Revocation or Denial of Renewal of License

A. The department also may deny, suspend or revoke a license where there has been substantial noncompliance with these requirements in accordance with R.S. 40:2009.1 et seq., the nursing home licensing law. If a license is denied, suspended, or revoked, an appeal may be requested.

B. The department may deny an application for a license, may deny a license renewal or may revoke a license in accordance with the provisions of the Administrative Procedure Act.

C. Denial of an Initial License. The department may deny an initial license in the event that the initial licensing survey finds that the nursing facility is noncompliant with any licensing laws or regulations that present a potential threat to the health, safety, or welfare of the residents.

1. The department shall deny an initial license in the event that the initial licensing survey finds that the nursing facility is noncompliant with any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety or welfare of the residents.

2. The department shall deny an initial license for any of the reasons in this Rule that a license may be revoked or non-renewed.

D. Voluntary Non-Renewal of a License. If a provider fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the provider.

E. Revocation of License or Denial of License Renewal. A nursing facility license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the nursing facility licensing laws, rules and regulations;

2. failure to be in substantial compliance with other required statutes, laws, ordinances, rules, or regulations;

3. failure to be in substantial compliance with the terms and provisions of a settlement agreement;

4. failure to uphold resident rights whereby deficient practices may result in harm, injury, or death of a resident;

5. failure to protect a resident from a harmful act of an employee or other resident including, but not limited to:

a. abuse, neglect, exploitation, or extortion;

b. any action posing a threat to a resident's health and safety;

c. coercion;

d. threat or intimidation; or

e. harassment;

6. failure to notify the proper authorities of all suspected cases of neglect, criminal activity, mental or physical abuse, or any combination thereof;

7. knowingly making a false statement, or providing false, forged or altered information or documentation to LDH employees or to law enforcement in any of the following areas, including but not limited to:

a. application for initial license or renewal of license; or

b. matters under investigation by the department or the Office of the Attorney General;

8. the use of false, fraudulent or misleading advertising;

9. fraudulent operation of a nursing facility by the owner, administrator or manager;

10. an owner, officer, member, manager, administrator or person designated to manage or supervise participant care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court;

a. for purposes of this paragraph, conviction of a felony means a felony relating to the violence, abuse, or negligence of a person, or a felony relating to the misappropriation of property belonging to another person;

11. failure to comply with all reporting requirements in a timely manner as required by the department;

12. failure to allow or refusal to allow the department to conduct an investigation or survey or to interview facility staff or residents individually as necessary to conduct the survey;

13. failure to allow or refusal to allow access to records by personnel authorized by LDH; or

14. bribery, harassment, or intimidation of any residents designed to cause that resident to use the services of any particular nursing facility.

F. In the event a nursing facility license is revoked or renewal is denied any owner, officer, member, manager, director or administrator of such nursing facility may be

prohibited from owning, managing, directing or operating another nursing facility for a period of two years from the date of the final disposition of the revocation or denial action.

1. For any of the above positions affected by employment prohibitions, the department shall consider the involvement, responsibilities and authority of the individual(s) affected by such employment prohibition, as well as associated circumstances involving license revocation or denial of license renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1897 (November 2016).

§9719. Notice and Appeal of Initial License Denial, License Revocation and Denial of License Renewal

A. Notice of an initial license denial, license revocation or denial of license renewal shall be given to the provider in writing.

B. The provider has a right to an informal reconsideration of the initial license denial, license revocation, or denial of license renewal. There is no right to an informal reconsideration of a voluntary non-renewal or surrender of a license by the provider.

1. The provider's request for informal reconsideration shall be considered timely if received within 15 calendar days of the notice of the initial license denial, license revocation, or denial of license renewal. The request for informal reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section.

2. The request for informal reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an informal reconsideration is received by the Health Standards Section, an informal reconsideration shall be scheduled and the provider will receive written notification.

4. The provider shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the initial license denial, revocation or denial of license renewal shall not be a basis for reconsideration.

6. The informal reconsideration process is not in lieu of the administrative appeals process.

7. The provider will be notified in writing of the results of the informal reconsideration.

C. The provider has a right to an administrative appeal of the initial license denial, license revocation, or denial of license renewal.

1. The provider shall request the administrative appeal within 30 days of the receipt of the results of the informal reconsideration. The provider may forego its rights to an informal reconsideration, and if so, the provider shall request the administration appeal within 30 days of the receipt of the notice of the initial license denial, license revocation, or denial of license renewal. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law (DAL).

2. The request for administrative appeal shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the DAL, the administrative appeal of the license revocation or denial of license renewal shall be suspensive, and the provider shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

a. If the secretary of the department, or his/her designee, determines that the violations of the nursing facility pose an imminent or immediate threat to the health, welfare or safety of a participant, the imposition of the license revocation or denial of license renewal may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the nursing facility shall be notified in writing.

4. Correction of a violation or a deficiency which is the basis for the initial license denial, revocation or denial of license renewal, shall not be a basis for the administrative appeal.

D. If an existing licensed provider has been issued a notice of license revocation and the provider's license is due for annual renewal, the department shall deny the license renewal application. The denial of the license renewal application does not affect in any manner the license revocation.

E. If a timely administrative appeal has been filed by the provider on an initial license denial, denial of license renewal, or license revocation, the DAL shall conduct the hearing in accordance with the Administrative Procedure Act.

1. If the final decision is to reverse the initial license denial, the denial of license renewal, or the license revocation, the provider's license will be re-instated or granted upon the payment of any licensing or other fees due to the department.

F. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional initial license to a new provider. An existing provider who has been issued a provisional license remains licensed and operational and also has no right to an informal reconsideration or an administrative appeal of the issuance of the provisional license. The issuance of a provisional license to an existing provider is not considered to be a denial of initial licensure, a denial of license renewal, or a license revocation.

1. A follow-up survey shall be conducted prior to the expiration of a provisional initial license to a new provider or the expiration of a provisional license to an existing provider.

2. A new provider that is issued a provisional initial license or an existing provider that is issued a provisional license shall be required to correct all noncompliance or deficiencies at the time the follow-up survey is conducted.

3. If all noncompliance or deficiencies have not been corrected at the time of the follow-up survey, or if new deficiencies that are a threat to the health, safety, or welfare of residents are cited on the follow-up survey, the provisional initial license or provisional license shall expire on its face.

4. The department shall issue written notice to the provider of the results of the follow-up survey.

5. A provider with a provisional initial license or an existing provider with a provisional license who has deficiencies cited at the follow-up survey shall have the right to an informal reconsideration and the right to an administrative appeal of the deficiencies cited at the follow up survey.

a. The correction of a violation, noncompliance or deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

b. The informal reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

c. The facility's written request for informal reconsideration shall be considered timely if received within five calendar days of the notice of the results of the follow-up survey from the department.

d. The provider shall request the administrative appeal within 15 calendar days of the notice of the results of the follow-up survey from the department.

e. The provider with a provisional initial license or an existing provider with a provisional license that expires under the provisions of this section shall cease providing services unless the DAL issues a stay of the expiration. The stay shall only be granted by the DAL in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1898 (November 2016).

§9721. Cessation of Business

A. Except as provided in Section §9767.K-M of these licensing regulations, a license shall be immediately null and void if a facility ceases to operate.

B. A cessation of business is deemed to be effective the date on which the nursing facility stopped offering or providing services to the community.

C. Upon the cessation of business, the nursing facility shall immediately return the original license to the department.

D. Cessation of business is deemed to be a voluntary action on the part of the nursing facility. The provider does not have a right to appeal a cessation of business.

E. The nursing facility shall notify the department in writing 30 days prior to the effective date of the closure or cessation. In addition to the notice, the provider shall submit a written plan for the disposition of patient medical records for approval by the department. The plan shall include the following:

1. the effective date of the closure.;

2. provisions that comply with federal and state laws on storage, maintenance, access and confidentiality of the closed provider's patients medical records;

3. an appointed custodian(s) who shall provide the following:

a. access to records and copies of records to the patient or authorized representative, upon presentation of proper authorization(s); and

b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and

4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing nursing facility, at least 15 days prior to the effective date of closure.

F. Failure to comply with the provisions concerning submission of a written plan for the disposition of patient medical records to the department may result in the provider being prohibited from obtaining a license for any provider type issued by the department.

G. Once the nursing facility has ceased doing business, the nursing facility shall not provide services until the provider has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1899 (November 2016).

§9723. Complaint Process

A. Any person who has knowledge of any of the following circumstances that could affect the health and well-being of a nursing facility resident may submit a complaint regarding the matter in writing or by telephone to the Louisiana Department of Health, Health Standards Section:

1. the alleged abuse or neglect of a nursing facility resident;

2. violation of any state law, licensing rule or regulation, or federal certification rule pertaining to a nursing facility; or

3. that a nursing facility resident is not receiving the care and treatment to which he is entitled under state or federal laws.

B. Prohibition Against Retaliation. No discriminatory or retaliatory action shall be taken by a nursing facility against any person or resident who provides information to the department or any other governmental agency, provided the communication was made for the purpose of aiding the department in carrying out its duties and responsibilities.

1. Any person, who in good faith, submits a complaint pursuant to this Section, shall have immunity from any civil liability that otherwise might be incurred or imposed because of such complaint. Such immunity shall extend to participation in any judicial proceeding resulting from the complaint.

C. Notice of Complaint Procedure. Notices of how to lodge a complaint with the department, the Office of Civil Rights, the Americans with Disabilities Act, and/or the Medicaid Fraud Control Unit shall be posted conspicuously in the nursing facility in an area accessible to residents. The notices shall include the addresses and toll-free complaint telephone numbers for the Health Standards Section (HSS) and other governmental agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1899 (November 2016).

§9725. Complaint Surveys

A. The department shall conduct complaint surveys in accordance with R.S. 40:2009.13 et seq.

B. Complaint surveys shall be unannounced surveys.

C. An acceptable plan of correction shall be submitted to the department for any complaint survey where deficiencies have been cited.

D. An on-site follow-up survey or a desk review may be conducted for any complaint survey where deficiencies have been cited to ensure correction of the deficient practices.

E. For deficiencies cited for non-compliance with any complaint survey, the department may issue appropriate sanctions, including but not limited to:

1. civil fines;
2. directed plans of correction;
3. denial of license renewal;
4. provisional licensure;
5. license revocation; or
6. any other sanctions or actions authorized under state law or regulation.

F. LDH surveyors and staff shall be given access to all areas of the nursing facility and all relevant files during any complaint survey. LDH surveyors and staff shall be allowed to interview any facility staff or resident, as necessary or required to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1899 (November 2016).

§9727. Incident Reporting Requirements

A. A nursing facility shall have written procedures for the reporting and documentation of actual and suspected incidents of abuse, neglect, misappropriation of property/funds and suspicious death. Major injuries of unknown origin (e. g., fractures, burns, suspicious contusions, head injuries, etc.) for which the nursing facility is unable to determine the cause and could possibly be the result of abuse or neglect shall also be reported. Such procedures shall ensure that:

1. a resident is protected from harm during an investigation;
2. immediate verbal reporting is made and a preliminary written report within 24 hours of the incident is submitted to the administrator or his/her designee;
3. notification, as required by HSS, is submitted to HSS within 24 hours of occurrence or discovery of the incident. The nursing facility shall utilize the LDH online tracking incident system (OTIS) or current LDH required database reporting system to provide notification;

NOTE: The nursing facility is required to maintain internet access and to keep the department informed of an active e-mail address at all times.

4. appropriate authorities are to be notified according to state law;
5. immediate, documented attempts are made to notify the resident's legal representative;
6. immediate attempts are made to notify other involved agencies and parties as appropriate; and
7. immediate notification is made to the appropriate law enforcement authority whenever warranted.

B. The initial written notification submitted to the LDH HSS within 24 hours of occurrence or discovery of the incident shall include:

1. the name of the alleged victim;
2. the name of the accused (if known);
3. the incident category (if applicable);
4. the date and time the incident occurred, if known, and the date and time the incident was discovered;
5. a description of the alleged abuse, neglect, misappropriation of property, and incident of unknown origin from the victim and/or the reporter;
6. documentation of any action taken to protect the resident during the investigation; and
7. any other relevant information available at the time the report is submitted.

C. The nursing facility shall have evidence that the alleged violations are thoroughly investigated and shall ensure protection of the resident from further potential abuse, neglect, and misappropriation of property/funds while the investigation is in progress.

D. A final report with the results of all investigations shall be reported to HSS within five working days of the incident through the use of OTIS or current LDH required database reporting system. The report shall include:

1. the alleged victim's name, date of birth, and a complete description of the physical harm, pain or mental anguish;
2. the name, date of birth, address and telephone number of the accused. If the accused is a nursing facility employee, include the Social Security number.
3. the date and time the incident occurred, if known, and the date and time the incident was discovered;
4. a description of the alleged abuse, neglect, misappropriation of property, and incident of unknown origin;
5. a detailed summary of the entity's investigation including all witness' information and all facts that lead to the determination of substantiated, unsubstantiated or unable to verify:
   a. immediate action taken to protect the alleged victim during the investigation; and
   b. any action taken toward the accused; and
6. nursing facility administrator/CEO finding.

E. If an alleged violation is verified, the nursing facility shall take appropriate corrective action.

F. If the investigation substantiates abuse, neglect, and/or misappropriation of property against a CNA, the following shall be available, if requested, by HSS:

1. a copy of the NAT-7 verifying termination;
2. the nursing facility abuse policy signed by the CNA;
3. the date and time the incident occurred;
4. the date and time the incident was discovered;
5. a copy of the CNA's statement (signed and dated);
6. a copy of the resident's statement (signed and dated);
7. witness statements (signed and dated); and
8. a copy of the time card for the date and time of the incident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1900 (November 2016).

§9729. Sanctions and Appeal of Sanctions

A. Any nursing facility found to be in violation of any state or federal statute, regulation or any department rule, adopted in accordance with the Administrative Procedure

Act, governing the administration and operation of the nursing facility may be sanctioned as provided for in LAC 48:I.Chapter 46.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1900 (November 2016).

§9731. Suspensive Appeal of Revocation of License

A. The secretary of the Department of Health, or his/her designee, may deny an application for a license or refuse to renew a license or may revoke an outstanding license when an investigation reveals that the applicant or licensee is in nonconformance with or in violation of the provisions of R.S.40:2009.6, provided that in all such cases, the Secretary shall furnish the applicant or licensee 30 calendar days written notice specifying reasons for the action.

B. The secretary or designee, in a written notice of denial, denial of renewal or revocation of a license, shall notify the applicant or licensee of his right to file a suspensive appeal with the DAL within 30 calendar days from the date the notice, as described in this Subchapter. This appeal or request for a hearing shall specify in detail reasons why the appeal is lodged and why the appellant feels aggrieved by the action of the secretary.

C. When any appeal as described in this Subchapter is received by the DAL, the hearing shall be conducted in accordance with R.S. 40:2009.17 and the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1901 (November 2016).

§9733. Approval of Plans

A. Plans and specifications for new construction of, or to, a nursing facility, and for any major alterations or renovations to a nursing facility, shall be submitted to the Department of Public Safety, Office of the State Fire Marshal (OSFM) for review in accordance with R.S. 40:1563(L), R.S. 40:1574 and LAC 55:V.Chapter 3.

1. Plans and specifications for new construction, major alterations and major renovations shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer where required by Louisiana architecture and engineering licensing laws of R.S. 37:141 et seq., and R.S. 37:681 et seq., and respective implementing regulations.

2. No residential conversions shall be considered for a nursing facility license.

B. The plans and specifications shall comply with all of the following:

1. LDH nursing facility licensing requirements and the Office of Public Health's (OPH) nursing home regulations (see LAC 51:XX); and

2. The OSFM's requirements for plan submittals and compliance with all codes required by that office.

C. Notice of satisfactory review from the department and OSFM constitute compliance with this requirement, if construction begins within 180 days of the date of such notice. This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.

D. Fire Protection. All nursing facilities licensed by the department shall comply with the rules, laws, codes and enforcement policies as promulgated by OSFM.

1. It shall be the primary responsibility of OSFM to determine if applicants are complying with those requirements.

2. No initial license shall be issued without the applicant furnishing acceptable written proof from OFSM that such applicant is complying with their provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1901 (November 2016).

§9735. Sanitation and Patient Safety

A. All nursing facilities licensed by the department shall comply with the rules, sanitary code and enforcement policies as promulgated by the Office of Public Health (OPH).

1. It shall be the primary responsibility of OPH to determine if applicants are complying with those requirements.

2. No initial license shall be issued without the applicant furnishing an approval from OPH that such applicant is complying with their provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1901 (November 2016).

§9737. Alzheimer's Special Care Disclosure

A. Any provider offering a special program for persons with Alzheimer's disease or a related disorder shall disclose the form of care or treatment that distinguishes it as being especially applicable to or suitable for such persons. For the purpose of this section, a related disorder means progressive, incurable dementia.

B. Prior to entering into any agreement to provide care, a provider shall make the disclosure to:

1. any person seeking services within an Alzheimer's special care program; or

2. any person seeking such services on behalf of a person with Alzheimer's disease or a related disorder within an Alzheimer's special care program. A provider shall make the disclosure upon characterizing programs or services as especially suited for persons with Alzheimer's disease or a related disorder. Additionally, a provider shall give copies of current disclosure forms to all designees, representatives or sponsors of persons receiving treatment in an Alzheimer's special care program.

C. A provider shall furnish the disclosure to the department when applying for a license, renewing an existing license, or changing an existing license. Additional disclosure may be made to the state ombudsman. During the licensure or renewal process, the department will examine all disclosures to verify the accuracy of the information. Failure to provide accurate or timely information constitutes noncompliance with this section and may subject the provider to standard administrative penalties or corrective actions. Distributing an inaccurate or misleading disclosure

form constitutes deceptive advertising and may subject a provider to prosecution under R.S. 51:1401 et seq. In such instances, the department will refer the matter to the Attorney General's Division of Consumer Protection for investigation and possible prosecution.

D. Within seven working days of a significant change in the information submitted to the department, a provider shall furnish an amended disclosure form reflecting the change to the following parties:

1. the department;

2. any clients with Alzheimer's disease or a related disorder currently residing in the nursing facility;

3. any designee, representative or sponsor of any such client;

4. any person seeking services in an Alzheimer's special care program; and

5. any person seeking services on behalf of a person with Alzheimer's disease or a related disorder in an Alzheimer's special care program.

E. The provider's Alzheimer's special care disclosure documentation shall contain the following information:

1. a written statement of the overall philosophy and mission of the Alzheimer's special care program which reflects the needs of residents afflicted with dementia;

2. a description of the criteria and process for admission to, transfer, or discharge from the program;

3. a description of the process used to perform an assessment as well as to develop and implement the plan of care, including the responsiveness of the plan of care to changes in condition;

4. a description of staff training and continuing education practices;

5. a description of the physical environment and design features appropriate to support the functioning of cognitively impaired adult residents;

6. a description of the frequency and types of resident activities;

7. a statement of philosophy on the family's involvement in care and a statement on the availability of family support programs; and

8. a list of the fees for care and any additional program fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1901 (November 2016).

Subchapter B. Organization and General Services

§9751. Delivery of Services

A. A nursing facility shall be administered in a manner that promotes the highest level of physical, mental and psychosocial functioning and well-being of each resident.

B. A nursing facility shall be in compliance with all required federal, state and local statutes, laws, ordinances, rules, regulations and fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1902 (November 2016).

§9753. Governing Body

A. The nursing facility shall have a governing body that is legally responsible for establishing and implementing policies regarding the management and operation of the nursing facility. The governing body shall develop and approve policies and procedures which define and describe the scope of services offered. The policies and procedures shall be revised as necessary and reviewed at least annually.

B. The governing body shall be responsible for the operation of the nursing facility.

C. The governing body shall appoint in writing a licensed administrator responsible for the management of the nursing facility.

D. The governing body of the nursing facility shall appoint a facility designee charged with the general administration of the nursing facility in the absence of a licensed administrator.

E. The governing body shall notify the department in writing when a change occurs in the administrator position within 30 calendar days from the date the change occurs. The notice shall include the identity of the individual and the specific date the change occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1902 (November 2016).

§9755. Administration

A. Facility Administrator. Each nursing facility shall have a full time administrator. The administrator shall be licensed by the Louisiana Board of Examiners of Nursing Facility Administrators.

1. The administrator is the person responsible for the onsite, daily implementation and supervision of the nursing facility's overall operation commensurate with the authority conferred by the governing body.

2. The nursing facility shall be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental and psychosocial well-being of each resident.

B. A full-time employee functioning in an administrative capacity shall be authorized in writing to act in the administrator's behalf when he/she is absent or functioning as a full-time administrator for two facilities.

C. Administrator Responsibilities and Restrictions

1. No individual shall function as a full-time administrator for more than two nursing facilities. When an individual functions as a full-time administrator of two nursing facilities, the department shall consider such factors including but not limited to size and proximity with regard to the administrator's ability to sufficiently manage the affairs of both nursing facilities.

a. The response time to either nursing facility shall be no longer than one hour. The administrator's response to either of the facilities shall include communication, either telephonic or electronic and\or by physical presence at the facility. Any consideration requiring administrator's response shall be reviewed on a case-by-case basis.

b. If an individual functions as an administrator of two nursing facilities, he/she shall spend 20 hours per week at each nursing facility.

2. The administrator, or his designee, is responsible, in writing, for the execution of all policies and procedures.

3. The administrator is responsible for ensuring the nursing facility has a plan to conduct comprehensive risk

assessments to determine the potential adverse impact of equipment, supplies and other factors relating to the health, safety and welfare of residents. Results of the risk assessments shall be used to develop and implement procedures to address the potential adverse impact and safety risk in the entire facility including but not limited to locked or specialized care units.

4. Written notice shall be provided to HSS for any personnel change in the administrator position. This notice shall be provided within 30 calendar days from the date of change by the facility administrator or, in the absence of an administrator, by the governing body of the nursing facility at the time the change occurs.

a. Notice shall include the identity of all individuals involved and the specific changes which have occurred.

b. The department shall allow nursing facilities 30 days from the date of the change in the position to fill the resulting vacancy in the administrator position. There shall be no exemption to the administrator position requirement.

c. Failure to either fill a vacancy, or to notify the department in writing within 30 days from the date of the change may result in a class C civil fine.

D. Assistant Administrator. A nursing facility with a licensed bed capacity of 161 or more beds shall employ an assistant administrator. An assistant administrator shall be a full-time employee and function in an administrative capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1902 (November 2016).

§9757. Personnel

A. There shall be sufficient qualified personnel to properly operate the nursing facility to assure the health, safety, proper care and treatment of the residents.

1. Time schedules shall be maintained which indicate the numbers and classification of all personnel, including relief personnel, who works on each tour of duty. The time schedules shall reflect all changes so as to indicate:

a. staff persons who actually worked;

b. in what capacity staff worked; and

c. percentage of time staff persons worked in each of the following capacities:

i. housekeeping;

ii. laundry;

iii. food service;

iv. CNA; and

v. nurse.

2. If the nursing facility's system of care (such as in the culture change environment) is such that nursing personnel perform services in addition to nursing care, such as housekeeping, laundry and food preparation as part of a plan wherein tasks and routines are organized and carried out to maximally approximate a facility environment, the nursing facility shall ensure:

a. sufficient nursing staff hours for the care of the resident;

b. nursing services shall not be neglected in order to provide the additional non-nursing services; and

c. nurse aides shall be properly trained in food preparation safety and infection control before being allowed to provide this service to residents.

B. Personnel records shall be current and available for each employee and shall contain sufficient information to assure that they are assigned duties consistent with his or her job description and level of competence, education, preparation and experience.

C. CNA Work History Reporting Requirements

1. If a nursing facility hires certified nursing assistants to provide care and services, the administrator or designee shall complete and submit the appropriate notice to the nurse aide registry to verify employment and termination of that certified nurse aide, within five working days of the action.

2. The administrator or designee shall reconcile with the nurse aide registry, at least monthly, the certified nurse aides employed and those terminated.

3. Accuracy of the work history held by the registry is the responsibility of the nursing facility (owner, administrator or designee).

a. When a change of ownership (CHOW) occurs, the new owner and/or administrator or designee shall ensure that all notifications of employment and termination of certified nurse aides have been sent to the registry, at the point that the change occurs.

b. In the event that a request for verification of work history is received after the CHOW occurs, the new owner and/or administrator or designee shall be responsible for compliance. The notification shall be sent to the registry within five working days of the request.

c. The administrator or designee shall ensure that all notifications of employment and termination of certified nurse aides, employed through staffing agencies, are sent to the registry monthly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1903 (November 2016).

§9759. Criminal History Provisions and Screening

A. Nursing facilities shall have statewide criminal history checks performed on non-licensed personnel to include CNAs, housekeeping staff, activity workers, social service personnel and any other non-licensed personnel who provide care or other health related services to the residents in accordance with R.S. 40:1300.51 et seq.

B. All personnel requiring licensure to provide care shall be currently licensed to practice in the state of Louisiana. Credentials of all licensed full-time, part-time and consultant personnel shall be verified on an annual basis in writing by a designated staff member.

C. All personnel, including routine unpaid workers, involved in direct resident care, shall adhere to the *Title 51, Public Health—Sanitary Code*, Chapter 5 requirements for health examinations and tuberculosis (TB) testing for employees and volunteers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1903 (November 2016).

§9761. Policies and Procedures

A. There shall be written policies and procedures:

1. available to staff, residents and legal representatives governing all areas of care and services provided by the nursing facility;

2. ensuring that each resident receives the necessary care and services to promote the highest level of physical, mental and psychosocial functioning and well-being of each resident;

3. developed with the advice of a group of professional personnel consisting of at least a currently licensed physician, the administrator and the director of nursing services;

4. revised as necessary, but reviewed by the professional personnel group referenced in A.3 at least annually;

5. available to admitting physicians;

6. reflecting awareness of, and provision for, meeting the total medical and psychosocial needs of residents, including admission, transfer and discharge planning; and the range of services available to residents, including frequency of physician visits by each category of residents admitted; and

7. approved by the governing body.

B. The nursing facility shall develop and implement written policies and procedures that prohibit mistreatment, neglect and abuse of residents and misappropriation of resident property.

1. The nursing facility shall not use verbal, mental, sexual or physical abuse, corporal punishment or involuntary seclusion.

2. The nursing facility shall develop and operationalize policies and procedures for screening and training employees, protection of the residents and for the prevention, identification, investigation, and reporting of abuse, neglect, mistreatment and misappropriation of property.

C. The administrator or his designee is responsible, in writing, for the execution of such policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1903 (November 2016).

§9763. Assessments and Care Plans

A. An initial assessment of the resident's needs/problems shall be performed and documented in each resident's clinical record by a representative of the appropriate discipline.

B. The assessment, including the PASRR level II recommendations, if applicable, shall be used to develop the resident's plan of care.

C. The assessment shall be completed within 14 days of admission and the care plan shall be completed within 7 days of the completion of the assessment or by the twenty-first day of admission.

D. The care plan shall be revised as necessary and reviewed at least annually by the professionally licensed personnel directly involved in the care of the resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1904 (November 2016).

§9765. Staff Orientation, Training and Education

A. New employees shall have an orientation program of sufficient scope and duration to inform the individual about his/her responsibilities and how to fulfill them.

B. The orientation program shall include at least a review of policies and procedures, job description and performance expectations prior to the employee performing his/her responsibilities.

C. A staff development program shall be conducted by competent staff and/or consultants and planned based upon employee performance appraisals, resident population served by the nursing facility and as determined by nursing facility staff. All employees shall participate in staff development programs which are planned and conducted for the development and improvement of their skills.

D. Training shall include, at a minimum, problems and needs common to the age, physical, mental and bio-psychosocial needs of the residents, and discharge planning of those being served, prevention and control of infections, fire prevention and safety, emergency preparedness, accident prevention, confidentiality of resident information and preservation of resident dignity and respect, including protection of privacy and personal and property rights.

E. The nursing facility's training shall be sufficient to ensure the continuing competence of the staff. Nursing assistants shall be provided a minimum of 12 hours of training per year.

F. Records of training shall be maintained indicating the content, date, time, names of employees in attendance, and the name of the individual(s) who conducted the training.

G. Dementia Training

1. All employees shall be trained in the care of persons diagnosed with dementia and dementia-related practices that include or that are informed by evidence-based care practices.

2. Nursing facility staff who provide care on a regular basis to residents in Alzheimer's special care units shall meet the following training requirements.

a. Staff who provide nursing and nursing assistant care to residents shall be required to obtain at least eight hours of dementia-specific training within 90 days of employment and five hours of dementia-specific training annually. The training shall include the following topics:

i. an overview of Alzheimer's disease and related dementias;

ii. communicating with persons with dementia;

iii. behavior management for persons with dementia;

iv. promoting independence in activities of daily living for persons with dementia; and

v. understanding and dealing with family issues for persons with dementia.

b. Staff who have regular communicative contact with residents, but who do not provide nursing and nursing assistant care, shall be required to obtain at least four hours of dementia-specific training within 90 days of employment and one hour of dementia training annually. This training shall include the following topics:

i. an overview of dementias; and

ii. communicating with persons with dementia.

c. Staff who have only incidental contact with residents shall receive general written information provided by the nursing facility on interacting with residents with dementia.

3. Nursing facility staff who are not regularly assigned to the Alzheimer's special care unit shall meet the following training requirements:

a. Staff who are not regularly assigned to the Alzheimer's special care unit, but still provide nursing assistant care in the facility shall be required to obtain four hours of dementia-specific training within 90 days of employment and two hours of dementia training annually.

b. Unlicensed staff who are not regularly assigned to the Alzheimer's special care unit and who have regular communicative contact with residents but do not provide nursing assistant care in the facility shall be required to obtain four hours of dementia-specific training within 90 days of employment and one hour of dementia training annually. The training shall include the following topics:

i. an overview of dementias; and

ii. communicating with persons with dementia.

c. Staff who have only incidental contact with residents shall receive general written information provided by the nursing facility on interacting with residents with dementia.

4. Staff delivering approved training will be considered as having received that portion of the training that they have delivered.

5. Any dementia-specific training received in a nursing or nursing assistant program approved by the Department of Health or the Department of Children and Family Services may be used to fulfill the training hours required pursuant to this Section.

6. Nursing facility providers shall offer an approved complete training curriculum themselves or shall contract with another organization, entity, or individual to provide the training.

7. The dementia-specific training curriculum shall be approved by the department. To obtain training curriculum approval, the organization, entity, or individual shall submit the following information to the department or its designee:

a. a copy of the curriculum;

b. the name and qualifications of the training coordinator;

c. a list of all instructors;

d. the location of the training; and

e. whether the training will be web-based.

8. A provider, organization, entity or individual shall submit any content changes to an approved training curriculum to the department, or its designee, for review and approval.

9. If a provider, organization, entity or individual, with an approved curriculum, ceases to provide training, the department shall be notified in writing within 30 days of cessation of training. Prior to resuming the training program, the provider, organization, entity, or individual shall reapply to the department for approval to resume the program.

10. Disqualification of Training Programs and Sanctions. The department may disqualify a training curriculum offered by a provider, organization, entity, or individual that has demonstrated substantial noncompliance with training requirements, including, but not limited to:

a. the qualifications of training coordinators; or

b. training curriculum requirements.

11. Compliance with Training Requirements. The review of compliance with training requirements shall include, at a minimum, a review of:

a. the existence of an approved training curriculum; and

b. the provider's adherence to established training requirements.

12. The department may impose applicable sanctions for failure to adhere to the training requirements outlined in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1904 (November 2016).

§9767. Emergency Preparedness

A. The nursing facility shall have an emergency preparedness plan which conforms to the format and specifications of the Louisiana Model Nursing Home Emergency Plan and the licensing regulations promulgated herein. The plan shall be designed to manage the consequences of all hazards, declared disasters or other emergencies that either have the potential to disrupt and/or actually disrupt the nursing facility's ability to provide care and treatment or threatens the lives or safety of the residents. The nursing facility shall follow and execute its emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency.

1. All nursing facilities located in the parishes named in R.S. 40:2009.25(A) shall submit their emergency preparedness information and documentation to the department for review. Upon request, all other nursing facilities shall forward their emergency preparedness information and documentation to the Department of Health (LDH) for review.

2. All nursing facilities' emergency preparedness information and documentation shall, at a minimum, include:

a. a copy of the nursing facility's emergency preparedness plan;

b. updates, amendments, modifications or changes to the nursing facility's emergency preparedness plan;

c. the current census and number of licensed beds; and

d. the nursing facility location, physical street address with longitude and latitude, and current nursing facility contact information.

3. After reviewing the nursing facility's plan, if the department determines that the plan does not comply with the current minimum licensing requirements or does not promote the health, safety and welfare of the nursing facility's residents, the nursing facility shall, within 10 days of notification, respond with an acceptable plan of correction to amend its emergency preparedness plan.

B. A nursing facility shall enter current nursing facility information into Mstat or into the current LDH emergency preparedness webpage or electronic database for reporting.

1. The following information shall be entered or updated into Mstat or into the current LDH emergency

preparedness webpage or electronic database for reporting before the fifteenth of each month:

a. operational status;

b. census;

c. emergency contact and destination location information;

d. emergency evacuation transportation needs categorized by the following types:

i. red—high risk patients will need to be transported by advanced life support ambulance due to dependency on mechanical or electrical life sustaining devices or very critical medical condition;

ii. yellow—residents who are not dependent on mechanical or electrical life sustaining devices, but cannot be transported using normal means (buses, vans, cars), may need to be transported by an ambulance. However, in the event of inaccessibility of medical transport, buses, vans or cars may be used as a last resort; or

iii. green—residents who need no specialized transportation may be transported by car, van, bus or wheelchair accessible transportation.

2. A nursing facility shall also enter or update the nursing facility's information upon request, or as described per notification of an emergency declared by the secretary. Emergency events include, but are not limited to hurricanes, floods, fires, chemical or biological hazards, power outages, tornados, tropical storms and severe weather.

3. Effective immediately, upon notification of an emergency declared by the secretary, all nursing facilities shall file an electronic report with Mstat or into the current LDH emergency preparedness webpage or electronic database for reporting.

a. The electronic report shall be filed, as prescribed by the LDH, throughout the duration of the emergency declaration.

b. The electronic report shall include, but is not limited to, the following:

i. status of operation;

ii. availability of beds;

iii. generator status;

iv. evacuation status;

v. shelter in place status; and

vi. other information requested by the department.

NOTE: The electronic report shall not be used to request resources or to report emergency events.

C. The emergency preparedness plan shall be individualized and site specific. All information included in the plan or submitted with the plan shall be current and correct. At a minimum, the nursing facility shall have a written emergency plan that addresses:

1. the procedures and criteria used for determining when the nursing facility will evacuate, including a listing of specific evacuation determinations for those procedures and criteria;

2. the procedures and criteria used for determining when the nursing facility will shelter in place, including a listing of specific sheltering in place determinations for those procedures and criteria;

3. a primary sheltering host site(s) and alternative sheltering host site(s) outside the area of risk;

a. these host sites shall be verified by written agreements or contracts that have been signed and dated by all parties;

b. these agreements or contracts shall be verified in writing annually; and

c. the nursing facility shall accept only that number of residents for which it is licensed unless prior written approval has been secured from the department or if the nursing facility is acting as a host site during a declared emergency;

4. the policies and procedures for mandatory evacuations shall provide that if the state, parish, or local Office of Homeland Security and Emergency Preparedness (OHSEP) orders a mandatory evacuation of the parish or area in which the nursing facility is located, the nursing facility shall evacuate unless the nursing facility receives a written exemption from the ordering authority prior to the mandated evacuation;

5. the monitoring of emergency alerts or notifications including weather warnings and watches as well as evacuation orders from local and state emergency preparedness officials:

a. this monitoring plan shall identify who will perform the monitoring, what equipment will be used for monitoring, and who should be contacted if needed; and

b. the nursing facility shall have plans for monitoring during normal daily operations, when sheltering in place or during evacuations;

6. the delivery of essential care and services to residents, whether the residents are housed in the nursing facility, at an off-site location, or when additional residents are housed in the nursing facility during an emergency;

7. the provisions for the management of staff, including provisions for sufficient qualified staff as well as for distribution and assignment of responsibilities and functions, either within the nursing facility or at another location;

8. an executable plan for coordinating transportation services that are sufficient for the resident census and staff. The vehicles required for evacuating residents to another location that are equipped with temperature controls shall be used when available. The plan shall include the following information:

a. a triage system to identify residents who require specialized transportation and medical needs including the number of residents who need:

i. red—high risk patients will need to be transported by advanced life support ambulance due to dependency on mechanical or electrical life sustaining devices or very critical medical condition;

ii. yellow—residents who are not dependent on mechanical or electrical life sustaining devices, but cannot be transported using normal means (buses, vans, cars), may need to be transported by an ambulance. However, in the event of inaccessibility of medical transport, buses, vans or cars may be used as a last resort; or

iii. green—residents who need no specialized transportation may be transported by car, van, bus or wheelchair accessible transportation;

b. a written transportation contract(s) for the evacuation of residents and staff to a safe location outside the area of risk that is signed and dated by all parties. Vehicles that are owned by, or are at the disposal of the nursing facility, shall have written usage agreements that are

signed, dated and shall include verification of ownership; and

i. the number and type of vehicles;

ii. the capacity of each vehicle;

iii. a statement of whether each vehicle is equipped with temperature controls; and

c. plans to prevent and treat heat related medical illnesses due to the failure of, or the lack of, temperature controls during transport.

NOTE: A copy of a vehicle's title or registration will be sufficient for verification of ownership.

9. the procedures to notify the resident's family or responsible representative of the nursing facility's intent to either shelter in place or evacuate. The nursing facility shall have a designee(s) who is responsible for this notification. If the nursing facility evacuates, notification shall include:

a. the date and approximate time that the nursing facility is evacuating;

b. the place or location to which the nursing facility is evacuating, including the:

i. name;

ii. address; and

iii. telephone number;

c. a telephone number that the family or responsible representative may call for information regarding the nursing facility's evacuation; and

d. notification to the resident's family, legal representative, or designated contact shall be made as far in advance as possible, but at least within 24 hours of the determination to shelter in place or after evacuation when communication is available;

10. the procedures or methods that will be used to directly attach identification to the nursing facility resident. The nursing facility shall designate a staff person to be responsible for this identification procedure. This identification shall remain directly attached to the resident during all phases of an evacuation and shall include the following minimum information, including but not limited to:

a. current and active diagnosis;

b. medications, including dosage and times administered;

c. allergies;

d. special dietary needs or restrictions; and

e. next of kin, including contact information;

11. the nursing facility shall designate a staff person who is responsible for ensuring that a sufficient supply of the following items accompanies residents on buses or other transportation during all phases of evacuation:

a. water;

b. food;

c. nutritional supplies and supplements;

d. medication(s); and

e. other necessary supplies;

12. the procedures for ensuring that all residents have access to licensed nursing staff and that appropriate nursing services are provided during all phases of the evacuation, including transport of residents:

a. for buses or vehicles transporting 15 or more residents, licensed nursing staff shall accompany the residents on the bus or vehicle;

b. a licensed therapist(s) or paramedic may substitute for licensed nursing staff;

13. staffing patterns for sheltering in place and for evacuation, including contact information for such staff;

14. a plan for sheltering in place if the nursing facility determines that sheltering in place is appropriate:

a. if the nursing facility shelters in place, the nursing facility's plan shall ensure that seven days of necessary supplies are on hand or have written agreements, including timelines, to have supplies delivered prior to the emergency event. Supplies should include, but are not limited to:

i. drinking water or fluids, a minimum of 1 gallon per day per person sheltering at the nursing facility;

ii. water for sanitation;

iii. non-perishable food, including special diets;

iv. medications;

v. medical supplies;

vi. personal hygiene supplies; and

vii. sanitary supplies;

b. if the nursing facility shelters in place, the nursing facility's plan shall provide for a posted communications plan for contacting emergency services and monitoring emergency broadcasts. The nursing facility shall designate a staff person to be responsible for this function. The communication plan shall include:

i. the type of equipment to be used;

ii. back-up equipment to be used if available;

iii. the equipment's testing schedule; and

iv. the power supply for the equipment being used;

c. the nursing facility's plan shall include a statement indicating whether the nursing facility has a generator for sheltering in place. If the nursing facility has such a generator, the plan shall provide for a seven day supply of fuel, either on hand or delivered prior to the emergency event. If the nursing facility has such a generator, the plan shall provide a list of the generator's capabilities including:

i. its ability to provide cooling or heating for all or designated areas in the nursing facility;

ii. the ability to power an OPH approved sewerage system;

iii. the ability to power an OPH approved water system;

iv. the ability to power medical equipment;

v. the ability to power refrigeration;

vi. the ability to power lights; and

vii. the ability to power communications;

d. an assessment of the integrity of the nursing facility's building to include, but not be limited to:

i. wind load or ability to withstand wind;

ii. flood zone and flood plain information;

iii. power failure;

iv. age of building and type of construction; and

v. determinations of, and locations of interior safe zones;

e. plans for preventing and treating heat related medical illnesses due to the failure of or the lack of air conditioning while sheltering in place;

f. the nursing facility's plan shall include instructions to notify OHSEP and LDH of the nursing facility's plan to shelter in place; and

g. the nursing facility shall provide to LDH a list of residents sheltering in place;

15. those nursing facilities that are subject to the provisions of R.S. 40:2009.25(A) shall perform a risk assessment to determine the nursing facility's integrity. The integrity of the nursing facility and all relevant and available information shall be used in determining whether sheltering in place is appropriate. All elevations shall be given in reference to sea level or adjacent grade as appropriate. The assessment shall be reviewed and updated annually. The risk assessment shall include the nursing facility's determinations and the following documentation:

a. the nursing facility's latitude and longitude;

b. flood zone determination for the nursing facility and base flood elevation, if available:

i. the nursing facility shall evaluate how these factors will affect the building;

c. elevations of the building(s), heating ventilation and air conditioning (HVAC) system(s), generator(s), fuel storage, electrical service, water system and sewer motor, if applicable:

i. the nursing facility shall evaluate how these factors will affect the nursing facility considering projected flood and surge water depths;

d. an evaluation of the building to determine its ability to withstand wind and flood hazards to include:

i. the construction type and age;

ii. roof type and wind load;

iii. windows, shutters and wind load;

iv. wind load of shelter building; and

v. location of interior safe zones;

e. an evaluation of each generator's fuel source(s), including refueling plans, fuel consumption rate and a statement that the output of the generator(s) will meet the electrical load or demand of the required (or designated) emergency equipment;

f. the determinations of an evaluation of surroundings, including lay-down hazards or objects that could fall on the building and hazardous materials, such as:

i. trees;

ii. towers;

iii. storage tanks;

iv. other buildings;

v. pipe lines;

vi. chemical and biological hazards; and

vii. fuels;

g. sea, lake and overland surge from hurricanes (SLOSH) modeling using the maximum's of the maximum envelope of waters (MOM) for the nursing facility's specific location and the findings for all categories of hurricanes. The nursing facility's plan shall include an evaluation of how this will or will not affect the nursing facility;

16. the nursing facility's plan shall provide for an evaluation of security risks and corresponding security precautions that will be taken for protecting residents, staff and supplies during and after an emergency event;

17. the nursing facility's plan shall include clearly labeled and legible floor plan(s) of the nursing facility's building(s). The nursing facility's plan shall include the following:

a. the areas being used as shelter or safe zones;

b. the supply and emergency supply storage areas;

c. the emergency power outlets;

d. the communications center;

e. the location of the posted emergency plan:

i. the posted location shall be easily accessible to staff; and

f. a pre-designated command post.

D. Emergency Plan Activation, Review and Summary

1. The nursing facility's shelter in place plan and evacuation plan shall each be activated at least annually, either in response to an emergency or in a planned drill. The nursing facility's performance during the activation of the plan shall be evaluated and documented. The plan shall be revised if a need is indicated by the nursing facility's performance during the emergency event or the planned drill.

2. Nursing facilities subject to the provisions of R.S. 40:2009.25(B) shall submit a summary of the updated plan to the department's nursing facility emergency preparedness manager by March 1 of each year. If changes are made during the year, a summary of the amended plan shall be submitted within 30 days of the modification. All agreements and contracts shall be verified by all parties annually and submitted.

E. The nursing facility's plan shall be submitted to the parish or local OHSEP annually. Any recommendations by the parish or local OHSEP regarding the nursing facility's plan shall be documented and addressed by the nursing facility.

1. For nursing facilities, the following requirements shall be met:

a. The nursing facility's plan shall include verification of its submission to the parish or local OHSEP.

b. A copy of any and all response(s) by the nursing facility to the local or parish OHSEP recommendations shall be forwarded to LDH nursing facility emergency preparedness manager.

F. The plan shall be available to representatives of the Office of the State Fire Marshal and the Office of Public Health.

G. The nursing facility's plan shall follow all applicable laws, standards, rules or regulations.

H. Evacuation, Temporary Relocation or Temporary Cessation

1. The following applies to any nursing facility that evacuates, temporarily relocates or temporarily ceases operation at its licensed location due to an emergency.

a. The nursing facility shall immediately give written notice to HSS by hand delivery, facsimile or email of the following information:

i. the date and approximate time of the evacuation;

ii. the sheltering host site(s) to which the nursing facility is evacuating; and

iii. a list of residents being evacuated, which shall indicate the evacuation site for each resident.

b. Within 48 hours, the nursing facility shall notify the HSS of any deviations from the intended sheltering host site(s) and shall provide HSS with a list of all residents and their locations.

c. If there was no damage to the licensed location due to the emergency and there was no power outage of HVAC (either through regular service or generator) of more than 48 hours at the licensed location due to the emergency event, the nursing facility may reopen at its licensed location

and shall notify HSS within 24 hours of reopening. The nursing facility shall comply with OPH and OSFM and have clearance from the local office of emergency preparedness.

d. For all other evacuations, temporary relocations, or temporary cessation of operations due to an emergency event, a nursing facility shall submit to Health Standards a written request to reopen, prior to reopening at the licensed location. That request shall include:

i. damage report;

ii. extent and duration of any power outages;

iii. re-entry census;

iv. staffing availability;

v. access to emergency or hospital services; and

vi. availability and/or access to food, water, medications and supplies.

2. Upon receipt of a reopening request, the department shall review and determine if reopening will be approved. The department may request additional information from the nursing facility as necessary to make determinations regarding reopening.

3. After review of all documentation, the department shall issue a notice of one of the following determinations:

a. approval of reopening without survey;

b. surveys required before approval to reopen will be granted. This may include surveys by the OPH, OSFM and HSS; or

c. denial of reopening.

4. The purpose of the surveys referenced above is to assure that the nursing facility is in compliance with the licensing standards including, but not limited to, the structural soundness of the building, the sanitation code, staffing requirements and the execution of emergency plans.

a. The Health Standards Section, in coordination with state and parish OHSEP, will determine the nursing facility's access to the community service infrastructure, such as hospitals, transportation, physicians, professional services and necessary supplies.

b. The Health Standards Section will give priority to reopening surveys.

5. Upon request by the department, the nursing facility shall submit a written summary attesting how the nursing facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of all injuries and deaths of residents that occurred during execution of the plan, evacuation and temporary relocation including the date, time, causes and circumstances of the injuries and deaths.

I. Sheltering in Place If a nursing facility shelters in place at its licensed location during an emergency event, the following will apply.

1. Upon request by the department, the nursing facility shall submit a written summary attesting how the nursing facility's emergency preparedness plan was followed and executed. The initial summary shall contain, at a minimum:

a. pertinent plan provisions and how the plan was followed and executed;

b. plan provisions that were not followed;

c. reasons and mitigating circumstances for failure to follow and execute certain plan provisions;

d. contingency arrangements made for those plan provisions not followed; and

e. a list of all injuries and deaths of residents that occurred during the execution of the plan, including the date, time, causes and circumstances of these injuries and deaths.

J. Unlicensed Sheltering Sites

1. In the event that a nursing facility evacuates, temporarily relocates or temporarily ceases operations at its licensed location due to an emergency event, the nursing facility shall be allowed to remain at an unlicensed sheltering site for a maximum of five days. A nursing facility may request one extension, not to exceed 15 days, to remain at the unlicensed sheltering site.

a. The request shall be submitted in writing to HSS and shall be based upon information that the nursing facility's residents will return to its licensed location, or be placed in alternate licensed nursing facility beds within the extension period requested.

b. The extension shall only be granted for good cause shown and for circumstances beyond the control of the nursing facility.

c. This extension shall be granted only if essential care and services to residents are ensured at the current sheltering facility.

2. Upon expiration of the five days or upon expiration of the written extension granted to the nursing facility, all residents shall be relocated to a licensed nursing facility and HSS and OHSEP shall be informed of the residents' new location(s).

K. Inactivation of License due to Declared Disaster or Emergency

1. A licensed nursing facility in an area or areas which have been affected by an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed two years, provided that the following conditions are met:

a. the licensed nursing facility shall submit written notification to HSS within 60 days of the date of the executive order or proclamation of emergency or disaster that:

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

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

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

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

b. the licensed nursing facility resumes operating as a nursing facility in the same service area within two years of the approval of construction plans by all required agencies upon issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

c. the licensed nursing facility continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

d. the licensed nursing facility continues to submit required documentation and information to the department, including but not limited to cost reports.

2. Upon receiving a completed written request to inactivate a nursing facility license, the department shall issue a notice of inactivation of license to the nursing facility.

3. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a nursing facility which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

a. the nursing facility shall submit a written license reinstatement request to the licensing agency of the department within two years of the Executive Order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

b. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing survey; and

c. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

4. Upon receiving a completed written request to reinstate a nursing facility license, the department shall conduct a licensing survey. If the nursing facility meets the requirements for licensure and the requirements under this Subsection, the department shall issue a notice of reinstatement of the nursing facility license. The licensed bed capacity of the reinstated license shall not exceed the licensed bed capacity of the nursing facility at the time of the request to inactivate the license.

5. No change of ownership in the nursing facility shall occur until such nursing facility has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a nursing facility.

6. The provisions of this Subsection shall not apply to a nursing facility which has voluntarily surrendered its license and ceased operation.

7. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the nursing facility license.

L. Inactivation of License due to Non-Declared Emergency or Disaster

1. A licensed nursing facility in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

a. the licensed nursing facility shall submit written notification to the Health Standards Section within 30 days of the date of the non-declared emergency or disaster stating that:

i. the licensed nursing facility has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

ii. the licensed nursing facility intends to resume operation as a nursing facility in the same service area;

iii. the licensed nursing facility attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

iv. the licensed nursing facility's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility;

NOTE: Pursuant to these provisions, an extension of the 30 day deadline for initiation of request may be granted at the discretion of the department.

b. the licensed nursing facility continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

c. the licensed nursing facility continues to submit required documentation and information to the department, including but not limited to cost reports.

2. Upon receiving a completed written request to temporarily inactivate a nursing facility license, the department shall issue a notice of inactivation of license to the nursing facility.

3. Upon facility's receipt of the department's approval of request to inactivate the facility's license, the facility shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility to the OSFM and the OPH as required.

4. The licensed nursing facility shall resume operating as a nursing facility in the same service area within one year of the approval of renovation/construction plans by OSFM and OPH as required. Exception: If the facility requires an extension of this timeframe due to circumstances beyond the facility's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show facility's active efforts to complete construction or repairs and the reasons for request for extension of facility's inactive license. Any approvals for extension are at the sole discretion of the department.

5. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a nursing facility which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

a. the nursing facility shall submit a written license reinstatement request to the licensing agency of the department;

b. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey; and

c. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

6. Upon receiving a completed written request to reinstate a nursing facility license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the facility has met the requirements for licensure including the requirements of this Subsection.

NOTE: The licensed bed capacity of the reinstated license shall not exceed the licensed bed capacity of the nursing facility at the time of the request to temporarily inactivate the license.

7. No change of ownership in the nursing facility shall occur until such nursing facility has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a nursing facility.

8. The provisions of this Subsection shall not apply to a nursing facility which has voluntarily surrendered its license and ceased operation.

9. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the nursing facility license.

M. Temporary Inactivation of Licensed Nursing Facility Beds Due to Major Alterations

1. A licensed nursing facility which is undergoing major alterations to its physical plant may request a temporary inactivation of a certain number of licensed beds providing that:

a. the nursing facility submits a written request to the licensing agency of the department seeking temporary inactivation of a certain number of its licensed bed capacity. Such written request shall include the following:

i. that the nursing facility has experienced or will experience a temporary interruption in the provisions of services to its licensed bed capacity as a result of major alterations;

ii. an attestation that the renovations are the sole causal factor in the request for temporary inactivation of a certain number of its licensed beds;

iii. the anticipated start date of the temporary inactivation of a certain number of licensed beds;

iv. the anticipated end date of the temporary inactivation of a certain number of licensed beds; and

v. the number of licensed beds requested to be inactivated temporarily;

b. the nursing facility ensures the health, safety and welfare of each resident during the major alterations; and

c. the nursing facility continues to provide, and each resident continues to receive, the necessary care and services to attain or maintain the resident's highest practicable physical, mental, and psychosocial well-being, in accordance with each resident's comprehensive assessment and plan of care.

2. Upon receiving a completed written request for temporary inactivation of a certain number of the licensed bed capacity of a nursing facility, the department shall issue a notice of temporary inactivation of a certain number of the nursing facility's licensed beds.

3. No change of ownership in the nursing facility shall occur until such nursing facility has completed the major alterations and has resumed operating at prior approved licensed bed capacity.

4. Upon completion of the major alterations and receiving a completed written request to reinstate the number of licensed beds of a nursing facility, the department may conduct a physical environment survey. If the nursing facility meets the requirements for licensure and the requirements under this Subsection, the department may issue a notice of reinstatement of the nursing facility licensed bed capacity.

NOTE: The licensed bed capacity after major alterations are completed shall not exceed the licensed bed capacity of the nursing facility at the time of the request to temporarily inactivate a certain number of its licensed bed capacity prior to renovations.

5. The provisions of this Subsection shall not apply to a nursing facility which has voluntarily surrendered its license and ceased operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1905 (November 2016).

Subchapter C. Resident Rights

§9775. Transfer and/or Discharge of the Resident

A. Voluntary Individual Transfer or Discharge. The nursing facility shall provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the nursing facility to the receiving entity. The information in the transferred and/or discharged resident's care plan, MDS, any mental health and/or psychosocial assessments and/or evaluations and discharge plan shall be submitted to the individual or institution into whose care the resident is being discharged

B. Involuntary Transfer or Discharge. The nursing facility shall permit each resident to remain in the nursing facility, and shall not transfer or discharge the resident from the nursing facility unless:

1. the transfer or discharge is necessary for the resident's welfare and/or the resident's needs cannot be met in the nursing facility;

2. the transfer or discharge is appropriate because the resident's health has improved sufficiently such that the resident no longer needs the services provided by the nursing facility;

3. the safety and health of individuals in the nursing facility is endangered by the resident to be transferred or discharged;

4. the resident has failed, after reasonable and appropriate notice, to pay for services rendered by the nursing facility;

5. the nursing facility ceases to operate.

C. Notice before Involuntary Transfer or Discharge. Before a nursing facility involuntary transfers or discharges a resident, the nursing facility shall:

1. notify the resident, and if known, a family member or legal representative of the resident, of the transfer or discharge and the reasons for the move in writing and in a language and manner easily understood;

2. record the reasons in the resident's clinical record;

3. timing of the notice. The notice of transfer or discharge shall be made by the nursing facility at least 30 days before the resident is transferred or discharged;

4. notice may be made as soon as practicable before transfer or discharge when:

a. the safety and health of the individuals in the nursing facility would be endangered;

b. the resident's health improves sufficiently to allow a more immediate transfer or discharge;

c. an immediate transfer or discharge is required by the resident's urgent medical needs; or

d. a resident has not resided in the nursing facility for 30 days;

NOTE: In nursing facilities not certified to provide services under Title XVIII or Title XIX of the Social Security Act, the advance notice period may be shortened to fifteen days for nonpayment of a bill for a stay at the nursing facility.

5. contents of the notice. The written notice to the resident and/or resident's representative (if applicable) of involuntary discharge or transfer shall include the following information:

a. the reason for transfer or discharge;

b. the effective date of transfer or discharge;

c. the location to which the resident is to be transferred or discharged;

d. a statement that the resident has the right to appeal the action to the state. The address, phone number and hours of operation of the Division of Administrative Law or its successor;

e. the name, address and telephone number of the state long term care ombudsman;

f. for nursing facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of individuals with developmental disabilities; and

g. for nursing facility residents with mental illness, the mailing address and telephone number of the agency responsible for the protection and advocacy of individuals with mental illness established under the Protection and Advocacy for Mentally Ill Individuals Act;

6. the nursing facility shall transmit a copy of the involuntary transfer/discharge notice to the local long-term care ombudsman program.

D. Transfer. The nursing facility shall ensure that the transfer or discharge is effectuated in a safe and orderly manner. The resident and his/her legal representative or interested family member, if known and available, shall be consulted in choosing another nursing facility if nursing facility placement is required.

E. Appeal of Involuntary Discharge or Transfer. The resident, or his/her legal representative or designated contact, if known and available, has the right to appeal any transfer or discharge to the Division of Administrative Law, which shall provide a fair hearing in all such appeals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1911 (November 2016).

§9777. Statement of Rights and Responsibilities

A. In accordance with R.S. 40:2010.6 et seq., all nursing facilities shall adopt and make public a statement of the rights and responsibilities of the residents residing therein and shall treat such residents in accordance with the provisions of the statement. The statement shall assure each resident the following:

1. the right to civil and religious liberties, including but not limited to:

a. knowledge of available choices;

b. the right to independent personal decision; and

c. the right to encouragement and assistance from the staff of the nursing facility in the fullest possible exercise of these civil and religious rights;

2. the right to private and uncensored communications, including but not limited to:

a. receiving and sending unopened correspondence;

b. access to a telephone;

c. visitation with any person of the resident's choice; and

d. overnight visitation outside the nursing facility with family and friends in accordance with nursing facility policies, and physician orders without the loss of his bed:

i. nursing facility visiting hours shall be flexible, taking into consideration special circumstances such as out of town visitors and working relatives or friends;

ii. with the consent of the resident and in accordance with the policies approved by the Department of Health, the facility shall permit recognized volunteer groups, representatives of community based legal, social, mental health, and leisure and planning programs, and members of the clergy access to the facility during visiting hours for the purpose of visiting with and providing services to any resident;

3. the right to be granted immediate access to the following:

a. any representative of the secretary of the United States Department of Health and Human Services;

b. any representative of the state acting pursuant to his duties and responsibilities under state or federal law;

c. the resident's individual physician;

d. the state long term care ombudsman;

e. the agency responsible for the protection and the advocacy system for individuals with developmental disabilities;

f. the agency responsible for the protection and the advocacy system for individuals with mental illness;

g. immediate family members, other relatives of the resident, and the resident's clergy subject to the resident's right to deny or withdraw consent at any time;

h. others who are visiting with the consent of the resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time;

i. reasonable access to any resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time; and

j. reasonable restrictions imposed by the nursing facility, Department of Public Safety and Corrections, or the court that protect the welfare and safety of all the nursing facility's residents. The nursing facility may change the location of visits to assist care giving or protect the privacy of other residents;

4. the right to present grievances on behalf of himself or others to the nursing facility's staff or administrator, to governmental officials, or to any other person; to recommend changes in policies and services to nursing facility personnel; and to join with other residents or individuals within or outside the facility to work for improvements in resident care, free from restraint, interference, coercion, discrimination or reprisal. This right includes access to the resident's sponsor and the Department of Health; and the right to be a member of, to be active in, and to associate with advocacy or special interest groups;

5. the right to be fully informed, in writing and orally, prior to or at time of admission and during his stay, of

services not covered by the basic per diem rates and of bed reservation and refund policies of the facility;

6. the right to be fully informed, in a language that he or she can understand, of his or her total health status, including but not limited to, his or her medical conditions and proposed treatment, to participate in the planning of all medical treatment, including the right to refuse medication and treatment, and to be informed of the consequences of such actions;

7. the right to receive adequate and appropriate health care and protective and support services, including services consistent with the resident care plan, with established and recognized practice standards within the community, and with rules promulgated by LDH;

8. the right to refuse treatment and to refuse to participate in experimental research;

9. the right to formulate an advanced directive and to address life-sustaining procedures, the purpose of which is to assure that all residents have the fundamental right to control the decisions relating to their own medical care, including the decision to have life-sustaining procedures withheld or withdrawn in instances where such persons are diagnosed as having a terminal and irreversible condition. This purpose may be fulfilled by the following, non-exclusive means:

a. an advance directive executed pursuant to the provisions of R.S. 40:1151 et seq., defined as a declaration by a resident which instructs his/her physician to withhold or withdraw life-sustaining procedures or designates another to make the treatment decision and to make such a declaration for him;

b. Louisiana physician order for scope of treatment (LaPOST), executed pursuant to the provisions of R.S. 40:1155.1 et seq., which documents the wishes of a qualified patient in a physician order; or

c. any other means of documenting written instructions or directives, including but not limited to, a living will, durable power of attorney for health care, a medical power of attorney, a pre-existing medical order for do not resuscitate (DNR) or another document that directs the resident's health care choices related to life-sustaining treatments;

NOTE: A resident's choice to document wishes relative to withholding or withdrawal of medical treatment or life-sustaining procedures is voluntary and the provisions herein shall not be construed to compel a resident to do so and shall not be a condition of admission to a nursing facility.

10. the right to have privacy in treatment and in caring for personal needs:

a. to have closed room doors, and to have nursing facility personnel knock before entering the room, except in case of an emergency;

b. to have confidentiality in the treatment of personal and medical records;

c. to be secure in storing and using personal possessions, subject to applicable state and federal health and safety regulations and the rights of other residents; and

d. the right to privacy of the resident's body during, but not limited to toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance;

11. the right to be treated courteously, fairly, and with the fullest measure of dignity and to receive a written statement and oral explanations of the services provided by the facility, including statements and explanations required to be offered on an as needed basis;

12. the right to be free from mental and physical abuse; and the right to be free from any physical or chemical restraint imposed for the purposes of discipline or convenience, and not required to treat the resident's medical symptoms:

a. in case of an emergency, restraint may only be applied by a qualified licensed nurse, who shall set forth in writing the circumstances requiring the use of the restraint, and, in case of a chemical restraint, the attending physician shall be consulted immediately thereafter;

b. restraints shall not be used in lieu of staff supervision or merely for staff convenience or resident punishment, or for any reason other than resident protection or safety;

13. the right of the resident or his or her legal representative:

a. upon an oral or written request, to access all records pertaining to himself or herself including current clinical records within 24 hours (excluding weekends and holidays); and

b. after receipt of his or her records for inspection, to purchase at a cost not to exceed the community standard, photocopies of the records or any portions of them upon request and two working days advance notice to the nursing facility;

14. the right to select a personal physician; to obtain pharmaceutical supplies and services from a pharmacy of the resident's choice, at the resident's own expense or through title XVIII or title XIX of the Social Security Act; and to obtain information about, and to participate in, community based activities and programs, unless such participation would violate infection control or quarantine laws or regulations;

15. the right to retain and use personal clothing and possessions as space permits, unless to do so would infringe upon the rights of other residents' health and safety. Clothing need not be provided to the resident by the facility except in emergency situations. If provided, it shall be of reasonable fit;

16. the right to have copies of the nursing facility's rules and regulations and an explanation of the resident's responsibility to obey all reasonable rules and regulations of the nursing facility and of his responsibility to respect the personal rights and private property of other residents;

17. the right to be informed of the bed reservation policy for a hospitalization:

a. the nursing facility shall inform a private pay resident and his sponsor that his bed shall be reserved for any single hospitalization for a period up to 30 days, provided the nursing facility receives reimbursement;

b. notice shall be provided within 24 hours of the hospitalization;

18. the right to receive a prompt response to all reasonable requests and inquiries;

19. the right to refuse to serve as a medical research subject without jeopardizing access to appropriate medical care;

20. the right to use tobacco at his own expense under the facility's safety rules and under applicable laws and rules of the state, unless the nursing facility's written policies preclude smoking in designated areas;

21. the right to consume a reasonable amount of alcoholic beverages at his own expense, unless:

a. not medically advisable as documented in his medical record by the attending physician;

b. alcohol is contraindicated with any of the medications in the resident's current regime; or

c. expressly prohibited by published rules and regulations of a nursing facility owned and operated by a religious denomination which has abstinence from the consumption of alcoholic beverages as a part of its religious belief;

22. the right to retire and rise in accordance with the resident's personal preference; and

23. the right to have any significant change in health status immediately reported to the resident and his/her legal representative or interested family member, if known and available, as soon as such a change is known to the facility's staff.

B. A sponsor may act on a resident's behalf to assure that the nursing facility does not deny the resident's rights under the provisions of R.S. 40:2010.6 et seq., and no right enumerated therein may be waived for any reason whatsoever.

C. Each nursing facility shall provide a copy of the statement required by R.S. 40:2010.8(A) to each resident and sponsor upon or before the resident's admission to the facility and to each staff member of the facility. The statement shall also advise the resident and his sponsor that the nursing facility is not responsible for the actions or inactions of other persons or entities not employed by the nursing facility, such as the resident's treating physician, pharmacists, sitter, or other such persons or entities employed or selected by the resident or his sponsor. Each facility shall prepare a written plan and provide appropriate staff training to implement the provisions of R.S. 40:2010.6 et seq., including, but not limited to, an explanation of the following:

1. the residents' rights and the staff's responsibilities in the implementation of those rights; and

2. the staff's obligation to provide all residents who have similar needs with comparable services as required by state licensing standards.

D. The nursing facility shall inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the nursing facility. The nursing facility shall provide such notification prior to or upon admission and during the resident's stay. Receipt of such information, and any amendments to it, shall be acknowledged in writing.

E. The nursing facility shall inform each resident before or at the time of admission, and periodically in the nursing facility and of charges for those services, including any charges for services not covered under Medicare or by the nursing facility's per diem rate.

F. The nursing facility shall notify the resident and the resident's legal representative or sponsor when there is a change in room or roommate assignment. Notification shall be given at least 24 hours before the change and a reason for the move shall be given to all parties. Documentation of this shall be entered in the medical record.

G. Involuntary Admittance. Residents shall not be forced to enter or remain in a nursing facility against their will unless they have been judicially interdicted.

H. Room-to-Room Transfer (Intra-Nursing Facility). The resident or curator and responsible party shall receive at least a 24-hour notice before the room of the resident is changed. A reason for the move will be given to resident and curator/responsible party.

1. Documentation of all of this information will be entered in the medical record.

2. A resident has the right to receive notice when their roommate is changed.

NOTE: The resident has the right to relocate prior to the expiration of the 24 hours' notice if this change is agreeable to the resident.

I. Any violations of the residents' rights set forth in R.S. 40:2010.6 et seq., shall constitute grounds for appropriate action by the Department of Health.

1. Residents shall have a private right of action to enforce these rights, as set forth in R.S. 40:2010.9. The state courts shall have jurisdiction to enjoin a violation of residents' rights and to assess fines for violations not to exceed 100 dollars per individual violation.

2. In order to determine whether a facility is adequately protecting residents' rights, inspection of the facility by LDH shall include private, informal conversations with a sample of residents to discuss residents' experiences within the facility with respect to the rights specified in R.S. 40:2010.6 et seq., and with respect to compliance with departmental standards.

J. Any person who submits or reports a complaint concerning a suspected violation of residents' rights or concerning services or conditions in a home or health care facility or who testifies in any administrative or judicial proceedings arising from such complaint shall have immunity from any criminal or civil liability therefore, unless that person has acted in bad faith with malicious purpose, or if the court finds that there was an absence of a justifiable issue of either law or fact raised by the complaining party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1912 (November 2016).

§9779. Resident Personal Fund Account

A. The resident has the right to manage his/her financial affairs, and the facility may not require residents to deposit their personal funds with the facility.

B. Upon written authorization of a resident, the facility shall hold, safeguard, manage, and account for the personal funds of the resident deposited with the facility.

C. Deposit of Funds

1. Funds in Excess of $50. The facility shall deposit any residents' personal funds in excess of $50 in an interest-bearing account (or accounts) that is separate from any of

the facility's operating accounts, and that credits all interest earned on resident's funds to that account.

2. Funds Less Than $50. The facility shall maintain a resident's personal funds that do not exceed $50 in a non-interest-bearing account, interest-bearing account, or petty cash fund.

D. Resident Access to Personal Funds Held by Facility. A resident shall have access to facility held funds on an on-going basis and be able to arrange for access to larger funds.

1. Requests for less than $50 shall be honored within the same day.

2. Requests for $50 or more shall be honored within three banking days.

E. Accounting and Records. The facility shall establish and maintain a system that assures a full and complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the facility on the resident's behalf.

1. The system shall preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident.

2. The individual financial record shall be available through quarterly statements and on request to the resident or his or her legal representative.

F. Conveyance upon Transfer or Discharge. Upon discharge or transfer of a resident from the facility, the provider shall not withhold personal fund account monies in lieu of payment for any outstanding balance owed by a resident unto the provider.

G. Conveyance upon Death of a Resident. Upon the death of a resident with a personal fund deposited with the facility, the facility shall convey within 30 days the resident's funds and a final accounting of those funds to the individual or probate jurisdiction administering the resident's estate.

H. Assurance of Financial Security. The facility shall purchase a surety bond, or otherwise provide assurance satisfactory to the secretary, to assure the security of all personal funds of residents deposited with the facility.

I. Account Agreement

1. A nursing facility resident, with a personal fund account managed by the nursing facility, may sign an account agreement acknowledging that any funds deposited into the personal fund account by, or on the resident's behalf, are jointly owned by the resident and his legal representative or next of kin. The account agreement shall state that the:

a. funds in the account shall be jointly owned with the right of survivorship;

b. funds in the account shall be used by, for, or on behalf of the resident;

c. resident or the joint owner may deposit funds into the account; and

d. resident or joint owner may endorse any check, draft or other instrument to the order of any joint owner, for deposit into the account.

2. If a valid account agreement has been executed by the resident, upon the resident's death, the nursing facility shall transfer the funds in the resident's personal fund account to the joint owner within 30 days of the resident's death. This provision only applies to personal fund accounts not in excess of $2,000.

3. If a valid account agreement has not been executed, or if the personal fund account is in excess of $2,000, upon the resident's death, the nursing facility shall comply with the federal and state laws and regulations regarding the disbursement of funds in the account and the properties of the deceased.

4. The provisions of this section shall have no effect on federal or state tax obligations or liabilities of the deceased resident's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions.

J. Nursing Facility Residents' Burial Insurance Policy. With the resident's permission, the nursing facility administrator or designee may assist the resident in acquiring a burial policy, provided that the administrator, designee, or affiliated persons derive no financial or other benefit from the resident's acquisition of the policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1914 (November 2016).

Chapter 98. Nursing Facilities

Subchapter A. Physician Services

§9801. Medical Director

A. The nursing facility shall designate, pursuant to a written agreement, a physician currently holding an unrestricted license to practice medicine by the Louisiana State Board of Medical Examiners to serve as medical director.

B. The medical director is responsible for coordinating medical and behavioral health care and assisting to develop, implement and evaluate resident care policies and procedures that reflect current standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1915 (November 2016).

§9803. Physician Supervision

A. A resident shall be admitted to the nursing facility only with an order from a physician licensed to practice medicine in Louisiana.

1. Each resident shall remain under the care of a physician licensed to practice medicine in Louisiana and shall have freedom of choice in selecting his/her attending physician.

2. The nursing facility shall be responsible for assisting in obtaining an attending physician with the resident's or sponsor's approval when the resident or sponsor is unable to find one.

B. Another physician supervises the medical care of residents when their attending physician is unavailable.

C. Any required physician task may also be satisfied when performed by an advanced practice registered nurse or physician assistant who is not an employee of the nursing facility but who is working under the direction and

supervision of a physician and/or in collaboration with a physician.

D. The nursing facility shall provide or arrange for the provision of physician services 24 hours a day, seven days a week, in case of emergency.

E. The name and telephone numbers of the attending physicians and the physicians to be called in case of emergency when the attending physician is not available shall be readily available to nursing personnel. Upon request, the telephone numbers of the attending physician or his/her replacement in case of emergency shall be provided to the resident, resident's representative, if applicable and/or sponsor, guardian, or designated contact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1915 (November 2016).

§9805. Physician Visits and Responsibilities

A. Admissions

1. At the time each resident is admitted, the nursing facility shall have attending physician orders for the resident's immediate care. At a minimum, these orders shall consist of dietary, pharmacy, and routine nursing care to maintain or improve the resident's functional abilities.

2. If the orders are from a physician other than the resident's attending physician, they shall be communicated to the attending physician and verification shall be entered into the resident's clinical record by the nurse who took the orders.

3. A physical examination shall be performed by the attending physician within 72 hours after admission unless such examination was performed within 30 days prior to admission with the following exceptions:

a. if the physical examination was performed by another physician, the attending physician may attest to its accuracy by countersigning it and placing a copy in the resident's record; or

b. if the resident is transferring from another nursing facility with the same attending physician, a copy of all previous examinations may be obtained from the transferring nursing facility with the attending physician initialing its new date. The clinical history and physical examination, together with diagnoses shall be in the resident's medical record;

c. the physical examination shall include TB testing/screening as required by the current LAC *Title 51*, *Public Health—Sanitary Code*, Chapter 5 for all persons admitted to nursing facilities.

B. Each resident shall be seen by his/her attending physician at intervals to meet the holistic needs of the resident but at least annually.

C. At each visit, the attending physician shall write, date and sign progress notes.

D. The physician's treatment plan (physician's orders) shall be reviewed by the attending physician at least once annually.

E. Physician telephone/verbal orders shall be received only by physicians, pharmacists, licensed nurses, or licensed therapists, who within the scope of their practice, are allowed to receive physician's orders. These orders shall be reduced to writing in the resident's clinical record and signed and dated by the authorized individual receiving the order. Telephone/verbal orders shall be countersigned by the physician within seven days.

F. Use of signature stamps by physicians is allowed when the signature stamp is authorized by the individual whose signature the stamp represents. The administrative office of the nursing facility shall have on file a signed statement to the effect that the physician is the only one who has the stamp and uses it. There shall be no delegation of signature stamps to another individual.

G. At the option of the nursing facility attending physician, any required physician task in a nursing facility may also be satisfied when performed by an advanced practice registered nurse in collaboration with a physician, or physician assistant who is working under the direction and supervision of an attending physician, pursuant to his/her licensing board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1916 (November 2016).

§9807. Standing Orders

A. Physician's standing orders are permissible but shall be individualized, taking into consideration such things as drug allergies and the pertinent physical condition of the resident.

B. Utilization of over-the-counter drugs shall be documented on the physician's standing orders.

C. Controlled or prescription drugs shall not be on standing orders, and shall be an individual order reduced to writing on the physician's order sheet as either a routine or pro re nata (PRN) order. Each order shall include the following:

1. name of the medication;
2. strength of the medication;
3. specific dose of the medication (not a dose range);
4. route of administration;
5. reason for administration;
6. time interval between doses for administering the medication;
7. maximum dosage or number of times to be administered in a specific time frame; and
8. when to notify the attending physician if the medication is not effective.

D. Standing orders shall be signed and dated by the attending physician initially and at least annually thereafter.

E. A copy of the standing orders shall be maintained in the resident's active clinical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1916 (November 2016).

Subchapter B. Nursing Services

§9821. General Provisions

A. The nursing facility shall have sufficient nursing staff to provide nursing and related services that meet the needs of each resident. The nursing facility shall assure that each resident receives treatments, medications, diets and other health services as prescribed and planned, all hours of each day.

B. Release of a Body by a Registered Nurse. In the absence of a physician in a setting other than an acute care

facility, when an anticipated death has apparently occurred, registered nurses may have the decedent removed to the designated funeral home in accordance with the standing order of a medical director/consultant setting forth basic written criteria for a reasonable determination of death. This is not applicable in cases where the death was unexpected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1916 (November 2016).

§9823. Nursing Service Personnel

A. The nursing facility shall provide a sufficient number of nursing service personnel consisting of registered nurses, licensed practical nurses, medication attendants certified, and certified nurse aides to provide nursing care to all residents in accordance with resident care plans 24 hours per day.

1. At a minimum, the nursing facility shall provide 2.35 hours of care per patient per day. The director of nursing (DON), the assistant director of nursing (ADON), and nursing department directors may be counted towards the minimum staffing requirements only for the time spent on the shift providing direct and/or hands on resident care services. A maximum of eight ward clerk hours per day can be utilized in the calculation of care hours per resident day.

2. The facility shall post the following information on a daily basis:

a. the facility name;

b. the current date;

c. the resident census; and

d. the total number and the actual hours worked by the following categories of licensed and unlicensed nursing staff directly responsible for resident care per shift:

i. registered nurses;

ii. licensed practical nurses; and

iii. certified nurse aides.

3. The facility shall post the nurse staffing data specified above on a daily basis at the beginning of each shift. The data shall be posted:

a. in a clear and readable format; and

b. in a prominent place readily accessible to residents and visitors.

4. The facility shall, upon oral or written request, make nurse staffing data available to the public for review at a cost not to exceed the community standard.

5. Nursing service personnel shall be assigned duties consistent with their education and experience, and based on the characteristics of the resident census and acuity, and nursing skills required to provide care to the residents.

6. Licensed nurse coverage shall be provided 24 hours per day in the nursing facility. The facility shall develop a policy regarding the nursing services provided by licensed nurses. The policy shall be developed in consideration of the following:

a. the physical layout of the nursing facility;

b. the acuity of the residents; and

c. the resident census.

B. Director of Nursing

1. The nursing facility shall designate a registered nurse to serve as the director of nursing services on a full-time basis during the day-tour of duty.

2. The director of nursing services may serve as charge nurse only when the nursing facility has an average daily occupancy of 60 or fewer residents.

3. The director of nursing services shall have responsibilities which include, but are not limited to:

a. supervising the functions, activities, and training of all nursing personnel;

b. developing and maintaining standard nursing practice, nursing policy and procedure manuals and written job descriptions for each level of nursing personnel;

c. coordinating nursing services with other resident services;

d. designating the charge nurses pursuant to this section;

e. ensuring that duties of all nursing personnel are clearly defined and assigned in accordance with the level of education, preparation, experience, and licensure; and

f. supervision of documentation by nursing personnel.

C. If the director of nursing services has non-nursing administrative responsibilities for the nursing facility on a regular basis, there shall be another registered nurse designated to assist in providing direction of care delivery to residents.

D. The director of nursing may serve in such capacity for only one nursing facility.

E. Charge Nurse. A registered nurse, or a qualified licensed practical nurse, shall be designated as charge nurse by the DON for each tour of duty and is responsible for supervision of the total nursing activities in the nursing facility during each tour of duty.

1. The charge nurse delegates responsibility to nursing personnel for the direct nursing care of specific residents during each tour of duty on the basis of staff qualifications, size/physical layout of the nursing facility, characteristics of resident census and acuity, and emotional, social, and nursing care needs of the residents.

F. In building complexes or multi story buildings, each building or floor housing residents shall be considered a separate nursing unit and separately staffed, exclusive of the director of nursing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1917 (November 2016).

§9825. Nursing Care

A. Each resident shall receive personal attention and nursing care and services in accordance with his/her condition and consistent with current acceptable standards of nursing practice. Each resident shall receive a comprehensive assessment, and a plan of care shall be developed to meet his/her needs. The plan of care shall be developed within 21 days of admission of the resident to the nursing facility and revised as needed to meet the initial and ongoing needs of the resident.

B. Each resident shall be kept clean, dry, well groomed, and dressed appropriately for the time of day and the environment, recognizing the resident's rights and wishes. Proper body and oral hygiene shall be maintained. Skin care shall be provided to each resident as needed to maintain skin

integrity and prevent dryness, scaling, irritation, itching and/or pressure sores.

C. Residents unable to carry out activities of daily living shall receive the necessary services to maintain good nutrition, grooming, personal and oral hygiene.

D. Other Nursing Services. Nursing services shall be provided to the resident to ensure that the needs of the resident are met. These services include the following.

1. Drug Administration. Medications shall be administered only by a licensed physician, licensed/applicant nurse, or the resident (with the approval of the interdisciplinary team as documented in the comprehensive care plan).

2. The nursing facility shall be cognizant of the mental status of the resident's roommate(s), or other potential problems which could result in abuses of any drugs used by the residents for self-administration.

3. Medications shall be administered in accordance with the nursing facility's established written procedures and the written policies of the pharmaceutical services committee to ensure the following criteria are met:

a. Drugs to be administered are checked against physician's orders.

b. The resident is identified before administering the drug.

c. All medications/treatments are administered and properly charted in accordance with standards of nursing practice. For any medications/treatments not administered, the reason for each medication/treatment omission shall be recorded in the resident's active medical record.

i. The drug dosage shall be prepared, administered and recorded by the same person.

ii. Medications prescribed for one resident shall not be administered to any other person.

iii. Medication errors and adverse drug reactions shall be immediately reported to the attending physician and recorded in the medical record.

iv. Current medication reference texts or sources shall be kept in all nursing facilities.

E. Restorative nursing care shall be provided for the residents requiring such care.

F. Assistance with eating shall be provided as needed.

G. The nursing facility shall provide the necessary care and services to prevent avoidable pressure ulcers.

H. The nursing facility shall promptly inform the resident, consult with the resident's attending physician, and if known, notify the resident's legal representative, sponsor or designated contact and maintain documentation when there is an accident which results in injury and requires physician intervention, or significant change in the resident's physical, mental or psychosocial status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1917 (November 2016).

Subchapter C. Dietetic Services

§9831. General Provisions

A. The nursing facility shall provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and dietary needs of each resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1918 (November 2016).

§9833. Dietary Service Personnel

A. The nursing facility shall employ a licensed dietitian either full-time, part-time or on a consultant basis. A minimum dietary consultation time of not less than eight hours per month shall be required to ensure nutritional needs of residents are addressed timely. There shall be documentation to support that the consultation time was given.

B. If a licensed dietitian is not employed full-time, the nursing facility shall designate a full-time person to serve as the dietary manager.

C. Residents at nutritional risk shall have a complete nutritional assessment conducted by the consulting dietitian.

D. The nursing facility shall employ sufficient competent support personnel to carry out the functions of the dietary services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1918 (November 2016).

§9835. Menus and Nutritional Adequacy

A. Menus shall be planned, approved, signed and dated by a licensed dietitian prior to use in the nursing facility to ensure that the menus meet the nutritional needs of the residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council and the National Academy of Sciences, taking into account the cultural background and food habits of residents. Residents' preferences shall be taken into consideration in the development of menus.

1. Menus shall be written for any therapeutic diet ordered.

2. If cycle menus are used, the cycle shall cover a minimum of three weeks and shall be different each day of the week.

3. Each day's menu shall show the actual date served and shall be retained for six months.

4. Menus for the current week shall be available to the residents and posted where food is prepared and served for dietary personnel. Portion sizes shall be reflected either on the menu or within the recipe used to prepare the meal.

B. All diets shall be prescribed by a licensed practitioner. Each resident's diet order shall be documented in the resident's clinical record. There shall be a procedure for the accurate transmittal of dietary orders to the dietary service and for informing the dietary service when the resident does not receive the ordered diet or is unable to consume the diet, with appropriate action taken.

1. The nursing facility shall maintain a current list of residents identified by name, room number and diet order and such identification shall be accessible to staff during meal preparation and service.

2. A current therapeutic diet manual, approved by a registered dietitian, shall be readily available to attending physicians, nursing staff and dietetic service personnel.

C. The nursing facility shall provide to each resident:

1. at least three meals daily, at regular times comparable to normal mealtimes in the community;

2. food prepared by methods that conserve nutritive value, flavor, and appearance;

3. food that is palatable, attractive and at the proper temperature;

4. food prepared in a form designed to meet individual needs; and

5. substitutes offered of similar nutritional value to residents who refuse food or beverages served.

D. A list of all menu substitutions shall be kept for 30 days.

E. There shall be no more than 14 hours between a substantial evening meal and breakfast the following day. A substantial evening meal is defined as an offering of three or more menu items at one time, one of which includes a high-quality protein such as meat, fish, eggs, or cheese.

F. When a nourishing snack is provided at bedtime, there shall be no more than 16 hours between a substantial evening meal and breakfast the following day if a resident group agrees to this meal span, and a nourishing snack is served.

G. Bedtime nourishments shall be available nightly to all residents.

H. If residents require assistance in eating, food shall be maintained at appropriate serving temperatures until assistance is provided.

I. There shall be a procedure for the accurate documentation, monitoring and reporting of the resident's oral and parenteral intake in the resident's clinical record and incorporation of dietary orders/lab test monitoring into the nutritional plan of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1918 (November 2016).

§9837. Feeding Assistants

A. Prior to assisting nursing facility residents with feeding, the assistant shall have successfully completed the state-approved training course published by the American Health Care Association, *Assisted Dining: The Role and Skills of Feeding Assistants*.

1. Licensed personnel qualified to teach the course include:

a. registered nurses;

b. licensed practical nurses;

c. dieticians; and

d. speech therapists.

2. The competency of feeding assistants shall be evaluated by course instructors and supervisory nurses.

3. If feeding assistants transfer between nursing facilities, the receiving nursing facility shall assure competency.

B. Volunteers shall complete the training course except in cases where a family member or significant other is feeding the resident.

C. The clinical decision as to which residents are fed by a feeding assistant shall be made by a registered nurse (RN) or licensed practical nurse (LPN). Such decision shall be based upon the individual nurse's assessment and the resident's latest assessment and plan of care.

1. A physician or speech therapist may override the nurse's decision, if in their professional opinion, it would be contraindicated.

D. The use of a feeding assistant shall be noted on the plan of care.

E. There shall be documentation to show that the residents approved to be fed by feeding assistants have no complicated feeding problems.

1. Feeding assistants may not feed residents who have complicated feeding problems such as difficulty swallowing, recurrent lung aspirations and tube or IV feedings.

F. There shall be documentation of on-going assessment by nursing staff to assure that any complications that develop are identified and addressed promptly.

G. A feeding assistant shall work under the supervision of a licensed RN or LPN and the resident's clinical record shall contain entries made by the supervisory RN or LPN describing services provided by the feeding assistant.

H. Facilities may use feeding assistants at mealtimes or snack times, whenever the nursing facility can provide the necessary supervision.

1. A feeding assistant may feed residents in the dining room or another congregate area.

I. Nursing facilities may use their existing staff to feed residents as long as each non-licensed staff member successfully completes the state-approved training course.

J. Facilities shall maintain a record of all individuals used as feeding assistants who have successfully completed the training course.

K. Residents have the right to refuse to be fed by a feeding assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1919 (November 2016).

§9839. Equipment and Supplies

A. Special eating equipment and utensils shall be provided for residents who need them. At least a one-week supply of staple food with a three-day supply of perishable food conforming to the approved menu shall be maintained on the premises.

B. An approved lavatory shall be convenient and properly equipped for dietary services staff use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1919 (November 2016).

§9841. Sanitary Conditions

A. All food shall be procured, stored, prepared, distributed and served under sanitary conditions to prevent food borne illness. This includes keeping all readily perishable food and drinks according to the LAC *Title 51, Public Health—Sanitary Code*.

B. Refrigerator temperatures shall be maintained according to the LAC *Title 51, Public Health—Sanitary Code*.

C. Hot foods shall leave the kitchen or steam table according to the LAC *Title 51, Public Health—Sanitary Code*.

D. In room delivery temperatures shall be maintained according to the LAC *Title 51, Public Health—Sanitary Code*.

E. Food shall be transported to residents' rooms in a manner that protects it from contamination while maintaining required temperatures.

F. Refrigerated food which has been opened from its original package shall be covered, labeled and dated.

G. All food shall be procured from sources that comply with all laws and regulations related to food and food labeling.

H. Food shall be in sound condition, free from spoilage, filth or other contamination and shall be safe for human consumption.

I. All equipment and utensils used in the preparation and serving of food shall be properly cleansed, sanitized and stored. This includes:

1. maintaining a water temperature in dishwashing machines at 140 degrees Fahrenheit during the wash cycle (or according to the manufacturer's specifications or instructions) and 180 degrees Fahrenheit for the final rinse;

2. maintaining water temperature in low temperature machines at 120 degrees Fahrenheit (or according to the manufacturer's specification or instructions) with a minimum of 50 ppm (parts per million) of hypochlorite (household bleach) on dish surfaces; or

3. maintaining a wash water temperature of 75 degrees Fahrenheit, for manual washing in a three-compartment sink, with a minimum of 25 ppm of hypochlorite or equivalent, or a minimum of 12.5 ppm of iodine in the final rinse water; or a hot water immersion at 170 degrees Fahrenheit for at least 30 seconds shall be maintained.

J. Dietary staff shall not store personal items within the food preparation and storage areas.

K. A commercial kitchen in a nursing facility shall not be used for resident dining.

L. Dietary staff shall use good hygienic practices.

M. Dietary employees engaged in the handling, preparation and serving of food shall use effective hair restraints to prevent the contamination of food or food-contact surfaces.

N. Staff with communicable diseases or infected skin lesions shall not have contact with food if that contact will transmit the disease.

O. There shall be no use of tobacco products in the dietary department.

P. Toxic items such as insecticides, detergents, polishes and the like shall be properly stored, labeled and used.

Q. Garbage and refuse shall be kept in durable, easily cleanable, insect and rodent-proof containers that do not leak and do not absorb liquids. Containers used in food preparation and utensil washing areas shall be kept covered when meal preparation is completed and when full.

R. All ice intended for human consumption shall be free of visible trash and sediment.

1. Ice used for cooling stored food and food containers shall not be used for human consumption.

2. Ice stored in machines outside the kitchen shall be protected from contamination.

3. Ice scoops shall be stored in a manner so as to protect them from becoming soiled or contaminated between usage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1919 (November 2016).

Subchapter D. Pharmaceutical Services

§9851. General Requirements

A. The nursing facility shall provide pharmaceutical services in accordance with accepted professional standards and all appropriate federal, state and local laws and regulations. Only licensed medical personnel shall be allowed to receive and sign for delivery of controlled drugs.

B. The nursing facility is responsible for ensuring the timely availability of drugs and biologicals for its residents.

C. Prescription drugs not covered by Medicaid or Medicare shall be at the expense of the resident. However, attempts should be made to get the attending physician to order a covered medication before the resident incurs any expense.

D. The nursing facility shall provide emergency drugs and biologicals to its residents as necessary and as ordered by a licensed practitioner.

E. The nursing facility shall have an emergency drug kit.

F. The nursing facility shall obtain a permit from the Board of Pharmacy for each emergency drug kit.

G. The most current edition of drug reference materials shall be available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1920 (November 2016).

§9853. Consultant

A. If the nursing facility does not employ a licensed pharmacist, it shall have a designated consultant pharmacist that provides services in accordance with accepted pharmacy principles and standards. The minimum consultation time shall not be less than one hour per quarter which shall not include drug regimen review activities.

B. There shall be documentation to support that the consultation time was given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1920 (November 2016).

§9855. Labeling

A. All drug and biological containers shall be properly labeled by a licensed pharmacist following the guidelines established by the state Board of Pharmacy.

B. The label on prepackaged (unit dose) containers shall follow the established guidelines of the state Board of Pharmacy.

C. Over-the-counter (non-prescription) medications and biologicals, may be purchased in bulk packaging and shall be plainly labeled with the medication name and strength and any additional information in accordance with the nursing facility's policies and procedures. Over-the-counter medications specifically purchased for a resident shall be labeled as previously stipulated to include the resident's name. The manufacturer's labeling information shall be present in the absence of prescription labeling.

D. The nursing facility shall develop procedures to assure proper labeling for medications provided a resident for a temporary absence.

E. Labeling of Drugs and Biologicals

1. The labeling of drugs and biologicals is based on currently accepted professional principles and includes:

a. the resident's full name;

b. physician's name;

c. full name of pharmacist dispensing;

d. prescription number;

e. name and strength of drug;

f. date of issue and expiration date of all time-dated drugs;

g. name, address, and telephone number of pharmacy issuing the drug; and

h. appropriate accessory and cautionary instructions.

2. Non-legend or over-the-counter drugs may be labeled by the nursing facility with resident's full name and room number not to obscure lot number and expiration date.

F. Medication containers which have soiled, damaged, incomplete, illegible or makeshift labels are to be returned to the issuing pharmacist or pharmacy for relabeling or disposal. Containers which have no labels are to be destroyed in accordance with state and federal laws.

G. The nursing facility shall have a procedure for the proper identification and labeling of medication brought into the nursing facility from an outside source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1920 (November 2016).

§9857. Storage and Preparation

A. All drugs and biologicals shall be stored in a locked area/cabinet and kept at proper temperatures and lighting. The medicine room or medication preparation area shall have an operable sink with hot and cold water, paper towels and a soap dispenser.

1. In nursing facilities with drugs and biologicals stored in a locked area/cabinet in the resident's room, the lavatory located in the room or immediately adjacent shall be deemed acceptable under this provision.

B. Access to drug storage areas shall be limited to licensed nursing personnel, the licensed nursing facility administrator and the consultant pharmacist as authorized in the nursing facility's policy and procedure manual. Any unlicensed, unauthorized individual (e.g., housekeepers, maintenance personnel, etc.) needing access to drug storage areas shall be under the direct visual supervision of licensed authorized personnel.

1. In nursing facilities with drugs and biologicals stored in a locked area/cabinet in the resident(s) room, residents who have been determined by the interdisciplinary team to be able to safely self-administer drugs shall be allowed to access the drugs.

C. Medication requiring refrigeration shall be kept separate from foods in separate containers within a refrigerator and stored at a temperature range of 36 to 46 degrees Fahrenheit.

1. Laboratory solutions or materials awaiting laboratory pickup shall not be stored in refrigerators with food and/or medication.

2. Medication for "external use only" shall be stored separate from other medication and food.

D. Separately locked, permanently affixed compartments shall be provided for storage of controlled drugs listed in schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1976 and other drugs subject to abuse.

E. Medications of each resident shall be kept and stored in their originally received containers and transferring between containers is forbidden.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1921 (November 2016).

§9859. Disposition

A. Prescription and over-the-counter (OTC) medications and biologicals are to be disposed of in the following manner:

1. if medication(s) and/or biological(s) are discontinued, or the resident is discharged to the hospital, the nursing facility will retain the medication(s) for up to 60 days and then be destroyed as described in §9859.C.2. Such medications shall be stored in a locked storage area approved by the DON and consultant pharmacist.

2. If the resident is deceased, the medication will be disposed of as described in §9859.C.2, unless there is a written order of the attending physician specifying otherwise.

3. If the resident is transferred to another facility, the medication will accompany the resident to the receiving facility on the written order of the attending physician.

4. If the resident is discharged to facility, the remaining supply of ordered and filled medication, including controlled drugs, will accompany the resident facility on the written order of the attending physician.

B. If the resident, designated contact and/or legal representative receives the medications or biologicals, upon written order of the physician, documentation containing the name and the amount of the medication or biological to be received shall be completed and signed by the resident, designated contact and/or legal representative their receipt. This document shall be placed in the resident's clinical record.

C. Expired medication shall not be available for resident or staff use. They shall be destroyed on-site by nursing facility personnel no later than 90 days from their expiration/ discontinuation date utilizing the following methods.

1. Controlled drugs shall be destroyed on-site by a licensed health care professional, and witnessed by at least one other licensed health care professional or in accordance with DEA provisions.

a. All controlled substances to be destroyed shall be inventoried and documented on a form developed by the nursing facility's staff, with input from the consultant pharmacist and medical director. The form shall include, at a minimum:

i. the resident's name;

ii. medication name;

iii. strength and quantity of the drug destroyed;

iv. prescription number;

v. method and date of destruction; and

vi. signatures of the licensed health care professionals destroying the medication and the name of the licensed health care professional witnessing the destruction for each controlled drug destroyed.

b. This form shall be maintained on the nursing facility's premises for 24 months and archived for a minimum of 36 months. These drugs shall also be listed on the resident's individual accumulative drug destruction record.

2. For non-controlled drugs, there shall be documentation of:

a. the resident's name;

b. strength and quantity of the drug destroyed;

c. prescription number;

d. method and date of destruction; and

e. signatures of at least two individuals (which shall be either licensed nurses who are employees of the nursing facility or the consultant pharmacist) witnessing the destruction.

D. Medications of residents transferred to a hospital may be retained until the resident's return. Upon the resident's return, the physician's order shall dictate whether or not the resident is to continue the same drug regimen as previously ordered.

E. Nothing herein, shall preclude a nursing facility from donating unused medications to a provisional pharmacy or to the Department of Corrections or other statutorily approved programs. Medications not donated shall be destroyed using the procedures outlined above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1921 (November 2016).

§9861. Administration

A. Drugs and biologicals shall not be administered to residents unless ordered by a practitioner duly licensed to prescribe drugs. Such orders shall be in writing and shall include the practitioner's signature. Each order shall include the following:

1. name of the medication;
2. strength of the medication;
3. specific dose of the medication (not a dose range);
4. route of administration;
5. reason for administration;
6. frequency of administration; and
7. maximum dosage or number of times to be administered in a specific time frame when applicable.

B. Drugs and biologicals shall be administered only by medical personnel or licensed nurses authorized to administer drugs and biologicals under their practice act or as allowed by statutorily designated medication attendants certified (MACS).

C. Drugs and biologicals shall be administered as soon as possible after doses are prepared, not to exceed two hours. They shall be administered by the same person who prepared the doses for administration.

D. If the policies and procedures of a licensed only nursing facility allows for the self-administration of drugs, an individual resident may self-administer drugs if an interdisciplinary team has determined that this practice is safe. The team shall also determine who will be responsible for storage and documentation of the administration of drugs. The resident's care plan shall reflect approval to self-administer medications. If the nursing facility's policy and procedures do not allow self-administration of drugs, this information shall be disclosed prior to admission.

E. All medication errors shall be reported immediately to the resident's attending physician by a licensed nurse and an entry made in the resident's record.

F. All adverse drug reactions shall be reported immediately to the resident's attending physician by a licensed nurse and an entry made in the resident's record.

G. Medications not specifically prescribed as to time or number of doses, such as pro re nata (PRN) medications, shall automatically be stopped after a reasonable time that is predetermined by the nursing facility's written policy and procedures. The attending physician shall be notified of an automatic stop order prior to the last dose so that he/she may decide if the administration of the medication is to be continued or altered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1922 (November 2016).

§9863. Drug Regimen Review

A. The drug regimen of each resident shall be reviewed as often as dictated by the resident's condition. Drug irregularities shall be reported, in writing, to the resident's attending physician and director of nursing, and these reports shall be acted upon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1922 (November 2016).

§9865. Medication Record Keeping

A. General Records

1. All medication administered to residents shall be recorded on a medication administration record (MAR). Each medication shall be documented to include:

a. name, strength and dosage of the medication;

b. method of administration to include site, if applicable;

c. time of administration. The time of administration is defined as one hour before to one hour after the ordered time of administration; and

d. the initials of persons administering the medication along with a legend of the initials.

2. Medication errors and drug reactions shall be reported immediately to the resident's attending physician by a licensed nurse and an entry made in the resident's record.

B. Controlled Drugs

1. The nursing facility shall establish a system of records of receipt and disposition of all controlled drugs in sufficient detail to enable an accurate accounting of all controlled drugs received, administered and destroyed or otherwise disposed.

2. Control records of schedule II drugs shall be maintained. The individual resident records shall list each type and strength of drug and the following information:

a. date;

b. time administered;

c. name of resident;

d. dose;
e. physician's name;
f. signature of person administering the dose; and
g. the balance on hand.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1922 (November 2016).

Subchapter E. Activity Services

§9871. Activities Program

A. A nursing facility shall provide for an ongoing program of diverse and meaningful activities designed to meet the interests and the physical, mental, and psychosocial well-being of each resident.

B. The activities program shall be designed to allow and encourage each resident's voluntary participation and choice of activities based upon his/her specific needs and interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1923 (November 2016).

§9873. Activity Service Personnel

A. The activities program shall be directed by a resident activities director (RAD). The resident activities director shall be responsible to the administrator or his/her designee for administration and organization of the activities program.

B. Responsibilities of the RAD include the following tasks:

1. scheduling and coordinating group activities and special events inside and outside the nursing facility;
2. developing and using outside resources and actively recruiting volunteers to enhance and broaden the scope of the activities program;
3. posting monthly activity calendars in places of easy viewing by applicants/residents and staff; and
4. planning and implementing individual and group activities designed to meet the applicants/residents' needs and interests.

C. Activities Assessments

1. Within 14 days after admission, the RAD shall complete a written assessment of each resident's interests and hobbies and note any illnesses or physical handicaps which might affect participation in activities.
2. The activities assessment shall:
   a. become the basis for the activities component of the plan of care;
   b. be signed, dated, and filed with other elements in the medical record;
   c. identify specific problem/need areas along with specific approaches formulated to meet the problems/needs; and
   d. be included in the interdisciplinary staffing.

D. Activity Services Progress Notes. Activity services progress notes shall:

1. be written to document the services provided and/or changes in activity needs or approaches at least every 90 days (quarterly); and
2. document the activity level of residents, specifically describing their day to day activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1923 (November 2016).

Subchapter F. Social Services

§9877. Social Services

A. A nursing facility shall provide medically related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

B. It is the responsibility of the nursing facility to identify the medically-related social service needs of the resident and assure that the needs are met by the appropriate disciplines.

C. A nursing facility with more than 120 beds shall employ a qualified psychosocial worker on a full-time basis.

1. Qualifications of a Social Worker. A qualified social worker shall have:
   a. a bachelor's degree in social work or a bachelor's degree in a human services field including but not limited to: sociology, special education, rehabilitation counseling, and psychology; and
   b. one year of supervised social work experience in a health care setting working directly with individuals.

D. A nursing facility with 120 beds or less shall designate at least one staff member as social services designee (SSD). The SSD is responsible for assuring that the medically-related social services needs of each resident are identified and met by the appropriate disciplines.

1. The individual responsible for provision of social services shall:
   a. arrange for social services from outside sources or by furnishing the services directly;
   b. integrate social services with other elements of the plan or care; and
   c. complete a social history.

E. Social History. The SSD shall complete, date, and sign a social history on applicants/residents within seven days after their admission. The history shall include but shall not be limited to the following information:

1. background:
   a. age, sex, and marital status;
   b. birthplace;
   c. religion;
   d. cultural and ethnic background;
   e. occupation;
   f. education;
   g. special training or skills; and
   h. primary language; and
2. social functioning:
   a. living situation and address before admission;
   b. names and relationships with family and friends;
   c. involvements with organizations and individuals within the community; and
   d. feelings about admission to the nursing facility.

F. Social Needs Assessment

1. The SSD shall also identify and document the needs and medically related social/emotional problems within 14 days after admission.
2. The social services assessment shall become a component of the plan of care written in conjunction with other disciplines and shall be filed in the active medical record.

3. If the initial social assessment concludes that there are no problems or unmet social needs, the social assessment shall state that no social services are required.

G. Participation in Interdisciplinary Staffing. The SSD shall participate in the interdisciplinary staffing.

H. Social Services Progress Notes. Social services progress notes shall:

1. be recorded as often as necessary to document services provided, but at least every 90 days (quarterly) in nursing facilities and as often as necessary to describe changes in social conditions;

2. document the degree of involvement of family and friends, interaction with staff and other residents, and adjustment to the nursing facility and roommate(s);

3. reflect the social needs and functioning;

4. document services in the plan of care are actually being provided; and

5. remain in the active medical chart for three to six months.

I. Vision and Hearing. The nursing facility shall assist the resident in:

1. making appointments;

2. arranging for transportation to and from appointments; and

3. locating assistance from community and charitable organizations when payment is not available through Medicaid, Medicare, or private insurance.

J. Dental

1. The nursing facility shall provide or obtain from an outside resource, the following dental services to meet the needs of each resident:

a. routine dental services to the extent covered under the state plan; and

b. emergency dental services.

2. The nursing facility shall, if necessary, assist the resident:

a. in making appointments;

b. in arranging for transportation to and from the dentist's office; and

c. by promptly referring residents with lost or damaged dentures to a dentist.

K. The nursing facility shall establish policies and procedures for ensuring the confidentiality of all social information. Records shall reflect each referral to an outside agency and shall include the applicant/resident's written consent to release the information.

L. The same qualifications apply to Medicare skilled nursing facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1923 (November 2016).

Subchapter G. Rehabilitation Services

§9881. Delivery of Services

A. Rehabilitative services, when provided in the nursing facility, shall be delivered in a safe and accessible area. Rehabilitation services shall be provided under the written order of the resident's attending physician. These services shall be provided by appropriately credentialed individuals.

B. Specialized services shall be specified in the resident's plan of care. The nursing facility shall verify that the resident is receiving the specialized services as determined by the level II authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1924 (November 2016).

§9883. Record Keeping

A. An initial assessment established by the appropriate therapist and a written rehabilitation plan of care shall be developed. The resident's progress shall be recorded by the therapist at the time of each visit. This information shall be maintained in the resident's clinical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1924 (November 2016).

Subchapter H. Resident Clinical Records and Financial Information

§9887. General Provisions

A. The nursing facility shall maintain a clinical record on each resident in accordance with accepted professional standards and practices. Each resident's clinical record shall be complete, accurately documented, readily accessible and systematically organized to facilitate retrieving and compiling information.

B. Each resident's personal financial information shall be protected in compliance with all applicable federal, state and local laws, rules and regulations.

C. Resident records that are created, modified, maintained archived, retrieved or transmitted in an electronic format shall be in compliance with all applicable federal, state and local laws, rules and regulations.

D. Availability of Records. The nursing facility shall make necessary records available to appropriate state and federal personnel at reasonable times. Records shall include but shall not be limited to the following:

1. personal property and financial records;

2. all medical records; and

NOTE: This includes records of all treatments, drugs, and services for which vendor payments have been made, or which are to be made, under the Medical Assistance Program. This includes the authority for and the date of administration of such treatment, drugs, or services. The nursing facility shall provide sufficient documentation to enable LDH to verify that each charge is due and proper prior to payment.

3. all other records which LDH finds necessary to determine a nursing facility's compliance with any federal or state law, rule, or regulation promulgated by the Department of Health and Human Services (DHHS) or by LDH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1924 (November 2016).

§9889. Maintenance of Records

A. The overall supervisory responsibility for the resident record service shall be assigned to a responsible employee of the nursing facility.

B. All hand-written or typed entries in the clinical record shall be legible, dated and signed.

C. If electronic signatures are used, the nursing facility shall develop a procedure to assure the confidentiality of

each electronic signature and to prohibit the improper or unauthorized use of any computer generated signature.

D. If a facsimile communications system (fax) is used, the nursing facility shall take precautions when thermal paper is used to ensure that a legible copy is retained as long as the clinical record is retained.

E. A nursing facility record may be kept in any written, photographic, microfilm or other similar method or may be kept by any magnetic, electronic, optical or similar form of data compilation which is approved for such use by the department.

F. No magnetic, electronic, optical or similar method shall be approved unless it provides reasonable safeguards against erasure or alteration.

G. A nursing facility may, at its discretion, cause any nursing facility record or part to be microfilmed, or similarly reproduced, in order to accomplish efficient storage and preservation of nursing facility records.

H. Upon an oral or written request, the nursing facility shall give the resident or his/her legal representative access to all records pertaining to himself/herself including current clinical records within 24 hours excluding weekends and holidays. After receipt of his/her records for inspection, the nursing facility shall provide upon request and two working days' notice, at a cost consistent with the provisions of R.S. 40:1299(A)(2)(b), photocopies of the records or any portions thereof.

I. The nursing facility shall ensure that all clinical records are completed within 90 days of discharge, transfer or death. All information pertaining to a resident's stay shall be centralized in the clinical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1924 (November 2016).

§9891. Content

A. The clinical record shall contain sufficient information to identify the resident clearly, to justify the diagnosis and treatment, and to document the results accurately.

B. At a minimum, each clinical record shall contain:

1. sufficient information to identify the resident;
2. physician orders;
3. progress notes by all practitioners and professional personnel providing services to the resident;
4. a record of the resident's assessments;
5. the plan of care;
6. entries describing treatments and services provided; and
7. reports of all diagnostic tests and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1925 (November 2016).

§9893. Confidentiality

A. The nursing facility shall safeguard clinical record information against loss, destruction or unauthorized use. The nursing facility shall ensure the confidentiality of resident records, including information in a computerized record system, except when release is required by transfer to another health care institution, law, third party payment contract or the resident. Information from, or copies of, records may be released only to authorized individuals, and the nursing facility shall ensure that unauthorized individuals cannot gain access to or alter resident records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1925 (November 2016).

§9895. Retention

A. Clinical records shall be retained for a minimum of five years following a resident's discharge or death, unless the records are pertinent to a case in litigation. In such instance, they shall be retained indefinitely or until the litigation is resolved.

B. A nursing facility which is closing shall notify the department of their plan for the disposition of residents' clinical records in writing at least 14 days prior to cessation of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1925 (November 2016).

Chapter 99. Nursing Facilities

Subchapter A. Ancillary Services

§9901. Radiology and other Diagnostic Services

A. The nursing facility shall arrange for the provision of radiology and other diagnostic services to meet the needs of its residents. The nursing facility is responsible for the quality and timeliness of the services and shall:

1. arrange for the provisions of radiology and other diagnostic services only when ordered by the attending physician;
2. promptly notify the attending physician of the findings;
3. assist resident in making transportation arrangements to and from the source of service as needed;
4. file in the resident's clinical record signed and dated reports of X-ray and other diagnostic services.

B. If the nursing facility provides its own diagnostic services, the services shall meet the applicable conditions of participation of hospitals contained in 42 CFR 482.26.

C. If the nursing facility does not provide diagnostic services, it shall have an agreement to obtain these services from a provider or supplier that is approved to provide these services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1925 (November 2016).

§9903. Laboratory Services

A. The nursing facility shall arrange for the provision of clinical laboratory services to meet the needs of the residents. The nursing facility is responsible for the quality and timeliness of the services and shall:

1. provide or obtain laboratory services only when ordered by the attending physicians;
2. promptly notify the attending physician of the findings; and
3. assist resident in making transportation arrangements to and from the services as needed.

B A nursing facility performing any laboratory service or test shall have appealed to CMS or received a certificate of waiver or a certificate of registration.

C. An application for a certificate of waiver may be needed if the nursing facility performs only the following tasks on the waiver list:

1. dipstick or table reagent urinalysis;
2. fecal occult blood;
3. erythrocyte sedimentation rate;
4. hemoglobin;
5. blood glucose by glucose monitoring
6. devices cleared by Food and Drug Administration (FDA) specifically for home use;
7. spun micro hematocrit;
8. ovulation test; and
9. pregnancy test.

D. Appropriate staff shall file in the residents' clinical record signed and dated reports of clinical laboratory services.

E. If the nursing facility provides its own laboratory services, the services shall meet the applicable conditions for coverage of services furnished by independent laboratories.

F. If the nursing facility provides blood bank and transfusion services it shall meet the applicable conditions for independent laboratories and hospital laboratories and hospital laboratories at 42 CFR 482.27.

G. If the nursing facility laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory shall be approved for participation in the Medicare Program either as a hospital or an independent laboratory.

H. If the nursing facility does not provide laboratory services on site, it shall have an agreement to obtain these services from a laboratory that is approved for participation in the Medicare Program either as a hospital or as an independent laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1925 (November 2016).

Subchapter B. Physical Environment

§9911. General Provisions

A. The nursing facility shall be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public.

B. The nursing facility shall provide a safe, clean, orderly, homelike environment.

C. If the nursing facility determines that a licensing provision of this Subchapter B prohibits the provision of a culture change environment, the nursing facility may submit a written waiver request to the Health Standards Section (HSS) of the Department of Health (LDH), asking that the provision be waived and providing an alternative to the licensing provision of this subchapter. The department shall consider such written waiver request, shall consider the health and safety concerns of such request and the proposed alternative, and shall submit a written response to the nursing facility within 60 days of receipt of such waiver request.

D. Any construction-related waiver or variance request of any provision of the LAC *Title 51, Public Health—Sanitary Code* shall be submitted in writing to the state health officer for his/her consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1926 (November 2016).

§9913. Nurse/Care Team Work Areas

A. Each floor and/or household of a nursing facility shall have a nurse/care team work area in locations that are suitable to perform necessary functions. These nurse/care team work areas may be in centralized or decentralized locations, as long as the locations are suitable to perform necessary functions.

1. Each centralized nurse/care team area shall be equipped with working space and accommodations for recording and charting purposes by nursing facility staff with secured storage space for in-house resident records.

a. Exception. Accommodations for recording and charting are not required at the central work area where decentralized work areas are provided.

2. Each decentralized work area, where provided, shall contain working space and accommodations for recording and charting purposes with storage space for administrative activities and in-house resident records.

3. The nurse/care team work areas shall be equipped to receive resident calls through a communication system from resident rooms, toileting and bathing facilities.

a. In the case of an existing centralized nurse/care team work area, this communication may be through audible or visible signals and may include wireless systems.

b. In those facilities that have moved to decentralized nurse/care team work areas, the facility may utilize other electronic systems that provide direct communication from the resident to the staff.

B. There shall be a medicine preparation room or area. Such room or area shall contain a work counter, preparation sink, refrigerator, task lighting and lockable storage for controlled drugs.

C. There shall be a clean utility room on each floor designed for proper storage of nursing equipment and supplies. Such room shall contain task lighting and storage for clean and sterile supplies.

D. There shall be a separate soiled utility room designed for proper cleansing, disinfecting and sterilizing of equipment and supplies. At a minimum, it shall contain a clinical sink or equivalent flushing-rim sink with a rinsing hose or bed pan sanitizer, hand washing facilities, soiled linen receptacles and waste receptacle. Each floor of a nursing facility shall have a soiled utility room.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1926 (November 2016).

§9915. Resident Rooms

A. Resident bedrooms shall be designed and equipped for adequate nursing care, comfort, and privacy of residents.

Each resident bedroom shall have a floor, walls, and ceilings in good repair and so finished as to enable satisfactory cleaning.

B. Each resident's bedroom shall have a floor at or above grade level, shall accommodate a maximum of two residents, and be so situated that passage through another resident's bedroom is unnecessary.

1. Exception. Resident bedrooms in existing nursing facilities shall be permitted to accommodate no more than four residents unless the cost of renovations to the existing nursing facility exceeds the values stipulated by R.S. 40:1574.

C. Private resident bedrooms shall measure at least 121 square feet of bedroom area, exclusive of wardrobes, closet space, vestibules or toilet rooms, and shall have a clear width of not less than 11 feet.

D. Double occupancy resident bedrooms containing two beds shall measure at least 198 square feet of bedroom area, exclusive of wardrobes, closet space, vestibules or toilet rooms, and shall have a clear width of not less than 11 feet.

E. In existing nursing facilities, or portions thereof, where plans were approved by the department and the Office of the State Fire Marshal prior to January 20, 1998, there shall be at least three feet between the sides and foot of the bed and any wall, other fixed obstruction, or other bed, unless the furniture arrangement is the resident's preference and does not interfere with service delivery.

F. Each resident's bedroom shall have at least one window to the outside atmosphere with a maximum sill height of 36 inches. Windows with sills less than 30 inches from the floor shall be provided with guard rails.

1. Each resident's bedroom window shall be provided with shades, curtains, drapes, or blinds.

2. Operable windows shall be provided with screens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1926 (November 2016).

§9917. Resident Room Furnishings

A. Each resident shall be provided with an individual bed of proper size and height for the convenience of the resident and equipped with:

1. a clean supportive frame in good repair;

2. a clean, comfortable, well-constructed mattress at least 5 inches thick with waterproof ticking and correct size to fit the bed;

3. a clean, comfortable pillow shall be provided for each bed with extra pillows available to meet the needs of the residents;

4. adequate bed rails, when necessary, to meet the needs of the resident; and

5. sheets and covers appropriate to the weather and climate.

B. Screens or noncombustible ceiling-suspended privacy curtains which extend around the bed shall be provided for each bed in multi-resident bedrooms to assure resident privacy. Total visual privacy without obstructing the passage of other residents either to the corridor, closet, lavatory or adjacent toilet room, nor fully encapsulating the bedroom window shall be provided.

C. Each resident shall be provided with a call device located within reach of the resident.

D. Each resident shall be provided a bedside table with at least two drawers. As appropriate to resident needs, each resident shall have a comfortable chair with armrests, waste receptacle, and access to mirror unless medically contraindicated.

1. Each resident who has tray service to his/her room shall be provided with an adjustable overbed table positioned so that the resident can eat comfortably.

E. Each resident shall be provided an individual closet that has minimum dimensions of 1 foot 10 inches in depth by 2 feet 6 inches in width. A clothes rod and shelf shall be provided that is either adjustable or installed at heights accessible to the resident. Accommodations shall be made for storage of full-length garments. The shelf may be omitted if the closet provides at least two drawers. The following exceptions may apply.

1. Individual wardrobe units having nominal dimensions of 1 foot 10 inches in depth by 2 feet 6 inches in width are permitted. A clothes rod and shelf shall be provided that is either adjustable or installed at heights accessible to the resident. Accommodations shall be made for storage of full-length garments. The shelf may be omitted if the unit provides at least two drawers.

2. In existing nursing facilities, or portions thereof, where plans were approved by the department and OSFM prior to January 20, 1998, each resident shall be provided an individual wardrobe or closet that has nominal dimensions of 1 foot 10 inches in depth by 2 feet in width.

F. Each resident shall be provided with a bedside light or over-the-bed light capable of being operated from the bed.

1. In nursing facilities, or portions thereof, where plans were approved by the department and OSFM prior to May 1, 1997 shall be exempt from this provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1927 (November 2016).

§9919. Specialized Care Units, Restraints, and Seclusion

A. Specialized Care Units

1. Nursing facilities may establish a distinct unit that benefits residents living with severe dementia, Alzheimer's disease, or other disease process or condition which severely impairs their ability to recognize potential hazards. Such units shall not be established for the sole purpose of housing individuals with mental illness.

2. Specialized care units may involve locking mechanisms provided that such locking arrangements are approved by OSFM and satisfy the requirements established by OSFM.

3. Nursing facilities providing care and services on a specialized care unit shall develop admission and discharge criteria. There shall be documentation in the resident's record to indicate the unit is the least restrictive environment possible, and placement in the unit provides a clear benefit to the resident.

4. Guidelines for admission and discharge shall be provided to the resident, the resident's family, and/or the resident's legal representative.

5. Specialized care units shall be designed and staffed to provide the care and services necessary for the resident's needs to be met.

a. The unit shall have designated space for dining and/or group and individual activities that is separate and apart from the resident bedrooms and bathrooms.

b. The dining space shall contain tables for eating within the unit.

c. The activities area(s) shall contain seating, and be accessible to the residents within the unit.

6. There shall be sufficient staff to respond to emergency situations in the unit at all times.

7. The facility shall ensure that admission to the specialized care unit imposes restrictions on residents' exercise of their rights only to the extent absolutely necessary to protect the health and safety of themselves and other residents.

8. Care plans shall address the reasons for the resident being in the unit and how the nursing facility is meeting the resident's continuing needs.

9. All staff designated to provide care and services on specialized care units shall have training regarding unit policies and procedures, admission and discharge criteria, emergency situations and the individual and special needs of the residents on the unit.

10. Admission to a specialized care unit shall be in compliance with R.S. 40:1299.53 and 40:2010.8.

B. Restraints. The resident has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms.

C. Seclusion. The resident has the right to be free from verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1927 (November 2016).

§9921. Hand-Washing Stations, Toilet Rooms and Bathing Facilities

A. A hand-washing station shall be provided in each resident room.

1. Omission of this station shall be permitted in a single-bed or two-bed room when a hand-washing station is located in an adjoining toilet room that serves that room only.

B. Each resident shall have access to a toilet room without having to enter the corridor area. In nursing facilities built prior to August 26, 1958, each floor occupied by residents shall be provided with a toilet room and hand-washing station.

1. One toilet room shall serve no more than two residents in new construction or no more than two resident rooms in renovation projects. In nursing facilities built prior to August 26, 1958, toilets and hand-washing stations shall each be provided at a rate of 1 per 10 beds or fraction thereof.

2. Toilet rooms shall be easily accessible, conveniently located, well lighted, and ventilated to the outside atmosphere. Fixtures shall be of substantial construction, in good repair and of such design to enable satisfactory cleaning.

3. Separate male and female toilet rooms for use by staff and guests shall be provided.

4. Each toilet room shall contain a toilet, hand-washing station and mirror.

5. Doors to single-use resident toilet rooms shall swing out of the room.

6. Doors to single-use resident toilet rooms shall be permitted to utilize privacy locks that include provisions for emergency access.

7. In multi-use toilet rooms provisions shall be made for resident privacy.

C. Each floor occupied by residents shall be provided with a bathing facility equipped with a toilet, hand-washing station, and bathing unit consisting of a bathtub, shower, or whirlpool unit.

1. A minimum of one bathtub, shower, or whirlpool unit shall be provided for every 20 residents, or fraction thereof, not otherwise served by bathing facilities in resident rooms. In nursing facilities built prior to August 26, 1958, showers or tubs shall each be provided at a rate of 1 per 15 beds or fraction thereof.

2. Bathing facilities shall be easily accessible, conveniently located, well lighted and ventilated to the outside atmosphere. Fixtures shall be of substantial construction, in good repair, and of such design to enable satisfactory cleaning.

3. Tub and shower bottoms shall be of nonslip material. Grab bars shall be provided to prevent falling and to assist in maneuvering in and out of the tub or shower.

4. Separate bathing facilities shall be provided for employees who live on the premises.

5. In multi-use bathing facilities provisions shall be made for resident privacy.

6. Wall switches for controlling lighting, ventilation, heating or any other electrical device shall be so located that they cannot be reached from a bathtub, shower, or whirlpool.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1928 (November 2016).

§9923. Dining and Resident Activities

A. The nursing facility shall provide one or more areas designated for resident dining and activities.

B. Smoking is not permitted in the dining room and other public areas as specified by R.S. 40:1300.256(B)(11).

C. Dining room(s) or dining area(s) shall be sufficient in space and function to accommodate the needs of the residents without restriction. Dining areas shall be adequately furnished, well lighted, and well ventilated. Dining areas shall be sufficient in space to comfortably accommodate the persons who usually occupy that space, including persons who utilize walkers, wheelchairs and other ambulating aids or devices.

D. There shall be at least one well lighted and ventilated living/community room with sufficient furniture.

E. There shall be sufficient space and equipment to comfortably accommodate the residents who participate in group and individual activities. These areas shall be well lighted and ventilated and be adequately furnished to accommodate all activities.

F. Areas used for corridor traffic or for storage of equipment shall not be considered as areas for dining or activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1928 (November 2016).

§9925. Linen and Laundry

A. The nursing facility shall have available, at all times, a quantity of bed and bath linen essential for proper care and comfort of residents.

B. All linen shall be in good condition.

C. All used linen shall be bagged or enclosed in appropriate containers for transportation to the laundry.

D. Soiled linen storage areas shall be ventilated to the outside atmosphere.

E. Linen from residents with a communicable disease shall be bagged, in readily identifiable containers distinguishable from other laundry, at the location where it was used.

F. Linen soiled with blood or body fluids shall be placed and transported in bags that prevent leakage.

G. If hot water is used, linen shall be washed with detergent in water at least 160 degrees Fahrenheit for 25 minutes. If low-temperature (less than or equal to 158 degrees Fahrenheit) laundry cycles are used, chemicals suitable for low-temperature washing, at proper use concentration, shall be used.

H. Clean linen shall be transported and stored in a manner to prevent its contamination.

I. Nursing facilities providing in-house laundry services shall have a laundry system designed to eliminate crossing of soiled and clean linen.

J. Nursing facilities that provide in house laundry services and/or household washers and dryers shall have policies and procedures to ensure safety standards, infection control standards and manufacturer's guidelines are met.

K. There shall be hand washing facilities available for use in any designated laundry area.

L. Provisions shall be made for laundering personal clothing of residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1929 (November 2016).

§9927. Equipment and Supplies

A. The nursing facility shall maintain all essential mechanical, electrical, and resident care equipment in safe operating condition.

B. Therapeutic, diagnostic, and other resident care equipment shall be maintained and serviced in accordance with the manufacturer's recommendations.

C. Wheelchairs shall be available for emergency use by residents who are not fully ambulatory.

D. Equipment for taking vital signs shall be maintained.

E. At least one oxygen tank or resource of oxygen shall be readily accessible for emergency use.

F. An adequate number of battery-generated lamps or flash lights shall be available for staff use in case of electrical power failure.

G. There shall be at least one telephone adapted for use by residents with hearing impairments at a height accessible to bound residents who use wheelchairs and be available for resident use where calls can be made without being overheard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1929 (November 2016).

§9929. Other Environmental Conditions

A. A hard surfaced off-the-road parking area to provide parking for one car per five licensed beds shall be provided. This is a minimum requirement and may be exceeded by local ordinances. Where this requirement would impose an unreasonable hardship, a written request for a lesser amount may be submitted to the department for waiver consideration.

B. The nursing facility shall make arrangements for an adequate supply of safe potable water even when there is a loss of normal water supply. Service from a public water supply shall be used, if available. Private water supplies, if used, shall meet the requirements of the LAC *Title 51, Public Health—Sanitary Code*.

C. An adequate supply of hot water shall be provided which shall be adequate for general cleaning, washing, and sterilizing of cooking and food service dishes and other utensils, and for bathing and laundry use. Hot water supply to the hand washing and bathing faucets in the resident areas shall have automatic control to assure a temperature of not less than 100 degrees Fahrenheit, nor more than 120 degrees Fahrenheit, at the faucet outlet. Supply system design shall comply with the Louisiana state Plumbing Code and shall be based on accepted engineering procedures using actual number and types of fixtures to be installed.

D. The nursing facility shall be connected to the public sewerage system, if such a system is available. Where a public sewerage is not available, the sewerage disposal system shall conform to the requirements of the LAC *Title 51, Public Health—Sanitary Code*.

E. The nursing facility shall maintain a comfortable sound level conducive to meeting the need of the residents.

F. All plumbing shall be properly maintained and conform to the requirements of the LAC *Title 51, Public Health—Sanitary Code*.

G. All openings to the outside atmosphere shall be effectively screened. Exterior doors equipped with closers in air conditioned buildings need not have screens.

H. Each room used by residents shall be capable of being heated to not less than 71 degrees Fahrenheit in the coldest weather and capable of being cooled to not more than 81 degrees Fahrenheit in the warmest weather.

I. Lighting levels in all areas shall be adequate to support task performance by staff personnel and independent functioning of residents. A minimum of 6 foot to 10 foot candelas over the entire stairway, corridors, and resident rooms measured at an elevation of 30 inches above the floor and a minimum of 20 foot to 30 foot candelas over areas used for reading or close work shall be available.

J. Corridors used by residents shall be equipped on each side with firmly secured handrails, affixed to the wall. Handrails shall comply with the requirements of the state adopted accessibility guidelines.

K. There shall be an effective pest control program so that the nursing facility is free of pest and rodent infestation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1929 (November 2016).

Subchapter C. Infection Control and Sanitation

§9941. Organization

A. A nursing facility shall establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment and to help prevent the development and transmission of disease and infection.

B. No later than September 1 of each year, the nursing facility shall provide information from the LDH website to the residents on the risks associated with pneumonia and the availability of the pneumococcal immunization.

C. No later than September 1 of each year, the nursing facility shall provide information from the LDH website to the residents on the risks associated with zoster, also known as shingles, and how to protect oneself against the varicella-zoster virus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1930 (November 2016).

§9943. Infection Control Program

A. An infection control committee shall be established consisting of the medical director and representatives from at least administration, nursing, dietary and housekeeping personnel.

B. The committee shall establish policies and procedures for investigating, controlling and preventing infections in the nursing facility, and monitor staff performance to ensure proper execution of policies and procedures.

C. The committee shall approve and implement written policies and procedures for the collection, storage, handling, and disposal of medical waste.

D. The committee shall meet at least quarterly, documenting the content of its meetings.

E. Reportable diseases as expressed in the LAC *Title 51, Public Health—Sanitary Code* shall be reported to the local parish health unit of OPH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1930 (November 2016).

§9945. Employee Health Policies and Procedures

A. Nursing facility employees with a communicable disease or infected skin lesions shall be prohibited from direct contact with residents or their food, if direct contact will transmit the disease.

B. The nursing facility shall require staff to wash their hands after each direct resident contact for which hand washing is indicated. An antimicrobial gel or waterless cleaner may be used between resident contact, when appropriate. The nursing facility shall follow the current Centers for Disease Control's *Guideline for Hand Washing*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1930 (November 2016).

§9947. Isolation

A. When the infection control program determines that a resident needs isolation to prevent the spread of infection, the nursing facility shall isolate the resident according to the most current Centers for Disease Control's recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1930 (November 2016).

§9949. Housekeeping and Maintenance

A. Housekeeping and maintenance services necessary to maintain a sanitary, orderly, and safe interior shall be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1930 (November 2016).

§9951. Nursing Care Equipment

A. Bedpans, urinals, emesis basins, wash basins and other personal nursing items shall be thoroughly cleaned after each use and sanitized as necessary. Water pitchers shall be sanitized as necessary.

B. All catheters, irrigation sets, drainage tubes or other supplies or equipment for internal use, and as identified by the manufacturer as one time use only, shall be disposed of in accordance with the manufacture's recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1930 (November 2016).

§9953. Waste and Hazardous Materials Management

A. The nursing facility shall have a written and implemented waste management program that identifies and controls wastes and hazardous materials. The program shall comply with all applicable laws and regulations governing wastes and hazardous materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1930 (November 2016).

Rebekah E. Gee MD, MPH
Secretary

1611#071

RULE

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

Personal Care Services—Long-Term
Non-Medical Transportation Services
(LAC 50:XV.12903)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services have amended LAC 50:XV.12903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 9. Personal Care Services
Chapter 129. Long Term Care
§12903. Covered Services

A. - C. ...

1. Repealed.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2507 (September 2013), LR 42:902 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 42:1931 (November 2016).

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

Rebekah E. Gee MD, MPH
Secretary

1611#072

RULE

Department of Health
Emergency Response Network Board

Trauma Program Recognition
(LAC 48:I.Chapter 197)

The Department of Health, Louisiana Emergency Response Network Board, has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, has adopted LAC 48.I.197101-197107, rules and regulations for recognition of a trauma program.

Pursuant to Act 248 of the 2004 Regular Session of the Louisiana Legislature, the Louisiana Emergency Response Network and Louisiana Response Network Board were created within the Department of Health. The Louisiana Emergency Response Network Board is authorized by R.S. 40:2846(A) to adopt rules and regulations to carry into effect the provisions of R.S. 40:2841 et seq. Pursuant to R.S. 40:2841, the legislative purpose of the Louisiana Emergency Response Network is to safeguard the public health, safety and welfare of the people of this state against unnecessary trauma and time-sensitive related deaths and incidents of morbidity due to trauma.

R.S. 40:2845(A)(1) requires the Louisiana Emergency Response Network Board to establish and maintain a statewide trauma communication center for resource coordination of medical capabilities for participating trauma centers as defined by R.S. 40:2171 and emergency medical services. The board is authorized to promulgate protocols for the transport of trauma and time-sensitive ill patients. The protocols so adopted consider trauma programs in addition to trauma centers. The rules provide for trauma program recognition, and are designated as Chapter 197, Trauma Program Recognition, LAC 48:I, Sections 197101-197107.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 15. Emergency Response Network
Chapter 197. Trauma Program Recognition
§19701. Generally

A. The goal of the Louisiana Emergency Response Network Board is to establish a trauma system that includes one verified trauma center in each region of the state. Trauma program recognition in excess of this goal will be determined utilizing a needs based assessment. The LERN Communication Center coordinates access to the trauma system by providing accurate and professional routing of patients experiencing time sensitive illness to the definitive care facility, which includes trauma programs recognized according to these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A), R.S. 40:2845(A)(1) and R.S. 9:2798.5.

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 42:1931 (November 2016).

§19703. Purpose

A. LERN recognizes the opportunity to reduce the morbidity and mortality of trauma patients in Louisiana in areas without an existing Level I or Level II trauma center or an existing Level II or Level III trauma program through this process which recognizes the achievement of specific benchmarks in hospitals actively pursuing Levels II or III trauma center verification through the American College of Surgeons (ACS).

B. The purpose of this Chapter is to define the qualifications, procedure, and requirements for hospitals seeking trauma center verification by the ACS to be recognized by LERN as achieving the core components of a trauma program and thus qualified for recognition as a trauma program.

C. The criteria for trauma program recognition are drawn from *Resources for Optimal Care of Injured Patient 2014* published by the ACS.

D. Trauma program recognition is distinct and different from the Trauma Center certification by the state. To be

certified as a trauma center, a hospital must satisfy the requirements of R.S. 40:2172 and 2173.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A), R.S. 40:2845(A)(1) and R.S. 9:2798.5.

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 42:1931 (November 2016).

§19705. Qualifications for LERN Trauma Program Recognition

A. The hospital must be located in a LERN region that does not have an existing ACS verified Level I or Level II trauma center.

B. A hospital providing care to trauma patients in a LERN region without an existing ACS verified Level I or Level II trauma center or without an existing Level II or Level III trauma program is eligible for trauma program recognition upon meeting the requirements of this rule.

C. If there is an existing LERN recognized Level II or Level III trauma program in the LERN region, the hospital must complete the most current version of the ACS needs based assessment of trauma systems tool (ACS NBATS). If the number of trauma centers allocated by the tool is less than or equal to the number of existing trauma programs in the region, the hospital is not eligible for trauma program recognition.

D. A hospital must be in the process of working toward ACS verification to be eligible for trauma program recognition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A), R.S. 40:2845(A)(1) and R.S. 9:2798.5.

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 42:1932 (November 2016).

§19707. Procedure for Trauma Program Recognition

A. A hospital must complete the LERN approved form, "Application for Recognition of Trauma Program".

B. The hospital CEO must complete and sign the LERN approved trauma program checklist/attestation for the applicable trauma program level.

1. By this attestation, the hospital CEO ensures 24/7/365 availability of the resources listed.

2. The attestation must be validated by a site visit by LERN staff.

3. Upon CEO attestation and/or site visit, if it is determined by the LERN executive committee in conjunction with the LERN trauma medical director, that the required benchmarks are not in place the hospital will not be eligible for trauma program verification.

C. After satisfying the requirements of A. and B. above, the hospital will be recognized as a trauma program and such recognition will be added to the LERN resource management screen for the purpose of routing trauma patients.

D. To maintain trauma program recognition, the hospital must schedule an ACS verification or consultation site visit for the desired trauma level within 12 months of LERN acceptance of the trauma program checklist/attestation.

1. If an ACS verification or consultation site visit is not scheduled within 12 months of the signed checklist/attestation, the "trauma program" indicator on LERN resource management screen will be removed.

E. After a consultation visit for the desired trauma level, the hospital has 1 year to achieve verification by the ACS or the trauma program indicator will be removed on the LERN resource management screen.

1. If the hospital fails the ACS verification visit and a focused review visit, the hospital will lose trauma program status. The trauma program indicator will be removed on the LERN resource management screen.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A), R.S. 40:2845(A)(1) and R.S. 9:2798.5.

HISTORICAL NOTE: Promulgated by the Department of Health, Emergency Response Network, LR 42:1932 (November 2016).

Paige Hargrove
Executive Director

1611#009

RULE

Department of Insurance
Office of the Commissioner

Regulation 31—Holding Company
(LAC 37:XIII.Chapter 1)

Under the authority of the *Louisiana Insurance Code*, R.S. 22.1 et seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. R.S. 22:691.11 and R.S. 22.691.27, the Department of Insurance has amended Regulation 31. The purpose of the amendments is to assist the Department of Insurance in effectively regulating the National Association of Insurance Commissioner's (NAIC) model regulation regarding the Insurance Holding Company System Regulatory Law.

Title 37
INSURANCE
Part XIII. Regulations

Chapter 1. Regulation 31—Holding Company

§101. Purpose

A. The purpose of this regulation is to set forth rules and procedural requirements which the commissioner deems necessary to carry out the provisions of Act 294 of the 2012 Regular Legislative Session to be comprised of R.S. 22:691.1-691.27 of the *Insurance Code*. The information called for by this regulation is hereby declared to be necessary and appropriate in the public interest and for the protection of the policyholders in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1295 (July 2015), LR 42:1932 (November 2016).

§103. Severability Clause

A. If any provision of this regulation, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end the provisions of this regulation are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992),

amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1295 (July 2015), LR 42:1932 (November 2016).

§105. Definitions

A. For purposes of this Rule, the definitions detailed below shall apply.

Executive Officer—chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.

The Act—the Insurance Holding Company System Regulatory Act (R.S. 22:691.1-691.27).

Ultimate Controlling Person—that person or persons who is not controlled by any other person. Person shall be defined pursuant to R.S. 22:691.2(7).

B. Unless the context otherwise requires, other terms found in this regulation and in R.S. 22:691.2 are used as defined in the Act. Other nomenclature or terminology is according to the *Insurance Code*, or industry usage if not defined by the Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1295 (July 2015), LR 42:1933 (November 2016).

§111. Amendments to Form A

A. The applicant shall promptly advise the commissioner of any changes in the information so furnished on Form A arising subsequent to the date upon which such information was furnished but prior to the commissioner's disposition of the application. If change(s) to the Form A should occur after the commissioner's approval of the application but prior to the closing date of the sale, the applicant shall be required to notify the commissioner in writing within 15 days of such change(s). Upon receipt of such notice of change(s), the commissioner has the option to modify or rescind his approval and may require a new hearing on the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1296 (July 2015), LR 42:1933 (November 2016).

§115. Annual Registration of Insurers—Statement Filing

A. An insurer required to file an annual registration statement pursuant of R.S. 22:691.6 shall furnish the required information on Form B, hereby made a part of this regulation. An ultimate controlling person (an individual) or persons (more than one individual) of a domestic insurer licensed and writing only in Louisiana may file an unaudited balance sheet in lieu of a reviewed financial statement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.1-691.27.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1296 (July 2015), LR 42:1933 (November 2016).

§133. Form A—Acquisition of Control or Merger with a Domestic Insurer

STATEMENT REGARDING THE ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER

_____

Name of Domestic Insurer

By

_____

Name of Acquiring Person (Applicant)

Filed with the Insurance Department of

_____

(State of domicile of insurer being acquired)

Dated: _____, 20 _____

Name, Title, Address and Telephone Number of Individual to Whom Notices and Correspondence Concerning this Statement Should Be Addressed:

_____

_____

_____

_____

_____

ITEM 1. INSURER AND METHOD OF ACQUISITION

State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

ITEM 2. IDENTITY AND BACKGROUND OF THE APPLICANT

(a) State the name and address of the applicant seeking to acquire control over the insurer.

(b) If the applicant is not an individual, state the nature of its business operations for the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence. Provide a brief but informative description of the business intended to be done by the applicant and the applicant's subsidiaries.

(c) Furnish a chart or listing clearly presenting the identities of the inter-relationships among the applicant and all affiliates of the applicant. No affiliate need be identified if its total assets are equal to less than 1/2 of 1 percent of the total assets of the ultimate controlling person affiliated with the applicant. Indicate in such chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g. corporation, trust, partnership) and the

state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings, and the date when commenced.

ITEM 3. IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT

On the biographical affidavit, include a third party background check, and state the following with respect to (1) the applicant if (s)he is an individual or (2) all persons who are directors, executive officers or owners of 10 percent or more of the voting securities of the applicant if the applicant is not an individual.

(a) Name and business address;

(b) Present principal business activity, occupation or employment, including position and office held, and the name, principal business, and address of any corporation or other organization in which such employment is carried on;

(c) Material occupations, positions, offices, or employment during the last five years, giving the starting and ending dates of each and the name, principal business, and address of any business corporation or other organization in which each such occupation, position, office, or employment was carried on; if any such occupation, position, office or employment required licensing by or registration with any federal, state or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension, or disciplinary proceedings in connection therewith.

(d) Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last ten years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

ITEM 4. NATURE, SOURCE, AND AMOUNT OF CONSIDERATION

(a) Describe the nature, source, and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes, and security arrangements relating thereto.

(b) Explain the criteria used in determining the nature and amount of such consideration.

(c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity of the lender to remain confidential, he must specifically request that the identity be kept confidential.

ITEM 5. FUTURE PLANS OF INSURER

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate such insurer, to sell its assets to or merge or consolidate it with any person or persons, or to make any other material change in its business operations or corporate structure or management.

ITEM 6. VOTING SECURITIES TO BE ACQUIRED

State the number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.

ITEM 7. OWNERSHIP OF VOTING SECURITIES

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates, or any person listed in Item 3.

ITEM 8. CONTRACTS, ARRANGEMENTS, OR UNDERSTANDINGS WITH RESPECT TO VOTING SECURITIES OF THE INSURER

Give a full description of any contracts, arrangements, or understandings with respect to any voting security of the insurer in which the applicant, its affiliates or any person listed in Item 3 is involved including, but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss, or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements, or understandings have been entered into.

ITEM 9. RECENT PURCHASES OF VOTING SECURITIES

Describe any purchases of any voting securities of the insurer by the applicant, its affiliates, or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement. Include in such description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefor. State whether any such shares so purchased are hypothecated.

ITEM 10. RECENT RECOMMENDATIONS TO PURCHASE

Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates, or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates, or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement.

ITEM 11. AGREEMENTS WITH BROKER-DEALERS

Describe the terms of any agreement, contract, or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard thereto.

ITEM 12. FINANCIAL STATEMENTS AND EXHIBITS

(a) Financial statements, exhibits, and three-year financial projections of the insurer(s) shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements of the acquiring party shall include the annual financial statements for the preceding five fiscal years (or for such lesser period as such applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of such person's last fiscal year, if such information is available. Such statements may be prepared on either an individual basis, or, unless the commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business. In addition, the Commissioner may also request financial statements for any person identified in Item 2(c).

The annual financial statements of the applicant and the ultimate controlling person shall be accompanied by the certificate of an independent certified public accountant to the effect that such statements present fairly the financial position of the applicant and the ultimate controlling person and the results of their operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an insurer who is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the Annual Statement of such person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of such state.

Other than the applicant, an ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent certified public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the Personal Financial Statements Guide by the American Institute of Certified Public Accountants. Personal financial statements shall be accompanied by the

independent certified public accountant's Standard Review Report stating that the accountant is not aware of any material modifications that should be made to the financial statements in order for the statements to be in conformity with generally accepted accounting principles.

(c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting materials relating thereto, any proposed employment, consultation, advisory, or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two fiscal years, and any additional documents or papers required by Form A or §131.A and 131.C of Regulation 31.

ITEM 13. AGREEMENT REQUIREMENTS FOR ENTERPRISE RISK MANAGEMENT

Applicant agrees to provide, to the best of its knowledge and belief, the information required by Form F within 15 days after the end of the month in which the acquisition of control occurs.

ITEM 14. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of R.S. 22:691.4, _____ has caused this application to be duly signed on its behalf in theCity/Parish of _____ and state of _____ on the _____ day of_____, 20 _____.

(SEAL)

_____

Name of Applicant

BY _____

(Name) (Title)

Attest:

_____

(Signature of Officer)

_____

(Title)

CERTIFICATION

The undersigned deposes and says that(s) he has duly executed the attached application dated , 20 _____, for and on behalf of _____that (s)he is the _____ of such company that (s)he is authorized to execute and file such instrument.

(Name of Applicant) (Title of Officer)

Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information, and belief.

(Signature)_____

(Type or print name beneath)_____

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.4 and 22:691.11

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992), amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1299 (July 2015), LR 42:1933 (November 2016).

§135. Form B—Annual Registration Statement

INSURANCE HOLDING COMPANY SYSTEM ANNUAL REGISTRATION STATEMENT

Filed with the Insurance Department of the

State of _____

By

_____

(Name of Registrant)

On Behalf of Following Insurance Companies

Name Address

_____

_____

_____

_____

Date: _____, 20 _____

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning this Statement Should Be Addressed:

_____

_____

_____

ITEM 1. IDENTITY AND CONTROL OF REGISTRANT

Furnish the exact name of each insurer registering or being registered (hereinafter called "the Registrant"), the home office address and principal executive offices of each; the date of which each Registrant became part of the insurance holding company system; and the method(s) by which control of each Registrant was acquired and is maintained.

ITEM 2. ORGANIZATIONAL CHART

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. No affiliate need be shown if its total assets are equal to less than 1/2 of 1percent of the total assets of the ultimate controlling person within the insurance holding company system unless it has assets valued at or exceeding (insert amount). The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

ITEM 3. THE ULTIMATE CONTROLLING PERSON

As to the ultimate controlling person in the insurance holding company system furnish the following information:

(a) Name
(b) Home office address
(c) Principal executive office address
(d) The organizational structure of the person, (i.e., corporation, partnership, individual, trust, etc.)
(e) The principal business of the person
(f) The name and address of any person who holds or owns 10 percent or more of any class of voting security, the class of such security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned.
(g) If court proceedings involving a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings, and the date when commenced.

ITEM 4. BIOGRAPHICAL INFORMATION

If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, furnish the following information for the directors and executive officers of the ultimate controlling person: the individual's name and address, his or her principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations. If the ultimate controlling person is an individual, furnish the individual's name and address, his or her principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations.

ITEM 5. TRANSACTIONS AND AGREEMENTS

Briefly describe the following agreements in force; and transactions currently outstanding or which have occurred during the last calendar year between the Registrant and its affiliates:

(1) loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the Registrant or of the Registrant by its affiliates;
(2) purchases, sales, or exchanges of assets;
(3) transactions not in the ordinary course of business;
(4) guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the Registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the Registrant's business;
(5) all management agreements, service contracts, and all cost-sharing arrangements;
(6) reinsurance agreements;
(7) dividends and other distributions to shareholders;
(8) consolidated tax allocation agreements; and
(9) any pledge of the Registrant's stock and/or of the stock of any subsidiary or controlling affiliate for a loan made to any member of the insurance holding company system.

Sales, purchases, exchanges, loan or extensions of credit, investments or guarantees involving the amounts specified in R.S. 22:691.6(D) or less of the Registrant's admitted assets as of the thirty-first day of December next preceding, or such transactions as set forth below, shall not be deemed material.

Sales, purchases, exchanges, loan or extensions of credit, investments or guarantees of less than $25,000 shall not be deemed material even if such transaction would otherwise be deemed material under the provisions of R.S.22:691.6(D). Additionally, transactions that fall between $25,000 and $250,000 shall not be deemed material unless such transaction involves .0075 of the admitted assets of the insurer as of the thirty-first day of December next preceding.

The description shall be in a manner as to permit the proper evaluation thereof by the commissioner, and shall include at least the following: the nature and purpose of the transaction, the nature and amounts of any payments or transfers of assets between the parties, the identity of all parties to such transaction, and relationship of the affiliated parties to the Registrant.

ITEM 6. LITIGATION OR ADMINISTRATIVE PROCEEDINGS

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which such litigation or proceeding is or was pending:

(a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and
(b) Proceedings which may have a material effect upon the solvency or capital structure of the ultimate holding company including, but not necessarily limited to, bankruptcy, receivership, or other corporate reorganizations.

ITEM 7. STATEMENT REGARDING PLAN OR SERIES OF TRANSACTIONS

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions, the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

ITEM 8. FINANCIAL STATEMENT AND EXHIBITS

(a) Financial statements and exhibits should be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, the financial statements shall include the annual financial statements of the ultimate controlling person in the holding company system as of the end of the person's latest fiscal year. Financial statements are required for an ultimate controlling person who is an individual as well as for a corporation or other type of business organization. If a holding company system includes more than one ultimate controlling person, annual financial statements are required for each ultimate controlling person.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent such information is available. Such financial statements may be prepared on either an individual basis, or unless the commissioner otherwise requires, on a consolidated basis if such consolidated statements are prepared in the usual course of business.

Other than with respect to the foregoing, such financial statement shall be filed in a standard form and format adopted by the National Association of Insurance Commissioners, unless an alternative form is accepted by the Commissioner. Documentation and financial statements filed with the Securities and Exchange Commission or audited GAAP financial statements shall be deemed to be an appropriate form and format.

Unless the Commissioner otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent certified public accountant to the effect that the statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement of the insurer's domiciliary state and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of that state.

Any ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent certified public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the Personal Financial Statements Guide by the American Institute of Certified Public Accountants. Personal financial statements shall be accompanied by the independent certified public accountant's Standard Review Report stating that the accountant is not aware of any material modifications that should be made to the financial statements in order for the statements to be in conformity with generally accepted accounting principles. An ultimate controlling person (an individual) or persons (more than one individual) of a domestic insurer licensed and writing only in Louisiana may file an unaudited balance sheet in lieu of a reviewed financial statement.

(c) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by Form B or §131.A and §131.C.

ITEM 9. FORM C REQUIRED

A Form C, Number Summary of Registration Statement, must be prepared and filed with this Form B.

ITEM 10. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of R.S. 22:691.6, the Registrant has caused this annual registration statement to be duly signed on its behalf in the City/Parish of _____, and State of _____on the _____day of _____, 20 _____.

(SEAL)

_____

(Name of Registrant)

_____

By (Name) (Title)

Attest:

_____

(Signature of Officer)

_____

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached annual registration statement dated _____, 20_____, for and on behalf of _____; that (s)he is the _____ of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and the facts therein set forth are true to the best of his/her knowledge, information, and belief.

(Signature)_____

(Type or print name beneath)_____

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:691.6 and 22:691.11

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:274 (March 1992),

amended LR 19:501 (April 1993), amended by the Office of the Commissioner, LR 41:1301 (July 2015), LR 42:1935 (November 2016).

James J. Donelon
Commissioner

1611#012

RULE

Department of Insurance
Office of the Commissioner

Regulation 40—Summary Document and Disclaimer and Notice of Noncoverage (LAC 37:XIII.Chapter 9)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., has amended Regulation 40 regarding summary document and disclaimer and notice of noncoverage.

The proposed regulation was necessitated by the passage of Acts 2009, No. 258 and Acts 2014, No. 374 of the Regular Session of the Louisiana Legislature, and is being amended to accomplish those purposes required by said acts as it pertains to coverage and limitations. The amendments also makes technical changes and affect the following Sections of the LAC 37:XIII §901, §903, §905, §907, and §909. Section 911 is an addition to the regulation.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 9. Regulation 40—Summary Document and Disclaimer and Notice of Noncoverage

§901. Purpose

A. The purpose of Regulation 40 is to implement the Louisiana Life and Health Insurance Guaranty Association Law as set forth in R.S. 22:2081 et seq., which is designed to protect covered persons against the risk of insurer insolvencies under certain life, health, or annuity policies or contracts.

B. The purpose of the documents, designated in §903 as exhibit A and exhibit B, is to give notice to the insurance-buying consumer that the Louisiana Life and Health Insurance Guaranty Association Law includes restrictions as to coverage, and in some instances excludes coverage for certain types of policies or contracts, and includes substantial limitations as to the amounts which may be reimbursed in the event of the insolvency of the insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 11, and 2098.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:620 (June 1992), amended LR 18:1401 (December 1992), amended LR 42:1938 (November 2016).

§903. Applicability and Scope

A. Regulation 40 applies to the Louisiana Life and Health Insurance Guaranty Association (LLHIGA) as created by R.S. 22:2085 and its member insurers as defined by R.S. 22:2084.

B. Exhibit A, which follows hereto and is made a part hereof, sets forth the form and content of the summary document, as approved by the commissioner of insurance, summarizes the coverage provided by the Louisiana Life and Health Insurance Guaranty Association Law, and includes a disclaimer statement which is to be placed conspicuously on the front of the summary document. Pursuant to R.S. 22:2098(B), the summary document with the disclaimer is to be delivered with each life, health, or annuity policy or contract, described in R.S. 22:2083(B)(1), issued or delivered in Louisiana.

C. Exhibit B, which follows hereto and is made a part hereof, sets forth the notice of noncoverage required by R.S. 22:2098(D). It is required to be delivered with each life, health, or annuity policy or contract described in R.S. 22:2083(B)(1) and excluded from coverage under R.S. 22:2083(B)(2).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 11, and 2098.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:620 (June 1992), amended LR 18:1401 (December 1992), amended LR 42:1938 (November 2016).

§905. Form and Content

A. The summary document and disclaimer shall be in a form which complies with §907, exhibit A, which follows hereto and forms a part of Regulation 40.

B. The notice of noncoverage shall be in a form which complies with §909, exhibit B, which follows hereto and forms a part of Regulation 40.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 11 and 2098.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:620 (June 1992), amended LR 18:1401 (December 1992), amended LR 42:1938 (November 2016).

§907. Exhibit A—Summary of the Louisiana Life and Health Insurance Guaranty Association Act and Notice Concerning Coverage Limitations and Exclusions

A. Residents of Louisiana who purchase life insurance, annuities, or health insurance should know that the insurance companies licensed in this state to write these types of insurance are required by law to be members of LLHIGA. The purpose of LLHIGA is to assure that policyholders will be protected, within limits, in the unlikely event that a member insurer becomes financially unable to meet its obligations. If this happens, LLHIGA will assess its other member insurance companies for the money to pay the claims of insured persons who live in this state, and in some cases, to keep coverage in force. However, the valuable extra protection provided by these insurers through LLHIGA is limited. As noted in the disclaimer below, this protection is not a substitute for consumers' care in selecting companies that are well-managed and financially stable.

B. Except as provided in R.S. 22:2098(D), when an insurer delivers a policy or contract described in R.S. 22:2083(B)(1), then prior to or at the time of delivery, the disclaimer notice described in R.S. 22:2098(C) and approved by the commissioner, shall be given separately to the policy or contract holder:

Disclaimer

The Louisiana Life and Health Insurance Guaranty Association provides coverage of claims under some types of policies if the insurer becomes impaired or insolvent. COVERAGE MAY NOT BE AVAILABLE FOR YOUR POLICY. Even if coverage is provided, there are significant limits and exclusions. Coverage is generally conditioned upon residence in this state. Other conditions may also preclude coverage.

Insurance companies and insurance agents are prohibited by law from using the existence of the association or its coverage to sell you an insurance policy.
You should not rely on the availability of coverage under the Louisiana Life and Health Insurance Guaranty Association when selecting an insurer.

The Louisiana Life and Health Insurance Guaranty Association or the Department of Insurance will respond to any questions you may have which are not answered by this document.

LLHIGA	Department of Insurance
P.O. Drawer 44126	P. O. Box 94214
Baton Rouge, LA 70804	Baton Rouge, LA 70804-9214

C. The state law that provides for this safety-net coverage is called the Louisiana Life and Health Insurance Guaranty Association Law (the law), and is set forth at R.S. 22:2081 et seq. The following is a brief summary of this law's coverages, exclusions and limits. This summary does not cover all provisions of the law; nor does it in any way change any person's rights or obligations under the law or the rights or obligations of LLHIGA.

D. Generally, individuals will be protected by the Life and Health Insurance Guaranty Association if they live in this state and hold a direct non-group life, health, or annuity policy or contract, a certificate under a direct group policy or contract for a supplemental contract to any of these, or an unallocated annuity contract, issued by an insurer authorized to conduct business in Louisiana. The beneficiaries, payees or assignees of insured persons may also be protected as well even if they live in another state unless they are afforded coverage by the guaranty association of another state, or other circumstances described under the law are applicable.

E. Exclusions from Coverage

1. A person who holds a direct non-group life, health, or annuity policy or contract, a certificate under a direct group policy or contract for a supplemental contract to any of these, or an unallocated annuity contract is not protected by LLHIGA if:

a. he is eligible for protection under the laws of another state (This may occur when the insolvent insurer was incorporated in another state whose guaranty association protects insureds who live outside that state.);

b. the insurer was not authorized to do business in this state;

c. his policy was issued by a profit or nonprofit hospital or medical service organization, an HMO, a fraternal benefit society, a mandatory state pooling plan, a mutual assessment company or similar plan in which the policyholder is subject to future assessments, an insurance exchange, an organization that issues charitable gift annuities as is defined in R.S. 22:952(A)(3), or any entity similar to any of these.

2. LLHIGA also does not provide coverage for:

a. any policy or portion of a policy which is not guaranteed by the insurer or for which the individual has assumed the risk, such as a variable contract sold by prospectus;

b. any policy of reinsurance (unless an assumption certificate was issued);

c. interest rate or crediting rate yields, or similar factors employed in calculating changes in value, that exceed an average rate;

d. dividends, premium refunds, or similar fees or allowances described under the Law;

e. credits given in connection with the administration of a policy by a group contract holder;

f. employers', associations' or similar entities' plans to the extent they are self-funded (that is, not insured by an insurance company, even if an insurance company administers them) or uninsured;

g. unallocated annuity contracts (which give rights to group contract holders, not individuals), except unallocated annuity contracts and defined contribution government plans qualified under section 403(b) of the United States *Internal Revenue Code* (26 U.S.C. §403(b)).

h. an obligation that does not arise under the express written terms of the policy or contract issued by the insurer to the policy owner or contract owner, including but not limited to, claims described under the law;

i. a policy or contract providing any hospital, medical, prescription drug or other health care benefits pursuant to "Medicare Part C coverage" or "Medicare Part D coverage" and any regulations issued pursuant to those parts;

j. interest or other changes in value to be determined by the use of an index or other external references but which have not been credited to the policy or contract or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired or insolvent insurer, whichever is earlier.

F. Limits on Amounts of Coverage

1. The Louisiana Life and Health Insurance Guaranty Association Law also limits the amount that LLHIGA is obligated to pay out.

2. The benefits for which LLHIGA may become liable shall in no event exceed the lesser of the following.

a. LLHIGA cannot pay more than what the insurance company would owe under a policy or contract if it were not an impaired or an insolvent insurer.

b. For any one insured life, regardless of the number of policies or contracts there are with the same company, LLHIGA will pay a maximum of $300,000 in life insurance death benefits, but not more than $100,000 in net cash surrender and net cash withdrawal values for life insurance.

c. For any one insured life, regardless of the number of policies or contracts there are with the same company, LLHIGA will pay a maximum of $500,000 in health insurance benefits, and LLHIGA will pay a maximum of $250,000 in present value of annuities, including net cash surrender and net cash withdrawal values.

3. In no event, regardless of the number of policies and contracts there were with the same company, and no

matter how many different types of coverages, LLHIGA shall not be liable to expend more than $500,000 in the aggregate with respect to any one individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 11 and 2098.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:620 (June 1992), amended LR 18:1401 (December 1992), amended LR 42:1938 (November 2016).

§909. Exhibit B—Notice of Noncoverage

A. When an insurer or agent delivers a policy or contract described in R.S. 22:2083(B)(1) that is excluded from coverage by R.S. 22:2083(B)(2), then prior to or at the time of such delivery, the following notice shall be given separately to the policy or contract holder:

> The Policy Or Contract You Are Purchasing Is Not Covered By The Louisiana Life And Health Insurance Guaranty Association.
>
> Coverage is specifically excluded by law for the type of policy or contract you are purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 11 and 2098.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:620 (June 1992), amended LR 18:1401 (December 1992), amended LR 42:1940 (November 2016).

§911. Severability

A. If any Section or provision of Regulation 40 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 40 to any persons or circumstances that can be given effect without the invalid Section or provision or application, and for these purposes the Sections and provisions of Regulation 40 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2, 11 and 2098.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:1940 (November 2016).

James J. Donelon
Commissioner

1611#014

RULE

Department of Insurance
Office of the Commissioner

Regulation 78—Policy Form Filing Requirements
(LAC 37:XIII.Chapter 101)

The Department of Insurance, pursuant to the authority of the *Louisiana Insurance Code*, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended Regulation 78, Policy Form Filing Requirements.

The purpose of amending Regulation 78 is to provide a more streamlined and cost-effective means for insurance companies to file policy forms, amendments and associated documents with the Department of Insurance; to provide uniform procedures for filing among the states; and to bring this regulation into compliance with the Affordable Care Act.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 101. Regulation 78—Policy Form Filing Requirements

§10101. Purpose

A. The purpose of this regulation is:

1. to provide for the uniform and practicable administration of the form filing, review and approval requirements of the *Louisiana Insurance Code*;

2. to clarify the provisions of R.S. 22:861(B);

3. to protect the interests of insurance consumers and the public through improvements to the form filing, review and approval processes; and

4. to assist all insurers doing business in the state of Louisiana in complying with the form filing, review and approval requirements of the *Louisiana Insurance Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S.22:861, R.S. 22:862 and R.S 22:974.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:101 (January 2007), LR 42:1940 (November 2016).

§10103. Authority

A. This regulation is adopted pursuant to R.S. 22:11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and Directive 169.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002)., amended LR 42:1940 (November 2016).

§10105. Applicability and Scope

A. This regulation applies to all insurers doing business in the state of Louisiana subject to the form filing, review and approval provisions of the *Louisiana Insurance Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861, R.S. 22:862 and R.S. 22:974.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:101 (January 2007), LR 42:1940 (November 2016).

§10107. Filing and Review of Health Insurance Policy Forms and Related Matters

A. Definitions. As used in this Section, the following terms shall have the meaning or definition as indicated herein.

Affirmative Approval—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

Association—an organization legally formed for purposes other than the procurement of insurance and, depending upon the particular insurance products in question, meeting the requirements of R.S. 22:1000 A(1)(a)(iv), or R.S. 22:1061(5)(b), or R.S. 22:1184(4), whichever is applicable.

Benchmark Plan—a basic insurance policy form establishing the essential health benefits required of every plan sold in Louisiana under the Patient Protection and Affordable Care Act (Pub. L. 111-148), as amended by the Health Care and Education and Reconciliation Act of 2010

(Pub. L. 111-152), together referred to as the Affordable Care Act.

Basic Insurance Policy Form—an insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance product. It includes certificates of coverage and any other evidence of coverage, subscriber agreements, application forms where written application is required and is to be attached to the policy or be a part of the contract, and any life or health and accident rider or endorsement form. It does not include policies, riders, or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.

Certification of Compliance—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

Certified Approval—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a certification of compliance, executed by an officer or authorized representative of the filing insurer on a form prescribed by the department. The department shall by directive determine those specific types of coverages and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

Commissioner—the commissioner of insurance of the Louisiana Department of Insurance.

Complete Filing—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form and supplemental application form, if any, to be attached to the policy or be a part of the contract; any life or health and accident rider or endorsement forms; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

Compliance Audit—a retrospective review conducted by the department of previously approved basic insurance policy forms to determine compliance with applicable law.

Compliance Review—department review of a filing made pursuant to this Section to determine either that the filing is in compliance with all applicable statutes, rules and regulations, or that the filing should be disapproved for noncompliance.

Deemed Approval—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

Department—the Louisiana Department of Insurance.

Endorsement—a written agreement attached to an insurance product to add or subtract coverage, or otherwise modify the product.

Insurance Product—a basic insurance policy form delineating the terms, provisions and conditions of a specific type of coverage under a particular type of contract.

Insurer—every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:46(10). As used in this Section, *insurer* shall also include fraternal benefit societies and health maintenance organizations.

Method of Marketing—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the internet.

Optional Endorsement or *Rider*—a form used to permit policyholders, certificate holders, or enrollees to obtain supplemental benefits.

Required Filing Fee—the fee assessed per product or filing pursuant to state insurance law.

Rider—an endorsement to an insurance product that modifies clauses and provisions of the product, including adding or excluding coverage.

Statement of Compliance—a form prescribed by the department, detailing the requirements specific to a particular form of coverage and contract type.

Trust—a fund established by an employer, two or more employers in the same industry, one or more labor unions, an association, multiple associations, or to a multiple employer trust established by an insurer on behalf of participating employers, pursuant to a trust instrument which transfers title to property and/or funds to one or more trustees to be administered as fiduciaries for the benefit of others, pursuant to R.S. 22:1000. All participating employers and employees must have the same statutory protections that would apply if such policy was purchased by the employer directly from the insurer.

B. Filing Required

1. Pursuant to R.S. 22:861(A), no basic insurance policy form, other than fidelity or surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. This requirement also applies to any group health or accident insurance policy covering residents of Louisiana, regardless of where issued or delivered. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

2. A filing description must accompany every filing, describing the items included in the filing, the insurance product type for which the filing is being made, and the method of marketing to be used for the product. For non-electronic paper filings, this description must be satisfied by the submission of a completed transmittal document.

C. General Filing Requirements

1. The department shall designate, by directive, those insurance products which must be filed pursuant to the requirements for certified approval as set forth in Subsection F hereof, "Time Periods and Requirements for Certified Approval of Policy Form Filings." A directive issued pursuant to this Subsection may also designate those insurance products which may, at the discretion of the

insurer, be filed either pursuant to said requirements for certified approval, or as ordinary filings subject to review as set forth in Subsection E hereof. All insurance products not so designated shall be filed pursuant to the requirements for compliance review as set forth in Subsection E hereof, "Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms."

2. Other than as specified in Subsection D hereof, "Exceptions," only complete filings will be accepted, whether by mail or as otherwise authorized. In order for the department to conduct a proper compliance review or compliance audit of an insurance product, all items associated therewith must be included. A filing will be determined incomplete and will be disapproved if it does not contain all applicable items.

a. All filings of an insurance product must include, in final wording, the following items:

i. required filing fee, per insurance product, per insurance company;

ii. statement of compliance for said product;

iii. policy forms filed for approval;

iv. application form;

v. rider or endorsement forms;

vi. copies of any sample identification card intended for issue to covered persons;

vii. initial premium rates, classification of risks, and actuarial memoranda; and

viii. self-addressed, stamped envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

b. Filings of policy forms for one or more standardized Medicare supplement insurance plans, or one or more standardized Medicare select insurance plans, shall be considered a filing of one insurance product per insurer. Such filings must include, in final wording, the following items:

i. required filing fee, per insurance product, per insurance company;

ii. required filing fee for premium rates, rating schedule and supporting documentation; and required filing fee for advertisements;

iii. statement of compliance for said product;

iv. policy forms filed for approval;

v. outline of coverage;

vi. application form;

vii. replacement notice;

viii. rider or endorsement forms;

ix. proposed plan of operation, as set forth in Regulation 33, Section 525.E for Medicare select insurance plans;

x. premium rates, rating schedule, and supporting documentation;

xi. any new related advertising as defined in rule 3A, Section 105, including any required filing fee for said advertising.

c. Filings of policy forms for long-term care insurance must include, in final wording, the following items:

i. required filing fee, per insurance product, per insurance company;

ii. statement of compliance for said product;

iii. policy forms filed for approval;

iv. outline of coverage;

v. application form;

vi. replacement notice;

vii. rider or endorsement forms;

viii. premium rates and classification of risks;

ix. personal worksheet, as per Regulation 46, Appendix B;

x. disclosure, as per Regulation 46, Appendix C;

xi. suitability letter, as per Regulation 46, Appendix D;

xii. any new related advertising as defined in rule 3, Section 1305; and

xiii. if not filed electronically, a stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed.

d. Filings of all group insurance products must include the group master contract, individual certificates or subscriber agreements or other statements of coverage, group application, individual enrollment forms, and any conversion insurance policy and application for conversion, if offered under the group master contract.

e. Filings of group health and accident products intended for issuance to an association are limited to associations as defined herein and must include the association's constitution, by-laws, membership application, membership agreement and brochure of membership benefits other than the insurance products offered.

f. Filings of group health and accident products intended for issuance to a trust are limited to trusts established by one or more employers, trusts established by one or more labor unions, a trust established by an association, a multiple association trust established by an insurer on behalf of participating associations, or a multiple employer trust established by an insurer on behalf of participating employers, and must include the trust agreement, articles of incorporation or other instrument creating the trust, and member adoption agreement. If the trust was established by an association or a multiple association trust, the filing must include the information described in Subparagraph C.2.e hereof.

g. When a new benchmark plan is selected for implementation in Louisiana pursuant to applicable federal regulations, a complete product filing is required of each health insurance issuer that offers health insurance plans that are required to provide the essential health benefits categories.

h. Any insurer choosing to include variable material or information in any policy form must attempt to set forth the range of variable material or information in the policy form itself. Each section of a policy form that is variable must be identified as variable and shall be enclosed in square brackets. Whether the variable material or information be varying language, text, data, and/or ranges of values, the variable portion of the form filing must contain or describe in detail all the variations of material or information that could be placed in an insurance plan or policy form. The variable material or information must be described as clearly as possible and include all possible specific alternatives.

i. If it is necessary to provide an explanation of or additional information regarding the range of variability contained in the form, then a separate Statement of Variability that complies with the following regarding form,

content and submission must be submitted. the statement of variability must provide an explanation of all permissible variations of material or information that could be used in an insurance plan or policy form offered to policyholders or enrollees that is derived from the product filing. Whether the variable material or information be varying language, text, data, and/or ranges of values, the statement of variability must contain or describe in detail all the variations of material or information that could be placed in an insurance plan or policy form. The variable material or information must be described as clearly as possible and include all possible specific alternatives.

j. Use of any material or information that does not reflect the variable material or information bracketed in the policy form and/or described in the statement of variability constitutes use of an unapproved policy form.

k. After approval of a policy form containing variable material or information, an insurer may not submit an "informational filing" changing its variable material or information or the Statement of Variability as this constitutes changing a form without approval. Because the variable material or information and/or statement of variability alters the contents of the policy forms, changes to a statement of variability must be submitted as an amendatory filing and reviewed.

l. Any insurer that uses variable material or information in its policy form and/or that uses a Statement of Variability must ensure the following.

i. The final form issued to the consumer will not contain variable material or information in brackets.

ii. Any variable material or information included in the policy forms or in the statement of variability will be effective only for policy forms issued or amended after the approval of such variable material or information.

iii. The use of variable material or information will be administered in a uniform and non-discriminatory manner and will not result in unfair discrimination.

iv. Only material or information included in the policy form or explained in the statement of variability will be allowed to be used on the referenced forms received by consumers.

v. Any changes to variable material or information in the product form filing must be submitted for approval prior to implementation.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms.

1. Application forms or enrollment forms to be used with a particular insurance product, or with multiple insurance products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form or enrollment form will henceforth be used, and the application form or enrollment form is included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing. No filing fees will be required for these filings.

2. Identification Cards. No filing fees will be required for these filings.

3. Medicare Supplement Advertising. Such filings must include statutory filing fees.

4. Long-Term Care Advertising. No filing fees will be required for these filings.

5. Filings of amendatory riders, endorsements, or optional endorsements or riders are permitted where the insurance product to be altered was originally certified or granted affirmative approval in SERFF.

a. Such filings must include:

i. specimen copies of the pertinent previously approved or certified forms with the specific terms and provisions being amended, underlined in red or similarly emphasized;

ii. the state tracking number assigned by the department and/or the SERFF tracking number for each of the previously approved or certified forms;

iii. the date of approval of each previously approved or certified forms;

iv. the form number for each previously approved policy form to which the amendatory filing applies;

v. a statement of variability if the previously approved or certified forms contains variable material or information. The statement of variability shall include a clear description of the parameters or values of any variable material or information as required herein at Subparagraph C.2.h.

b. Such filings must also include an affidavit, on a form prescribed by the department, affirming that the insurance product, if amended by rider or endorsement as requested, will be fully compliant with all pertinent statutes and regulations. Premium rates, classification of risks, and actuarial memoranda are not required with such filings.

c. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

6. Filings of amendatory riders, endorsements, or optional endorsements or riders, as needed to bring into compliance with law any existing insurance products that have been previously certified or granted affirmative approval and are currently in force but are no longer being marketed, must include specimen copies of the previously approved or certified forms, the state tracking number assigned by the department and/or the SERFF tracking number for each of the previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized. Premium rates, classification of risks, and actuarial memoranda are not required with such filings. The filing description shall advise that the previously approved or certified form is no longer being marketed. Such filings must include statutory filing fees for standardized plans in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

7. Medicare Supplement Rate Filings. Such filings must clearly indicate the percentage of increase in rates for each standardized plan and existing pre-standardized plan. Such filings must include statutory filing fees for standardized plans in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

8. Exclusionary riders pursuant to R.S. 22:1072(C); provided that the policy form filings, the state tracking numbers assigned by the department and/or the SERFF

tracking numbers and dates approved are identified for each previously approved product with which the exclusionary rider form will henceforth be used. No filing fees will be required for these filings. The exclusionary rider form shall be included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing.

9. Assumption certificates, which must be filed with a copy of the assumption agreement, letter of domiciliary state approval, information fully identifying the block of business being assumed, the number of covered lives residing in the state of Louisiana to be affected by the assumption, and the effective date of the assumption. No filing fees will be required for these filings.

10. Following approval of a complete filing of a Medicare supplement insurance product, subsequent filings by the same insurer of standardized plans of insurance of the same type do not require inclusion of associated forms such as the replacement notice or plan of operation, unless changes have been made or the plan of operation has changed. No filing fees will be required for any of the above associated forms. However, subsequent filings of an outline of coverage will require a filing fee in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

11. Following approval of a complete filing of a long-term care insurance product, subsequent filings by the same insurer of other long-term care products do not require inclusion of associated forms such as the replacement notice, personal worksheet, disclosure notice and suitability letter, unless changes have been made. No filing fees will be required for any of the above associated forms. However, subsequent filings of an outline of coverage will require a filing fee in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

12. Forms for lines of insurance or insurance products specifically exempted pursuant to statute.

13. Filings of riders or endorsements as needed to evidence that the requirements contained in title 22 of the *Louisiana Revised Statutes* are covered for Louisiana residents that are enrolled in a group plan offered by a policyholder located outside of Louisiana who has obtained such group coverage from a health and accident insurer subject to the jurisdiction of another state. Such filings must include specimen copies of the complete product forms, including any amendments, that are approved or certified for use by the other state, document(s) that evidence approval or certification of the complete product forms by the other state, and the date(s) of the other state's approval or certification. The specimen copies of the complete product forms shall include premium rates, classification of risks, and actuarial memoranda. Such filings must include required filing fees for policy forms or subscriber agreements in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

E. Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms

1. The time periods stated in this Section do not begin until the date a complete filing, or a filing pursuant to Subsection D hereof, "Exceptions," is received by the department.

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:862(6) will be issued for failure to comply with the requirements of this regulation.

3. A basic insurance policy form must be submitted to the department in accordance with the "general filing requirements" of this Section no less than 60 days in advance of planned issuance, delivery or use.

4. If affirmatively approved by order of the commissioner prior to expiration of the 60-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. If disapproved, the policy forms filed may not be used.

6. At the expiration of 60 days, if no order has been issued affirmatively approving or disapproving a filing, the insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 61, but not earlier than the 60-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 60-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 60-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. If affirmatively approved by order of the commissioner prior to expiration of the 15-day extended period allowed for department review, the policy forms filed may be used on or after the date approved.

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 61 referred to in Paragraph E.6 or day 76, but not earlier than the 60-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

F. Time Periods and Requirements for Certified Approval of Policy Form Filings

1. The department will make available statements of compliance setting forth the statutory and regulatory requirements specific to the various forms of coverage and contract types, as well as certification of compliance forms.

2. A policy form filing submitted for certified approval must include the following documents:

a. statement of compliance applicable to the form of coverage and contract type being submitted;

b. signed and dated Certification of Compliance;

c. all other items as set forth in Paragraph C.2 hereof.

3. If the filing is incomplete, notice of disapproval in accordance with R.S. 22:862(6) will be issued for failure to comply with the requirements of this regulation.

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but not earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

G. Resubmission of Filings

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must comply with all provisions of this Section for such a filing, and, in addition to the required filing fee, must include:

a. an outline of the proposed revisions, referencing the specific sections and page numbers for each form being revised;

b. a restatement of the form with all necessary revisions, as set forth in the prior order of disapproval, underlined in red or similarly emphasized; and

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. a copy of the previously approved form;

b. an outline of the proposed revisions, referencing the specific sections and page numbers for each previously approved form being revised;

c. a restatement of the form, with all proposed revisions underlined in red or similarly emphasized; and

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

H. Compliance and Audits

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

3. Insurers shall notify the department in writing to advise when a previously approved basic insurance policy form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall also advise whether or not coverage issued in this state under the policy form remains in force and whether or not such existing business will continue to be renewed. The notification shall provide the policy form numbers being discontinued and dates originally approved by the department.

I. Withdrawal of Approval and Corrective Action

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:862 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the *Louisiana Insurance Code* that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. Prior to withdrawing approval of a filing previously granted, the department will notify the affected insurer in writing of the alleged violation or irregularity. That insurer will then have 15 days to show that the disputed forms are in compliance with the *Louisiana Insurance Code*. If the affected insurer is unable to show compliance, the department will then proceed with issuing the notice of withdrawal of approval.

b. The affected insurer may request a hearing on the withdrawal of approval, in accordance with the provisions of Subsection J of this Chapter. The request for hearing must be

made to the Division of Administrative Law and to the Department of Insurance, pursuant to R.S. 22:2191.

c. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

2. Upon receipt of the notice of withdrawal of approval by the department, the affected insurer must:

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

c. immediately review other products being marketed by the insurer to assure that they do not contain such non-compliant provisions.

3. Within 30 days of receipt of the notice of withdrawal of approval by the department, a corrective action plan must be submitted to the department by the affected insurer. The corrective action plan must include the following.

a. If the affected product will no longer be marketed, amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

b. If the insurer desires to continue marketing the affected product, both:

i. a complete filing of properly revised forms in accordance with Paragraph G.1 hereof; and

ii. amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

c. Where such a required change can be clearly explained to prospective policyholders through amendatory endorsement forms or rider forms, such approval shall not extend to any reprinting of such forms.

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. The department may, in its discretion, extend the 30-day period for approval of a corrective action plan, upon the written request of the affected insurer and for good cause shown. In the event such an extension is granted, the date by which the insurer must cease issuing the affected product, except in accordance with a corrective action plan approved by the department, shall likewise be so extended.

6. Failure to timely respond as required herein shall result in a formal investigation to establish the extent of statutory violations, followed by an administrative hearing to determine appropriate sanctions against the insurer.

7. Where the department fails to respond to a corrective action plan filed by an insurer, or takes no action whatsoever regarding such plan, the insurer may deem the subject corrective action plan approved at the expiration of the 30-day period for approval by the department.

J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of part XXIX of title 22 of the *Louisiana Revised Statutes*. Pursuant to R.S. 22:2191, such demand must be in writing, must specify in what respects such person is aggrieved and the grounds to be relied upon as the basis for relief to be demanded at the hearing, and must be made within 30 days after the failure to approve any filing, notice of disapproval of any filing, or the notice of withdrawal of approval of any filing when such notice is mailed, faxed or delivered to the aggrieved party at his last known address.

K. Maintenance of Records; Alteration of Forms Prohibited

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof and no coverage issued on risks in this state utilizing such forms remains in force.

2. The alteration of, or any change to, any such form approved by the department is prohibited. Any such altered or changed form shall be submitted to the department as a new filing, and shall comply with all provisions of this Section applicable to a new filing. This Subsection shall not apply to typographical corrections and format improvements that do not affect the terms, provisions or clarity of the product.

3. A change of company name or logo, a change of address, and changes in listed officers do not require a new filing of forms when the department is otherwise properly notified of such change, and a copy of such notification is maintained on file by the insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861, R.S. 22:862 and R.S. 22:974.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2539 (December 2002), amended LR 33:101 (January 2007), LR 42:1940 (November 2016).

§10109. Filing and Review of Life and Annuity Insurance Policy Forms and Related Matters

A. Definitions. As used in this Section, the following terms shall have the meaning or definition as indicated herein.

Affirmative Approval—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

Amendatory Endorsement—a written agreement attached to or stamped on an insurance product to add or subtract coverage, or otherwise modify the product.

Amendatory Rider—a written document that is attached to an insurance product that adds to or changes information in the original document.

Association—an organization which has been formed for purposes other than procuring insurance for the members or employees.

Basic Insurance Policy Form—an insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance or annuity product. It includes certificates of coverage, application forms where written application is required and is to be attached to the policy or be a part of the contract, and any life or health and accident rider or endorsement form. It does not include policies, riders, or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.

Certification of Compliance—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

Certified Approval—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a certification of compliance, executed by an officer or authorized representative of the filing insurer on forms prescribed by the department. The department shall by directive determine those specific types of coverage and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

Commissioner—the commissioner of insurance of the Louisiana Department of Insurance.

Complete Filing—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form and supplemental application form, if any, to be attached to the policy or be a part of the contract; any life or health and accident rider or endorsement forms; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

Compliance Audit—a retrospective review conducted by the department of previously approved basic insurance policy forms to determine compliance with applicable law.

Compliance Review—department review of a filing made pursuant to this Section to determine either that the filing is in compliance with all applicable statutes, rules and regulations, or that the filing should be disapproved for noncompliance.

Deemed Approval—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

Department—the Louisiana Department of Insurance.

Endorsement—a written agreement attached to an insurance product to add or subtract coverage, or otherwise modify the product.

Insurance Product—a basic insurance policy form delineating the terms, provisions and conditions of a specific type of coverage under a particular type of contract.

Insurer—every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:46(10). As used in this Section, insurer shall also include fraternal benefit societies.

Method of Marketing—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the internet.

Optional Endorsement or *Rider*—a form used to permits policyholders, certificate holders, or enrollees to obtain supplemental benefits.

Required Filing Fee—the fee assessed per product or filing pursuant to R.S. 22:821(11)(a).

Rider—an endorsement to an insurance product that modifies clauses and provisions of the product, including adding or excluding coverage.

Statement of Compliance—a form prescribed by the department detailing the requirements specific to a particular form of coverage and contract type.

Trust—a fund established by an insurer on behalf of participating employers, provided all participating employers and employees have the same statutory protections that would apply if such policy were purchased by the employer directly from the insurer, pursuant to R.S. 22:941(A)(1).

B. Filing Required

1. Pursuant to R.S. 22:861(A), no basic insurance policy form, other than fidelity or surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. This requirement applies to any group life insurance policy or annuity covering residents of Louisiana where issued or delivered in Louisiana. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

2. A filing description must accompany every filing, describing the items included in the filing, the insurance or annuity product for which the filing is being made, and the method of marketing to be used for the product. For non-electronic paper filings, this description must be satisfied by the submission of a completed life and annuity transmittal document. If the filing includes health insurance to be offered as an optional benefit under the base life insurance contract, the appropriate statement of compliance for said health insurance product must be completed and submitted.

C. General Filing Requirements

1. The department shall designate, by directive, those insurance or annuity products which must be filed pursuant to the requirements for certified approval as set forth in Subsection F hereof, "Time Periods and Requirements for Certified Approval of Policy Form Filings." A directive issued pursuant to this Subsection may also designate those insurance or annuity products which may, at the discretion of the insurer, be filed either pursuant to said requirements for certified approval, or as ordinary filings subject to review as set forth in Subsection E hereof. All insurance or annuity products not so designated shall be filed pursuant to the requirements for compliance review as set forth in Subsection E hereof, "Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms."

2. Other than as specified in Subsection D hereof, "Exceptions," only complete filings will be accepted, whether by mail or as otherwise authorized. In order for the department to conduct a proper compliance review or compliance audit of an insurance or annuity product, all items associated therewith must be included. A filing will be determined incomplete and will be disapproved if it does not contain all applicable items.

a. All filings of individual life insurance or annuity products must include, in final wording, the following items:

i. required filing fee, per insurance or annuity product, per company;

ii. statement of compliance for said product;

iii. policy forms filed for approval;

iv. application form;

v. rider or endorsement forms;

vi. actuarial memorandum describing the statutory reserves and non-forfeiture values that will be used for each plan of insurance; and

vii. life illustrations, if illustrated.

viii. self-addressed, stamped envelope of sufficient size for use in returning the company's set of policy forms filed, unless filed electronically.

b. Filings of all group life and annuity products must include, in final wording, the following:

i. required filing fee, per insurance or annuity product, per insurance company;

ii. statement of compliance for said product;

iii. group master contract;

iv. individual certificate;

v. group application;

vi. rider or endorsement forms;

vii. employee/member enrollment forms; and

viii. an actuarial memorandum describing the statutory reserves and non-forfeiture values that will be used for each plan of insurance.

ix. self-addressed, stamped envelope of sufficient size for use in returning the company's set of policy forms filed, unless filed electronically.

c. Filings of group life and annuity products intended for issuance to an association are limited to associations as defined herein, and must include the association's constitution, by-laws, membership application, membership agreement and brochure of membership benefits other than the insurance products offered.

d. Filings of group life and annuity products intended for issuance to a trust are limited to trusts established by an insurer on behalf of a participating employer or association and must include the trust agreement, articles of incorporation or other instrument creating the trust, and member adoption agreement. If the trust was established by an association, the filing must include the information described in Subparagraph C.2.c hereof. This Subsection shall not apply to trusts established by qualified or government pension plans.

e. Any insurer choosing to include variable material or information in any policy form must attempt to set forth the range of variable material or information in the policy form itself. Each section of a policy form that is variable must be identified as variable and should be enclosed in square brackets. Whether the variable material or information be varying language, text, data, and/or ranges of values, the variable portion of the form filing must contain or describe in detail all the variations of material or information that could be placed in an insurance plan or policy form. The variable material or information must be described as clearly as possible and include all specific alternatives where possible.

f. If it is necessary to provide an explanation of or additional information regarding the range of variability contained in the form, then a separate statement of variability that complies with the following regarding form, content and submission must be submitted. The statement of variability must provide an explanation of all permissible variations of material or information that could be used in an insurance plan or policy form offered to policyholders or enrollees that is derived from the product filing. Whether the variable material or information be varying language, text, data, and/or ranges of values, the statement of variability must contain or describe in detail all the variations of material or information that could be placed in an insurance plan or policy form. The variable material or information must be described as clearly as possible and include all specific alternatives where possible.

g. Use of any material or information that does not reflect the variable material or information bracketed in the policy form and/or described in the statement of variability constitutes use of an unapproved policy form.

h. After approval of a policy form containing variable material or information, an insurer may not submit an "informational filing" changing its variable material or information or the statement of variability as this constitutes changing a form without approval. Because the variable material or information and/or statement of variability alters the contents of the policy forms, changes to a statement of variability must be submitted as an amendatory filing and reviewed.

i. Any insurer that uses variable material or information in its policy form and/or that uses a statement of variability must ensure the following:

i. The final form issued to the consumer will not contain variable material or information in brackets.

ii. Any variable material or information included in the policy forms or in the statement of variability will be effective only for policy forms issued or amended after the approval of such variable material or information.

iii. The use of variable material or information will be administered in a uniform and non-discriminatory manner and will not result in unfair discrimination.

iv. Only material or information included in the policy form or explained in the statement of variability will be allowed to be used on the referenced forms received by consumers.

v. Any changes to variable material or information in the product form filing will be submitted for approval prior to implementation.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms.

1. Application forms or enrollment forms to be used with a particular insurance or annuity product, or with multiple insurance or annuity products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form or enrollment form will henceforth be used and, the application form or enrollment form is included with any subsequently filed basic insurance or annuity policy forms as needed to constitute a complete filing. No filings fees will be required for these filings.

2. Assumption certificates, which must be filed in duplicate, with a single copy of the assumption agreement, letter of domiciliary state approval, information fully identifying the block of business being assumed, the number of covered lives residing in the state of Louisiana to be affected by the assumption, and the effective date of the assumption. No filing fees will be required for these filings.

3. Filings of riders, amendatory riders, endorsements, and revisions to schedule pages are permitted where the insurance product to be altered was originally certified or granted affirmative approval in SERFF.

a. Such filings must include:

i. specimen copies of the pertinent previously approved or certified forms with the specific terms and provisions being amended, underlined in red or similarly emphasized;

ii. the state tracking number assigned by the department and/or SERFF tracking number for each of the pertinent previously approved or certified forms;

iii. where necessary, a statement of variability, that shall include a clear description of the parameters or values of any variable material or information;

iv. the date of approval; and

v. the form number for each previously approved policy form for which the amendment applies.

b. Such filings must also include an affidavit, on a form prescribed by the department, affirming that the insurance product, if amended by rider or endorsement as requested, will be fully compliant with all pertinent statutes and regulations. Actuarial memorandums are not required with such filings.

c. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

4. Filings of amendatory riders or endorsements as needed to bring into compliance with law any existing insurance or annuity products that have been previously approved and are currently in force but are no longer being marketed.

a. Such filings must include:

i. specimen copies of the previously approved forms;

ii. the state tracking number assigned by the department and/or the SERFF tracking number for each of the pertinent previously approved or certified forms and the dates previously approved;

iii. the specific terms and provisions being amended, underlined in red or otherwise noted;

iv. where necessary, a statement of variability that shall include a clear description of the parameters or values of any variable material or information;

v. the filing description shall advise that the previously approved form is no longer being marketed; and;

vi. the filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

5. Filings of optional rider forms or optional endorsement forms affecting previously approved or certified life insurance or annuity products must include:

a. the state tracking number assigned by the department and/or the SERFF tracking number for each previously approved or certified forms with which the rider forms or endorsement forms will be used;

b. where necessary, a statement of variability that shall include a clear description of the parameters or values of any variable material or information;

c. the statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

6. Forms for lines of insurance or insurance products specifically exempted pursuant to statute.

E. Time Periods and Requirements for Compliance Review of Basic Insurance Policy Forms

1. The time periods stated in this Section do not begin until the date a complete filing, or a filing pursuant to Subsection D hereof, "Exceptions," is received by the department.

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:862(6) will be issued for failure to comply with the requirements of this regulation.

3. A basic insurance policy form must be submitted to the department in accordance with the general filing requirements of this Section no less than 45 days in advance of planned issuance, delivery or use.

4. If affirmatively approved by order of the commissioner prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. If disapproved, the policy forms filed may not be used.

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46, but no earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 45-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. If affirmatively approved by order of the commissioner prior to expiration of the 15-day extended period allowed for department review, the policy forms filed may be used on or after the date approved.

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46 referred to in Paragraph E.6 or day 61 but no earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

F. Time Periods and Requirements for Certified Approval of Policy Form Filings

1. The department will make available statements of compliance setting forth the statutory and regulatory requirements specific to the various forms of coverage and contract types, as well as certification of compliance forms.

2. A policy form filing submitted for certified approval must include the following documents:

a. statement of compliance applicable to the form of coverage and contract type being submitted;

b. signed and dated certification of compliance;

c. all other items as set forth in Paragraph C.2 hereof.

3. If the filing is incomplete, notice of disapproval in accordance with R.S. 22:862(6) will be issued for failure to comply with the requirements of this regulation.

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but no earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations, or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

G. Resubmission of Filings

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. an outline of the proposed revisions, referencing the specific sections and page numbers for each form being revised;

b. a restatement of the form with all necessary revisions, as set forth in the prior order of disapproval, underlined in red or similarly emphasized; and

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. a copy of the previously approved form;

b. an outline of the proposed revisions, referencing the specific sections and page numbers for each previously approved form being revised;

c. a restatement of the form, with all proposed revisions underlined in red or similarly emphasized; and

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

H. Compliance and Audits

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

3. Insurers shall notify the department in writing to advise when a previously approved basic insurance policy form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall also advise whether or not coverage issued in this state under the policy form remains in force and whether or not such existing business will continue to be renewed. The notification shall provide the policy form numbers being discontinued and dates originally approved by this department.

I. Withdrawal of Approval and Corrective Action

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:862 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the *Louisiana Insurance Code* that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. The affected insurer may request a hearing on the withdrawal of approval, by written request mailed to the department within 30 days of receipt of the notice of withdrawal of approval.

b. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4 and 5 hereof.

2. Upon receipt of the notice of withdrawal of approval by the department, the affected insurer must:

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

c. immediately review other products being marketed by the insurer to assure that they do not contain such non-compliant provisions.

3. Within 30 days of receipt of the notice of withdrawal of approval by the department, a corrective action plan must be submitted to the department by the affected insurer. The corrective action plan must include the following.

a. If the affected product will no longer be marketed, amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

b. If the insurer desires to continue marketing the affected product, both:

i. a complete filing of properly revised forms in accordance with Paragraph G.1 hereof; and

ii. amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

c. Where such a required change can be clearly explained to prospective policyholders through amendatory endorsement forms or rider forms, an insurer may request department approval to utilize its existing inventory of the policy forms in question subject to the incorporation of approved amendatory endorsement forms or rider forms. Such approval shall not extend to any reprinting of such forms.

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. The department may, in its discretion, extend the 30-day period for approval of a corrective action plan, upon the written request of the affected insurer and for good cause shown. In the event such an extension is granted, the date by which the insurer must cease issuing the affected product, except in accordance with a corrective action plan approved by the department, shall likewise be so extended.

6. Failure to timely respond as required herein shall result in a formal investigation to establish the extent of statutory violations, followed by an administrative hearing to determine appropriate sanctions against the insurer.

7. Where the department fails to respond to a corrective action plan filed by an insurer, or takes no action whatsoever regarding such plan, the insurer may deem the subject corrective action plan approved at the expiration of the 30-day period for approval by the department.

J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of part XXIX of title 22 of the *Louisiana Revised Statutes*. Pursuant to R.S. 22:2191, such demand must be in writing, must specify in what respects such person is aggrieved and the grounds to be relied upon as the basis for relief to be demanded at the hearing, and must be made within 30 days after the failure to approve any filing, notice of disapproval of any filing, or the notice of withdrawal of approval of any filing when such notice is mailed, faxed or delivered to the aggrieved party at his last known address.

K. Maintenance of Records; Alteration of Forms Prohibited

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof and no coverage issued on risks in this state utilizing such forms remains in force.

2. The alteration of, or any change to, any such form approved by the department is prohibited. Any such altered or changed form shall be submitted to the department as a new filing, and shall comply with all provisions of this Section applicable to a new filing. This Subsection shall not apply to typographical corrections and format improvements that do not affect the terms, provisions or clarity of the product.

3. A change of company name or logo, a change of address, and changes in listed officers do not require a new filing of forms when the department is otherwise properly notified of such change, and a copy of such notification is maintained on file by the insurer. If an endorsement or rider is to be added denoting such change, the standard filing fee is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, *Directive* 169, R.S.22:861 and R.S. 22:862.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2544 (December 2002), amended LR 33:105 (January 2007), LR 42:1947 (November 2016).

§10113. Filing and Review of Property and Casualty Insurance Policy Forms and Related Matters

A. Definitions. As used in this Section, the following terms shall have the meaning or definition as indicated herein.

Affirmative Approval—department approval, as a result of the department taking action, following compliance review of a complete filing, or a filing pursuant to Subsection D hereof.

Basic Insurance Policy Form—an insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance product. It includes endorsements, and application forms where written application is required and is to be attached to the policy or be a part of the contract. It does not include policies, riders, or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.

Certification of Compliance—certification by an insurer, executed by an officer or authorized representative of the insurer on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A certification of compliance must be included with any filing for certified approval.

Certified Approval—approval on the basis of an expedited review by the department of a complete filing based upon the inclusion of a statement of compliance and a certification of compliance, executed by an officer or authorized representative of the filing insurer on forms prescribed by the department. The department shall by directive determine those specific types of coverage and particular types of contracts for which the certified approval procedure is either required or available at the option of the insurer.

Commissioner—the commissioner of insurance of the Louisiana Department of Insurance.

Complete Filing—the filing of a single insurance product, including any required filing fees; a basic insurance policy form, application form to be attached to the policy or be a part of the contract; all items required under Subsection C hereof, "General Filing Requirements," and any other requirements as may be set forth in the applicable statement of compliance.

Compliance Audit—a retrospective review conducted by the department of previously approved basic insurance policy forms to determine compliance with applicable law.

Compliance Review—department review of a filing made pursuant to this Section to determine either that the filing is in compliance with all applicable statutes, rules and regulations, or that the filing should be disapproved for noncompliance.

Deemed Approval—approval of a complete filing based upon notice, as provided herein, made to the department by the filing insurer, following expiration of the specific time periods as provided herein, where affirmative approval has not been granted and the filing has not been disapproved by the department.

Department—the Louisiana Department of Insurance.

Endorsement—a written agreement attached to an insurance product to add or subtract coverage, or otherwise modify the product.

Filing Organization—an entity authorized by the Commissioner to act as an advisory or rating organization on behalf of its members and subscribers.

Insurance Product—a basic insurance policy form delineating the terms, provisions and conditions of a specific type of coverage under a particular type of contract, or a basic insurance policy form which combines more than one line of business within one policy form at a single premium.

Insurer—every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:46(10).

Method of Marketing—marketing either through independent or captive agents; telephone, electronic mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.

Rate/Rule Approval—a department notice addressed to an insurer granting authorization to implement or revise rates and/or rules on a specified date.

Required Filing Fee—the fee assessed per product or filing pursuant to state insurance law.

Rider—an endorsement to an insurance product that modifies clauses and provisions of the product, including adding or excluding coverage.

Statement of Compliance—a form prescribed by the department detailing the requirements specific to a particular form of coverage and contract type.

B. Filing Required

1. Pursuant to R.S. 22:861(A), no basic insurance policy form, other than fidelity or surety bond forms, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed rider or endorsement form, shall be issued, delivered, or used in this state unless and until it has been filed with and approved by the commissioner. Every page of each such form including rider and endorsement forms filed with the department must be identified by a form number in the lower left corner of the page.

2. A filing description must accompany every filing, describing the items included in the filing, the insurance product for which the filing is being made, and the method of marketing to be used for the product For non-electronic paper filings, this description must be satisfied by the submission of a completed transmittal document.

C. General Filing Requirements

1. The department shall designate, by directive, those insurance products which must be filed pursuant to the requirements for certified approval as set forth in Subsection F hereof, "Time Periods and Requirements for Certified Approval of Policy Form Filings," and those insurance products which may, at the discretion of the insurer, be filed pursuant to said requirements. All insurance products not so designated shall be filed pursuant to the requirements for compliance review as set forth in Subsection E hereof, "Time Periods and Requirements for Compliance Review of Policy Form Filings." Filing organizations are excepted from the mandatory provisions relative to certified approval and may, at their option, make filings pursuant to Subsection E hereof.

2. Only complete filings will be accepted, whether by mail or as otherwise authorized. In order for the department to conduct a proper compliance review or compliance audit of an insurance product, all items associated therewith must be included. A filing of a basic insurance policy form will be determined incomplete and will be disapproved if it does not contain all applicable items.

a. All filings of an insurance product must include, in final wording, the following items, in order:

i. required filing fee, per product, per insurance company; or required filing fee per endorsement filing; per insurance company;

ii. forms filed for approval;

iii. statement of compliance for said product;

iv. explanation of any rate/rule impact, with a copy of any rate/rule approval letters issued by the department; if none, so state;

v. duplicate set of the policy forms filing, as filed for approval, unless filed electronically;

vi. self-addressed, stamped envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

b. Any insurer choosing to include variable provisions in any policy form must set forth prospective options of the proposed variable text in the submitted policy form. Each section of a policy form that is variable must be identified as variable and should be enclosed in brackets. The variable text or provisions must be described as clearly as possible and include all specific possible alternatives.

c. If it is necessary to provide an explanation of or any additional information regarding the range of variability contained in the form, then a separate statement of variability must be submitted. A statement of variability must provide an explanation of all permissible variations of text or provision that could be used in a policy form offered to policyholders or certificate holders. A statement of variability must also describe in detail all variations of text or provisions that could be placed in a policy form. The variable text or language must be described as clearly as possible and include all specific possible alternatives.

d. Use of any text or language that does not reflect the variable text or provision submitted and approved by the department constitutes use of an unapproved policy form. Any changes to a statement of variability must be submitted to the department as a new filing along with the policy form(s) being amended.

3. An insurer may elect to adopt forms submitted by a filing organization, or have a filing organization file forms on its behalf. An insurer may request an effective date later than the effective date of the filing by the filing organization. Such adoptions, whether delayed or not, must be requested by letter. The Forms and Compliance Division staff of the department will verify that the insurer is a member or subscriber of the filing organization, and that the forms being adopted have been approved by the department.

a. Adoptions, including delayed adoptions, are filed for informational purposes only, but the request will be denied if the forms proposed for adoption are not approved by the department. To receive an acknowledgement of filing, the insurer's request must contain the following items, in order:

i. required filing fee, per adoption of each advisory organization's reference or item filing, per insurance company whether or not delayed;

ii. reference to the filing organization's designation/item number;

iii. line of business;

iv. name of the program; and

v. stamped, self-addressed envelope of sufficient size for use in returning the insurer's cover letter bearing the department's stamp of acknowledgement, or disapproval of an adoption, unless filed electronically.

b. An insurer may elect to non-adopt forms submitted by a filing organization. Non-adoptions are filed

for informational purposes only, and must be submitted by the insurer. To receive an acknowledgement of the informational letter, it must contain the following items, in order:

i. reference to the filing organization's identification/code number;

ii. line of business;

iii. name of the program; and

iv. stamped, self-addressed envelope of sufficient size for use in returning the insurer's cover letter bearing the department's stamp of acknowledgement.

D. Exceptions. Exceptions to the requirements for a complete filing may be allowed at the discretion of the department, subject to the conditions stated herein, for the following policy forms:

1. informational filings, submitted for acknowledgement, for fidelity and surety bond forms as exempted by R.S. 22:861 A(1), and ocean marine and foreign trade insurances as exempted by R.S. 22:851(A). No filing fees will be required for these filings.

2. filings for certain commercial lines, exempted pursuant to the commercial deregulation laws set by Regulation 72;

3. application forms or enrollment forms to be used with a particular insurance product, or with multiple insurance products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form will henceforth be used, and the application form is included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing. No filing fees will be required for these filings;

4. forms for lines of insurance or insurance products specifically exempted pursuant to statute.

5. riders or endorsements. Filings of amendatory riders or endorsements are permitted where the insurance product to be altered was originally certified or granted affirmative approval.

a. Such filings must include either:

i. specimen copies of the pertinent previously approved or certified forms, the dates previously approved or certified, and the specific terms and provisions being amended, underlined in red or similarly emphasized; or

ii. a detailed list that includes:

(a). the department's form filing number;

(b). date of approval; and

(c). the form number for each previously approved policy form for which the amendment applies.

b. The rider or endorsement forms shall be included with any subsequently filed basic insurance policy forms as needed to constitute a complete filing.

c. Such filings must include statutory filing fees in accordance with the most current fee schedule applicable to such filings, as set forth by the Louisiana Legislature.

E. Time Periods and Requirements for Compliance Review of Policy Form Filings

1. The time periods stated in this Section do not begin until the date a complete filing, or a filing pursuant to Subsection D hereof, "Exceptions," is received by the department.

2. If a filing is incomplete, notice of disapproval in accordance with R.S. 22:862(6) will be issued for failure to comply with the requirements of this regulation.

3. A basic insurance policy form must be submitted to the department in accordance with the "General Filing Requirements" of this Section no less than 45 days in advance of planned issuance, delivery or use.

4. If affirmatively approved by order of the commissioner prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.

5. If disapproved, the policy forms filed may not be used.

6. At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the insurer shall submit written notice to the department if the filing has been deemed approved on a specific date, or advise when the filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46, but not earlier than the 45-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 45-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

7. The commissioner may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.

a. If affirmatively approved by order of the commissioner prior to expiration of the 15-day extended period allowed for department review, the policy forms filed may be used on or after the date approved.

b. At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date or, advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 46 referred to in Paragraph E.6 or day 61, but not earlier than the 45 day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day extended period, clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved. Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

F. Time Periods and Requirements for Certified Approval of Policy Form Filings

1. The department will make available statements of compliance setting forth the statutory and regulatory requirements specific to the various forms of coverage and contract types, as well as certification of compliance forms:

2. A policy form filing submitted for certified approval must include the following documents:

a. statement of compliance applicable to the form of coverage and contract type being submitted;

b. signed and dated certification of compliance;

c. all other items as set forth in Paragraph C.2 hereof.

3. If the filing is incomplete, notice of disapproval in accordance with R.S. 22:862(6) will be issued for failure to comply with the requirements of this regulation.

4. At the expiration of 15 days from acknowledged receipt of a filing by the department, if no order has been issued affirming certified approval or disapproving the policy form filing, the insurer shall submit written notice to the department if the policy form filing has been deemed approved on a specific date, or advise when the policy form filing is withdrawn from consideration. Such date specified by the insurer shall be on or after day 16, but no earlier than the 15-day expiration period. Such written notice shall be sent to the department within 30 days after the expiration of the 15-day period clearly stating the date deemed approved or withdrawn from consideration and the anticipated date to be used by the insurer (if different from the date deemed approved). Deemed approval shall not be effective until the insurer has so notified the commissioner, by certified mail/return receipt requested.

5. No insurer, through an officer or authorized representative, shall file a certification of compliance containing false attestations or from which material facts or information have been omitted. In the event that the department subsequently learns that a certification of compliance contains any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the insurer may be subjected to the provisions of Subsection I hereof.

G. Resubmission of Filings

1. When submitting revised forms in response to an order of disapproval, or withdrawal of approval, whether issued pursuant to Subsection E, Subsection F or Subsection I hereof, the revised forms will constitute a new filing, must comply with all provisions of this Section for such a filing, and, in addition to the required filing fee, must include:

a. an outline of the proposed revisions, referencing the specific sections and page numbers for each form being revised;

b. a restatement of the form with all necessary revisions, as set forth in the prior order of disapproval, underlined in red or similarly emphasized; and

c. a copy of the prior order of disapproval, or withdrawal of approval, issued by the commissioner on the previous filing.

2. When submitting revisions to previously approved forms, the revised forms will constitute a new filing, must be a complete filing as set forth in Subsection C hereof, "General Filing Requirements" and, in addition to the required filing fee, must include:

a. a copy of the previously approved form;

b. an outline of the proposed revisions, referencing the specific sections and page numbers for each previously approved form being revised;

c. a restatement of the form, with all proposed revisions underlined in red or similarly emphasized; and

d. a copy of the prior order of approval, issued by the commissioner on the previous filing.

3. When a previously approved form has been rewritten, it must be assigned a unique form number, and such form must be filed as an original filing.

H. Compliance and Audits

1. Approval of a basic insurance policy form does not assure perpetual compliance. Following subsequent changes in applicable law, insurers shall revise and file updated insurance products, or amendatory riders or endorsements where appropriate, with the department for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise expressed by the Louisiana Legislature.

2. A retrospective review process is utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. Compliance audits may be conducted by random selection, prompted by complaints filed with the department or requests for information made by the department, or performed during the course of examinations conducted by the department.

3. Insurers shall notify the department in writing to advise when a previously approved basic insurance policy form will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall be sent at a minimum 60 days prior to the market end date and shall also advise whether or not coverage issued in this state under the policy form remains in force and whether or not such existing business will continue to be renewed. The notification shall provide the policy form numbers being discontinued and dates originally approved by this department.

I. Withdrawal of Approval and Corrective Action

1. The department shall withdraw any affirmative approval of a filing previously granted, or withdraw any approval of a filing previously deemed approved by an insurer, if the department determines that any of the reasons for disapproval as stated in R.S. 22:862 apply to the filing in question. The notice of withdrawal of approval by the department shall state that such withdrawal of approval is effective 30 days after receipt of such notice by the affected insurer or immediately where there has been a violation of the *Louisiana Insurance Code* that results in irreparable injury, loss, or damage and injunctive relief is necessary. In the event injunctive relief is granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

a. The affected insurer may request a hearing on the withdrawal of approval, by written request mailed to the department within 30 days of receipt of the notice of withdrawal of approval.

b. Upon receipt by the department of a timely request for a hearing, the 30-day notice period precedent to withdrawal of approval being effective shall be suspended for the duration of the hearing process, and shall recommence upon the date of a ruling adverse to the insurer requesting the hearing, unless injunctive relief has been requested and granted to the department by a court of

competent jurisdiction. Such suspension of the notice of withdrawal of approval shall be applicable to Paragraphs I.2, 3, 4, and 5 hereof.

2. Upon receipt of the notice of withdrawal of approval by the department, the affected insurer must:

a. immediately amend its procedures to assure that all in-force business is properly administered in accordance with the findings stated in the department's withdrawal of approval;

b. immediately review and ascertain any negative impact upon covered persons caused directly or indirectly by non-compliant provisions of the forms for which department approval has been withdrawn; and

c. immediately review other products being marketed by the insurer to assure that they do not contain such non-compliant provisions.

3. Within 30 days of receipt of the notice of withdrawal of approval by the department, a corrective action plan must be submitted to the department by the affected insurer. The corrective action plan must include the following.

a. If the affected product will no longer be marketed, amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

b. If the insurer desires to continue marketing the affected product, both:

i. a complete filing of properly revised forms in accordance with Paragraph G.1 hereof; and

ii. amendatory endorsement forms or rider forms to affect any in-force business written utilizing the non-compliant forms, correcting all areas of non-compliance as stated in the withdrawal of approval by the department; and a prototype of the notice to be utilized in notifying any affected policyholders of the changes to their existing coverage.

c. Where such a required change can be clearly explained to prospective policyholders through amendatory endorsement forms or rider forms, an insurer may request department approval to utilize its existing inventory of the policy forms in question subject to the incorporation of approved amendatory endorsement forms or rider forms. Such approval shall not extend to any reprinting of such forms.

4. Thirty days following receipt of the notice by the affected insurer, of withdrawal of approval by the department, an affected product shall not be issued by the insurer, except in accordance with a corrective action plan approved by the department. The insurer has the obligation to timely notify its marketing force, or to otherwise adjust its business operations, accordingly. In the event the affected insurer issues the product without approval from the department, and injunctive relief is necessary and granted to the department, the insurer or its duly authorized representative shall be enjoined or restrained from engaging in any prohibitory activity set forth in the injunctive order or judgment rendered by a court of competent jurisdiction.

5. The department may, in its discretion, extend the 30-day period for approval of a corrective action plan, upon the written request of the affected insurer and for good cause shown. In the event such an extension is granted, the date by which the insurer must cease issuing the affected product, except in accordance with a corrective action plan approved by the department, shall likewise be so extended.

6. Failure to timely respond as required herein shall result in a formal investigation to establish the extent of statutory violations, followed by an administrative hearing to determine appropriate sanctions against the insurer.

7. Where the department fails to respond to a corrective action plan filed by an insurer, or takes no action whatsoever regarding such plan, the insurer may deem the subject corrective action plan approved at the expiration of the 30-day period for approval by the department.

J. Appeals and Hearings

1. Any person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the department pursuant to this Section, may request an administrative hearing in accordance with the provisions of part XXIX of title 22 of the *Louisiana Revised Statutes*. Pursuant to R.S. 22:2191, such demand must be in writing, must specify in what respects such person is aggrieved and the grounds to be relied upon as the basis for relief to be demanded at the hearing, and must be made within 30 days after the failure to approve any filing, notice of disapproval of any filing, or the notice of withdrawal of approval of any filing when such notice is mailed, faxed or delivered to the aggrieved party at his last known address.

K. Maintenance of Records; Alteration of Forms Prohibited

1. Every person filing policy forms, or related forms, for approval by the department shall maintain the original set of any and all forms as returned by the department, along with all related correspondence and transmittal documents from the department. Alternatively, images of such documents may be maintained in electronic/digital form. Such files shall be available for inspection by the department upon request, and must be maintained for a period of five years after the forms have been withdrawn from the market in accordance with Paragraph H.3 hereof, and no coverage issued on risks in this state utilizing such forms remains in force.

2. The alteration of, or any change to, any such form approved by the department is prohibited. Any such altered or changed form shall be submitted to the department as a new filing, and shall comply with all provisions of this Section applicable to a new filing. This Subsection shall not apply to typographical corrections and format improvements that do not affect the terms, provisions or clarity of the product.

3. A change of company name or logo, a change of address, and changes in listed officers do not require a new filing of forms when the department is otherwise properly notified of such change, and a copy of such notification is maintained on file by the insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861 and R.S. 22:862.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2548 (December

2002), amended LR 33:108 (January 2007), LR 42:1952 (November 2016).

§10115. Penalties

A. Pursuant to R.S. 22:44, "False or Fraudulent Material Information," in accordance with all provisions thereof, and specifically applicable to all documents required by this regulation.

1. It shall be unlawful for any person to intentionally and knowingly supply false or fraudulent material information pertaining to any document or statement required by the department.

2. Whoever violates the provisions of this Section shall be imprisoned, with or without hard labor, for not more than five years, or fined not more than $5,000, or both.

B. Pursuant to R.S. 22:1964(12), in accordance with all provisions thereof, any violation of a prohibitory provision of this regulation shall constitute an unfair trade practice, and, after proper notice and hearing as specified by statute, may subject the insurer and its officer(s) or representative(s) to:

1. The provisions of R.S. 22:1969, including:

a. payment of a monetary penalty of not more than $1,000 for each and every act or violation, but not to exceed an aggregate penalty of $100,000 unless the person knew or reasonably should have known he was in violation of applicable law, in which case the penalty shall be not more than $25,000 for each and every act or violation, but not to exceed an aggregate penalty of $250,000 in any six-month period; and

b. suspension or revocation of the license of the person if he knew or reasonably should have known he was in violation of applicable law.

2. The provisions of R.S. 22:1970, including:

a. a monetary penalty of not more than $25,000 for each and every act or violation, not to exceed an aggregate of $250,000; and

b. suspension or revocation of such person's license or certificate of authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861, R.S. 22:862 and R.S. 22:974.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:110 (January 2007), LR 42:1957 (November 2016).

§10117. Severability

A. If any provision of this regulation, or its application to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this regulation which can be given effect without the invalid provision or application, and to that end, the provisions of this regulation are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861, R.S. 22:862 and R.S. 22:974.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:111 (January 2007), LR 42:1957 (November 2016).

§10119. Effective Date
[Formerly §10117]

A. This regulation became effective January 1, 2003; however, the amendments to this regulation will become effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Directive 169, R.S. 22:861, R.S. 22:862 and R.S. 22:974.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 28:2552 (December 2002), amended LR 33:111 (January 2007), LR 42:1957 (November 2016).

James J. Donelon
Commissioner

1611#013

RULE

Department of Natural Resources
Office of Conservation

Fees (LAC 43:XIX.Chapter 7)

Pursuant to power delegated under the laws of the state of Louisiana, and particularly title 30 of the *Louisiana Revised Statutes* of 1950, as amended, the Office of Conservation has amended LAC 43:XIX.701, 703, and 707 (Statewide Order No. 29-R) in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This action has adopted Statewide Order No. 29-R-16/17 (LAC 43:XIX, Subpart 2, Chapter 7), which establishes the annual Office of Conservation fee schedule for the collection of application, production, and regulatory fees, and will replace the existing Statewide Order No. 29-R-15/16.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation—General Operations
Subpart 2. Statewide Order No. 29-R

Chapter 7. Fees

§701. Definitions

* * *

Application/Request for Commercial Facility Reuse—Repealed.

* * *

Authorization for After Hours Disposal of E and P Waste—Repealed.

BOE—annual barrels oil equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 24.0.

Capable Gas—natural and casing head gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue, as of December 31 in the year prior to the year in which the invoices are issued.

Capable Oil—crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue, as of December 31 in the year prior to the year in which the Invoices are issued.

* * *

Class I Well Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, not to exceed $1,000,000 for fiscal year 2015-2016 and thereafter on all class I wells permitted December 31 of the year prior to the year in which the invoices are issued.

Class II CO_2 EOR Project (AOR Review and Updates) Fee—an annual fee for an enhanced recovery project permitted by the Office of Conservation injecting carbon dioxide (CO_2) down the wellbore of permitted class II injection wells under the authority of the Office of Conservation/Injection and Mining Division in conformance

with Statewide Order 29-B (LAC 43:XIX.411.C et seq.) or successor regulations.

* * *

Commercial Facility Annual Closure Plan and Cost Estimate Review—Repealed.

* * *

Production Well—any well which has been permitted by and is subject to the jurisdiction of the Office of Conservation, excluding wells in the permitted and drilling in progress status, class II injection wells, liquid storage cavity wells, commercial salt water disposal wells, class V injection wells, wells which have been plugged and abandoned, wells which have reverted to landowner for use as a fresh water well (Statewide Order No. 29-B, LAC 43:XIX.137.G, or successor regulations), multiply completed wells reverted to a single completion, and stripper oil wells or incapable oil wells or incapable gas wells certified by the Severance Tax Section of the Department of Revenue, as of December 31 in the year prior to the year in which the invoices are issued.

Regulatory Fee—an amount payable annually to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on class II wells, class III wells, storage wells, type A facilities, and type B facilities in an amount not to exceed $2,187,500 for fiscal year 2015-2016 and thereafter. No fee shall be imposed on a class II well of an operator who is also an operator of a stripper crude oil well or incapable gas well certified pursuant to R.S. 47.633 by the Severance Tax Section of the Department of Revenue as of December 31 in the year prior to the year in which the invoices are issued, and located in the same field as such class II well. operators of record, excluding operators of wells and including, but not limited to, operators of gasoline/cycling plants, refineries, oil/gas transporters, and/or certain other activities subject to the jurisdiction of the Office of Conservation are required to pay an annual registration fee of $105. Such payment is due within the time frame prescribed by the Office of Conservation.

* * *

Request to Transport E and P Waste to Commercial Facilities or Transfer Stations—other oil and gas industry companies (i.e. companies that do not possess a current Office of Conservation producer/operator code or a current offshore/out-of-state waste generator code) must obtain authorization by submitting a completed (acceptable) Form UIC-23 to transport E and P waste to commercial facilities or transfer stations as required by LAC 43:XIX.545.B.

Transfer Stations Regulatory Fee—Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:458 (March 1998), LR 24:2127 (November 1998), LR 25:1873 (October 1999), LR 26:2302 (October 2000), LR 27:1919 (November 2001), LR 28:2366 (November 2002), LR 29:2499 (November 2003), LR 31:2950 (November 2005), LR 32:2087 (November 2006), LR 33:2461 (November 2007), LR 34:2404 (November 2008), LR 35:2463 (November 2009), LR 36:2567 (November 2010), LR 37:3271 (November 2011), LR 38:2930 (November 2012), LR 39:3099 (November 2013), 40:2266 (November 2014), LR 41:2376 (November 2015), LR 42:1957 (November 2016).

§703. Fee Schedule for Fiscal Year 2016-2017 and Thereafter

A. Application Fees

Application Fees	Amount
* * *	
Application for Commercial Facility Reuse Material	Repealed.
Application for Commercial Facility Transfer Station	Repealed.
* * *	
Authorization for After Hours Disposal of E and P Waste	Repealed.
* * *	
Commercial Facility Annual Closure Plan and Cost Estimate Review	Repealed.
* * *	
Transfer Stations Regulatory Fee (E and P Waste)—Annual	Repealed.
* * *	

B. Regulatory Fees. $2,187,500 CAP divided by a number equal to (number of non-exempt class II wells + number of class III wells + number of storage wells) + (number of type A facilities x 10 plus number of permits to construct type A facilities x 5) + (number of type B facilities x 5 plus number of permits to construct type B facilities x 2.5)

1. The resulting value will equal the annual regulatory fee for non-exempt class II wells, class III wells, and storage wells.

2. The annual regulatory fee for type A facilities will be the non-exempt class II well, class III well, and storage well regulatory fee times a factor of 10.

3. The annual regulatory fee for type A facility permits to construct will be the non-exempt class II well, class III well, and storage well regulatory fee times a factor of 5.

4. The annual regulatory fee for type B facilities will be the non-exempt class II well, class III well, and storage well regulatory fee times a factor of 5.

5. The annual regulatory fee for type B facility permits to construct will be the non-exempt class II well, class III well, and storage well regulatory fee times a factor of 2.5.

6. Conservation will perform this calculation annually and will post the individual regulatory fee amount on the DNR website no later than July 20 of each year

C. Class I Well Fees. $1,000,000 CAP divided by a number equal to the number of active class I wells plus the number of permits to construct class I wells x 0.5.

1. Conservation will perform this calculation annually and will post the individual regulatory fee amount on the DNR website no later than July 20 of each year

D. Exceptions

1. Operators of record of each class I injection/disposal well and each type A and B commercial facility and transfer station that is permitted, but has not yet been constructed, are required to pay an annual fee of 50 percent of the applicable fee for each well or facility.

2. Operators of record of each inactive type A and B facility which have voluntarily ceased the receipt and disposal of E and P waste and are actively implementing an Office of Conservation approved closure plan are required to pay an annual regulatory fee of 50 percent of the annual fee for each applicable type A or B facility.

3. Operators of record of each inactive type A or B facility which have voluntarily ceased the receipt and

disposal of E and P waste, have completed Office of Conservation approved closure activities and are conducting a post-closure maintenance and monitoring program, are required to pay an annual regulatory fee of 25 percent of the annual fee for each applicable type A or B facility.

4. Operators of record of each inactive transfer station which have voluntarily ceased the receipt and transfer of E and P waste and are actively implementing an Office of Conservation approved closure plan are required to pay an annual regulatory fee of 50 percent of the annual fee for each applicable facility.

5. Operators of record of each inactive transfer station which have voluntarily ceased the receipt and transfer of E and P waste and are actively implementing an Office of Conservation approved closure plan are required to pay an annual regulatory fee of 50 percent of the annual fee for each applicable facility.

E. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers.

Tier	Annual Production (Barrel Oil Equivalent)	Fee ($ per Well)
Tier 1	0	27
Tier 2	1 - 5,000	155
Tier 3	5,001 - 15,000	445
Tier 4	15,001 - 30,000	739
Tier 5	30,001 - 60,000	1,165
Tier 6	60,001 - 110,000	1,622
Tier 7	110,001 - 9,999,999	2,025

F. Pipeline Safety Inspection Fees

1. Owners/operators of jurisdictional gas pipeline facilities are required to pay an annual gas pipeline safety inspection fee of $1 per service line, or a minimum of $400, whichever is greater.

2. Owners/operators of jurisdictional hazardous liquids pipeline facilities are required to pay an annual hazardous liquids pipeline safety inspection fee of $44.80 per mile, or a minimum of $800, whichever is greater.

3. Owners/operators of jurisdictional gas transmission/gathering pipeline facilities are required to pay an annual transmission/gathering pipeline safety inspection fee of $44.80 per mile, or a minimum of $800, whichever is greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq., R.S. 30:560 and 706.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:458 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2304 (October 2000), LR 27:1920 (November 2001), LR 28:2368 (November 2002), LR 29:350 (March 2003), LR 29:2501 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2461 (November 2007), LR 34:2405 (November 2008), LR 35:2463 (November 2009), LR 36:2569 (November 2010), LR 37:3273 (November 2011), LR 38:2931 (November 2012), LR 39:3099 (November 2013), LR 40:2267 (November 2014), LR 41:2378 (November 2015), LR 42:1958 (November 2016).

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R-16/17 and if any such individual fee is held to be unacceptable, pursuant to R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This order (Statewide Order No. 29-R-16/17) supersedes Statewide Order No. 29-R-15/16 and any amendments thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998), LR 24:2128 (November 1998), LR 25:1874 (October 1999), LR 26:2305 (October 2000), LR 27:1921 (November 2001), LR 28:2368 (November 2002), LR 29:2502 (November 2003), LR 30:2494 (November 2004), LR 31:2950 (November 2005), LR 32:2088 (November 2006), LR 33:2462 (November 2007), LR 34:2406 (November 2008), LR 35:2464 (November 2009), LR 36:2570 (November 2010), LR 37:3274 (November 2011), LR 38:2931 (November 2012), LR 39:3100 (November 2013), LR 40:2267 (November 2014), LR 41:2379 (November 2015), LR 42:1959 (November 2016).

Richard P. Ieyoub
Commissioner

1611#035

RULE

Department of Treasury
Board of Trustees of the Assessor's Retirement Fund

Actuarial Equivalent and Full-Time Determinations
(LAC 58:XIX.103 and 107)

In accordance with R.S. 49:950 et seq., the Administrative Procedures Act, the Board of Trustees for the Louisiana Assessors' Retirement Fund approved for advertisement these rules for the determination of the actuarial equivalent under R.S. 11:1402(8) and the definition of *full-time* in R.S. 11:1410(B)(1). The rules have been amended and adopted pursuant to R.S. 49:950 et seq., which provides this agency the authority to promulgate rules that facilitate the proper functioning of this system. A preamble to this action has not been prepared.

Title 58
RETIREMENT
Part XIX. Assessors' Retirement Fund
Chapter 1. General Provisions
§103. Actuarial Equivalent

A. - A.2. ...

B. Effective July 1, 2012, as provided by R.S. 11:1402(8) actuarial equivalent shall be defined by using the following assumptions.

1. Interest shall be compounded annually at the rate of 7.5 percent per annum.

2. Mortality rates shall be based on the RP-2000 combined healthy table unisexed based on 65 percent males and 35 percent females for retirees and 35 percent males and 65 percent females for beneficiaries.

C. Effective October 1, 2015, as provided by R.S. 11:1402(8) actuarial equivalent shall be defined by using the following assumptions.

1. Interest shall be compounded annually at the rate of 7.25 percent per annum (except as provided below).

2. For single life option factors, mortality rates shall be based on the RP-2000 combined healthy tables unisexed based on 35 percent males and 65 percent females.

3. For Joint Life option factors, mortality rates shall be based on the RP-2000 combined healthy tables unisexed based on 65 percent males and 35 percent females for retirees and 35 percent males and 65 percent females for beneficiaries.

4. For disability award lifetime equivalences, mortality rates shall be based on the RP-2000 disabled lives tables unisexed based on 35 percent males and 65 percent females.

5. For drop balance life annuity conversions, mortality rates shall be based on the RP-2000 combined healthy table set back 3 years and unisexed based on 100 percent males and 0 percent females with interest at 6 percent per annum.

D. Effective October 1, 2016, as provided by R.S. 11:1402(8) actuarial equivalent shall be defined by using the following assumptions.

1. Interest shall be compounded annually at the rate of 7.00 percent per annum (except as provided below).

2. For single life option factors, mortality rates shall be based on the RP-2000 combined healthy tables set forward 1 year for males with no set forward for females and unisexed based on 40 percent males and 60 percent females.

3. For joint life option factors, mortality rates shall be based on the RP-2000 combined healthy tables set forward 1 year for males with no set forward for females and unisexed based on 65 percent males and 35 percent females for retirees and 35 percent males and 65 percent females for beneficiaries.

4. For disability award lifetime equivalences, mortality rates shall be based on the RP-2000 disabled lives tables unisexed based on 40 percent males and 60 percent females.

5. For drop balance life annuity conversions, mortality rates shall be based on the RP-2000 healthy annuitant table set back 1 year and projected to 2030 using scale AA, and unisexed based on 100 percent males and 0 percent females with interest at 6 percent per annum.

E. Thereafter, these assumptions shall be adopted by resolution of the board, based on recommendations of its actuary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1402(8), 11:1404(A), and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Assessors' Retirement Fund, LR 39:2188 (August 2013), amended LR 42:1959 (November 2016).

§107. Definitions

Full-Time—regularly scheduled to work a minimum of 35 hours per week.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1402(8), 11:1404(A), and R.S. 49.950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Assessors' Retirement Fund, LR 42:1960 (November 2016).

Nannette Menou
Executive Director

1611#050

RULE

Department of Treasury
Board of Trustees for the Registrar of Voters Employees' Retirement System

Calculation of Post-Drop Final Average Compensation
(LAC 58:XVII.301)

In accordance with R.S. 49:950 et seq., the Administrative Procedures Act, the Board of Trustees for the Registrar of Voters Employees' Retirement System has approved for advertisement this Rule for the determination of the post-DROP final average compensation under R.S. 11:2144(I). The Rule has been adopted pursuant to R.S. 11:2093 which provides that the board of trustees shall promulgate rules that facilitate the proper functioning of this system. A preamble to this action has not been prepared.

Title 58
RETIREMENT
Part XVII. Registrars of Voters Employees' Retirement System
Chapter 3. Final Average Compensation
§301. Calculation of Post-Drop Final Average Compensation

A.1. A member must work for a three month period post-DROP in order to have the member's final average compensation recalculated for any and all purposes including but not limited to:

a. calculating the value of creditable service post-DROP;

b. calculating any leave that is converted post-DROP; and

c. for all other actuarial and benefit calculation purposes.

2. Otherwise, the member's final average compensation to be utilized for service, leave, and all other actuarial and benefit calculation purposes post-DROP shall be the final average compensation used to calculate the DROP benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:2093 and R.S. 11:2144(I).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Registrars of Voters Retirement System, LR 42:1960 (November 2016).

Lorraine C. Dees
Director

1611#051

RULE

Department of Treasury
Board of Trustees for the State Police Retirement System

Election Procedures, Ballots, Tabulations,
Oath of Office, Vacancy (LAC 58:IX.Chapter 3)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees for the Louisiana State Police Retirement System has approved for advertisement these rules for the election procedure for the system's board of trustees. The rules have been adopted pursuant to R.S. 11:1302(B) which provides that the board of trustees shall promulgate rules that govern the election of members of the board. This intended action by the Louisiana State Police Retirement System complies with statutory law administered by the agency. A preamble to this proposed action has not been prepared.

Title 58
RETIREMENT
Part IX. State Police Retirement System
Chapter 3. Procedures for Election of Louisiana State Police Retirement System Trustees

§301. General Election Procedures

A. The director shall issue to the Louisiana State Police Retirement System membership a notice of each trustee office to be filled in the following timeframe:

1. between the first Monday in August and the third Monday in August, for a position with term ending December 31, via mail, with qualifying form attached and placed on the website, such form to require applicant's name, date started in system, and for which seat the applicant is qualifying;

2. between the first Monday in February and the third Monday in February, for a position with term ending June 30, via mail, with qualifying form attached and placed on the website, such form to require applicant's name, date started in system, and for which seat the applicant is qualifying.

B. Candidates shall submit in writing to the director their intention to run for a specified office between in the following timeframe:

1. the fourth Monday in August and the second Monday in September, for a position with term ending December 31; and

2. the fourth Monday in February and the second Monday in March, for a position with term ending June 30.

C. The board of trustees shall designate a qualifying form. The designated qualifying form shall be posted on the website and/or mailed to the member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees for the State Police Retirement Fund, LR 42:1961 (November 2016).

§303. Ballots, Count, Tabulation, Posing, Oath of Office

A. The director shall compile a ballot for each office to be filled. Ballots shall be mailed to the membership at their home address in the following timeframe:

1. beginning the fourth Monday of September through the second Monday of October, for a position with term ending December 31;

2. beginning the fourth Monday of March through the second Monday of April for a position with term ending June 30:

a. the ballots shall be issued to members who are eligible to vote for this particular candidate pursuant to R.S. 11:1302 ("qualified member") as of September 1 of that year; and

b. the member must be a qualified member as of the date the system counts the ballot in order for that member's ballot to be counted;

c. in addition to the ballot the director shall mail an envelope in which to enclose the ballot, on which the qualified member must sign his or her name, and a return envelope for the sealed ballot to be returned to 9224 Jefferson Hwy, Baton Rouge, LA 70809 and instructions;

d. the director shall inform each member in this mailing that results of the vote shall be promulgated on the system's website in late November or early December (for a position with term ending December 31) or late May or early June (for a position with term ending June 30);

e. voted ballots shall be accepted through the fourth Monday in October at 4:30 p.m. (for a position with term ending December 31) or through the fourth Monday in April at 4:30 p.m. (for a position with term ending June 30);

f. a date and time shall be placed on each ballot envelope received by the director across the envelope flap.

B. Ballots shall be held inviolate by the director.

1. The director shall call a special meeting of the retirement staff, and notify the public by placing notice on the LSPRS website that anyone may attend, at which time the retirement staff shall count and tabulate ballots between November 1 and December 10 (for a position with term ending December 31) and between May 1 and June 10 (for a position with term ending June 30).

2. The director shall ensure that the board and the candidates are informed of the results of the vote thereafter. At next board meeting, the board of trustees shall announce the results.

C. The director shall issue to the elected trustee an oath of office.

1. The trustee shall take the oath at the first board meeting of the year in which the trustee takes office.

a. The oath shall contain a term of office effective January 1 of this year for a position ending December 31 and effective July 1 for a position ending June 30.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees for the State Police Retirement Fund, LR 42:1961 (November 2016).

§305. Vacancy

A. Should a vacancy occur, the board shall hold a special election as soon as reasonably possible to fill this unexpired seat.

1. If the unexpired term of office for this seat is less than two years from the date the election results are expected, the election shall be for the unexpired term of office and for the next five-year term.

2. If the unexpired term of office for this seat is two years or greater from the date the election results are expected, then the election shall be for the unexpired term of office only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1302(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees for the State Police Retirement Fund, LR 42:1961 (November 2016).

Irwin L. Phelps
Director

1611#052

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Blue Crab Harvest (LAC 76:VII.346)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), the Wildlife and Fisheries Commission has adopted rules that will prohibit the commercial harvest of blue crabs and the use of all crab traps during a 30-day period for the years 2017, 2018, and 2019 and restrict the commercial harvest of immature female blue crabs for the years 2017, 2018 and 2019.

All crab traps remaining in state waters during the closure period shall be presumed to be engaged in active fishing and thus considered illegal.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§346. Blue Crab Seasonal Closure and Restriction of Immature Female Harvest

A. The commercial harvest of blue crabs and the use of all crab traps are prohibited for a 30-day period beginning on the third Monday in February for the years 2017, 2018, and 2019. All crab traps remaining in state waters during the closure period shall be presumed to be engaged in active fishing and thus considered illegal.

B. There shall be no commercial harvest of immature female blue crabs for the years 2017, 2018 and 2019 except:

1. when an immature female is in the premolt stage and is being held for processing as soft crabs; or
2. sold to a processor for the making of soft crabs.

C. Obvious signs such crabs are in premolt stage shall include they are no further from molting than having a white line on the back paddle fin, which is recognized by the crab industry as a premolt stage.

D. However, a legally licensed commercial crab fisherman may have in his possession an incidental take of immature female crabs in an amount not to exceed 2 percent of the total number of crabs in his possession.

1. To determine whether the total number of crabs in possession violates this Subsection, the enforcement agent shall take:
   a. a random sample of 50 crabs from each crate; or
   b. group of crabs equivalent to one crate.
2. If more than 2 percent of the crabs in that 50-crab random sample are immature female crabs, the entire number of crabs in that crate or group of crabs equivalent to one crate shall be considered to be in violation.

E. Crabs in a work box, defined as a standard crab crate as used by a commercial crab fisherman aboard the vessel to sort or cull undersized crabs and/or immature female crabs from the harvest in order to obtain a legal catch, shall not be subject to the immature female restriction while held aboard the vessel and the fisherman is actively fishing.

1. Commercial crab fishermen shall be allowed to have in possession aboard the vessel either:
   a. one work box, if not using a grader; or
   b. two work boxes under the grader, if using a grader.

F. An immature female crab, also known as a “maiden” or “V-bottom” crab, can be identified as having a triangular shaped apron on her abdomen. A mature female crab can be identified as having a dome shaped apron on her abdomen.

G. Violation of any provision of this Section constitutes a class two violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:8, 56:32, 56:56(A)(5), 56:320(B)(3), 56:326(A)(2), 56:315, 56:332(E)(1) and 56:355.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 42:1962 (November 2016).

Bart R. Yakupzack
Chairman

1611#032

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Emerald Ash Borer Quarantine (LAC 7:XV.167)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:1652, notice is hereby given that the Department of Agriculture and Forestry ("department") intends to adopt the Rule set forth below, expanding a previously established quarantine for the following pest: emerald ash borer ("EAB"), *Agrilus planipennis* Fairmaire. This proposed Rule expands the quarantine to include Lincoln and Union Parishes.

EAB poses an imminent peril to the health and welfare of Louisiana forests, commercial and private forestry/wood product industries, and nursery growers due to its ability to infest ash trees. In 2013, the wholesale value of woody ornamental sales for nursery growers in the state was $62.6 million, a portion of which is comprised of sales of ash trees (Louisiana State University AgCenter 2013 Louisiana Summary, Agriculture and Natural Resources). Louisiana's forests and forestry/wood products industries generated an output industry production value of $10.86 billion in 2012, a portion of which is comprised of ash trees and ash tree products (Louisiana State University AgCenter publication 3367-G, 2015). Sales of ash firewood by retail and wholesale suppliers to private individuals also are important to the state's economy.

Natural spread of EAB is limited to relatively short distances. However, without restriction, EAB can spread through human-assisted means over long distances via infested ash nursery stock, ash logs/timber and cut firewood. Once an ash tree is infested, it experiences twig dieback and tree decline. Tree death occurs within a few years. Failure to prevent, control, or eradicate this pest threatens to damage Louisiana's commercial ash tree nursery industry, and over time this pest poses a threat to destroy the majority of ash in our state, both commercial and residential. The loss of the state's commercial nursery-grown ash trees, forestry/wood ash products and even residential ash trees would be devastating to the state's economy and to its private citizens. The expansion of the quarantined area set forth in LAC 7:XV.167 is necessary to prevent the spread of EAB to all areas in Louisiana where ash may exist, outside of the current areas where this pest has been found.

For these reasons, the presence of EAB in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana's citizens and forests, the state's commercial and private forestry/wood product industries, and nursery growers. As a result of this imminent peril, the Department of Agriculture and Forestry and state entemologist hereby exercise its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by expanding the quarantine in LAC 7:XV.167 to include Lincoln and Union Parishes.

Title 7
AGRICULTURE AND ANIMALS
Part XV. Plant Protection and Quarantine
Chapter 1. Crop Pests and Diseases
Subchapter F. Emerald Ash Borer Quarantine
§167. Emerald Ash Borer Quarantine

A. The department issues the following quarantine because the state entomologist has determined that the insect emerald ash borer (EAB), *Agrilus planipennis*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

B. Quarantined areas in this state include:

1. the entire parishes of Bossier, Claiborne, Lincoln, Union and Webster;
2. a declaration of quarantine for EAB covering any other specific parishes or areas of this state shall be published in the official journal of the state and in the Louisiana Register.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652 and 3:1653.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 41:2577 (December 2015), amended LR 43:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Ansel Rankins, Director of the Horticulture Commission, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3002, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on January 4, 2017. No preamble is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Emerald Ash Borer Quarantine

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in additional savings or expenditures for state and local governmental units in FY 17. The proposed rule expands an existing quarantine on regulated articles that are susceptible of infestation by the emerald ash borer ("EAB"), Agrilus planipennis Fairmaire to include Lincoln and Union Parishes. Existing LDAF personnel in Lincoln and Union Parishes will carry out additional inspection duties as a result of the proposed rule. The additional inspections will not require additional resources and will be absorbed within LDAF's existing appropriation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Any entities with regulated articles subject to the quarantine – such as ash nursery stock, ash logs/timber and cut firewood – in the quarantined areas will not be permitted to move those regulated articles from quarantined areas to non-quarantined areas without a certificate or limited permit issued by the LDAF. There is no fee for the certificate or permit. The only stoppages entities moving regulated articles will be able to make while moving regulated articles from non-quarantined areas will be for traffic conditions and fueling stops.

Limiting the spread of EAB will provide economic benefits to harvesters of ash logs and timber by preventing the spread of the pest to areas that are not impacted.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition and employment.

Dane Morgan
Assistant Commissioner
1611#038

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Medical Marijuana (LAC 7:XLIX.Chapters 1-31)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Agriculture and Forestry ("department"), intends to adopt LAC 7:XLIX.Chapters 1-31 regarding the growing and production of medical marijuana. The proposed rules are being adopted pursuant to R.S. 40:1046. Chapter 1 of the proposed rules sets forth definitions used in the medical marijuana rules. Chapter 3 sets for the department's authority to adopt the rules and addresses administrative matters, such as rules of construction for the proposed regulations. Chapter 5 addresses the license issued by the department to the grower and permits issued by the department to employees of the licensee. Chapter 5 includes rules regarding the form, content and information required in applications. Chapter 5 also addresses suitability standards, the ownership and transferability of the license and requires permits for employees. Chapter 7 addresses fees charged by the department to the licensee. Chapter 9 addresses compliance by the licensee and permitees and inspections by the department. Chapter 9 further sets forth a procedure for the licensee to request waivers from certain rules in emergency situations. Chapter 11 requires the licensee to establish internal controls for the production facility and sets forth the areas that must be covered by the internal controls. Chapter 13 sets forth record keeping and reporting requirements for the licensee and requires the licensee to submit an annual report to the department. The department, in turn, is required by law to submit an annual report to the legislature. Chapter 15 governs the production facility, including requiring certain areas of the facility be restricted. Chapter 15 also addresses the use of pesticides on medical marijuana plants. Chapter 17 addresses surveillance and security requirements that the licensee must follow at the production facility. Chapter 19 requires the licensee to use a tracking system for inventory. Chapter 21 addresses quality control of the medical marijuana products produced by the licensee and requires the licensee to conduct quality assurance tests. Chapter 23 sets forth the requirements for laboratory testing, including which tests must be run. Chapter 23 sets forth requirements on the licensee and its employees when transporting medical marijuana or medical marijuana infused products to laboratories, pharmacies or research facilities. Chapter 27 sets forth sanitation requirements for the production facility and provides rules for the disposal of waste. Chapter 29 addresses labeling of medical marijuana or medical marijuana infused products

and also addresses advertising by the licensee. Finally, Chapter 31 sets forth the procedures for the department to take enforcement action against the licensee.

Title 7
AGRICULTURE AND ANIMALS
Part XLIX. Medical Marijuana
Chapter 1. General Provisions
§101. Definitions

A. The provisions of the Act, R.S. 40:1046 and 1047, relating to definitions, words and terms are hereby incorporated by reference and made a part hereof and will therefore apply and govern the interpretation of these rules, unless the context otherwise requires or unless specifically redefined in a particular Section. Any word or term not defined in these rules shall have the same meaning ascribed to it in the Act. Any word not defined by the Act or these regulations shall be construed in accordance with its plain and ordinary meaning.

B. The following words and terms shall have the following meanings.

Act—R.S. 40:1046 et seq.

Applicant—any person or legal entity who has submitted an application or bid to the department for a license, permit, registration, contract, certificate or other finding of suitability or approval, or renewal thereof, authorized by the Act or rule.

Applicant Records—those records which contain information and data pertaining to an applicant's criminal record, background, and financial records, furnished to or obtained by the department from any source incidental to an investigation for licensing or permitting, findings of suitability, registration, the continuing obligation to maintain suitability, or other approval.

Application—the documentation, forms and schedules prescribed by the department upon which an applicant seeks a license, permit, registration, contract, certificate or other finding of suitability or approval, or renewal thereof, authorized by the Act or rule. Application also includes questionnaires, information, disclosure statements, financial statements, affidavits, and all documents incorporated in, attached to, or submitted by an applicant or requested by the department.

Architectural Plans and Specifications or *Architectural Plans* or *Plans* or *Specifications*—all of the plans, drawings, and specifications for the construction, furnishing, and equipping of the facility including, but not limited to, detailed specifications and illustrative drawings or models depicting the proposed size, layout and configuration of the production facility, including electrical and plumbing systems, engineering, structure, and aesthetic interior and exterior design as are prepared by one or more licensed professional architects and engineers.

Background Investigation—all efforts, whether prior to or subsequent to the filing of an application, designed to discover information about an applicant, affiliate, licensee, permittee, registrant, or other person required to be found suitable and includes, without time limitations, any additional or deferred efforts to fully develop the understanding of information which was provided or should have been provided or obtained during the application process.

Batch—the established segregation of a group of plants at the time of planting for the control of quantity, traceability and/or strain. A batch number will be assigned a specific unit or finite set of marijuana plants, therapeutic marijuana or therapeutic chemicals identifiable by a unique number or other unique designation, every portion or package of which is uniform,within recognized characteristics or tolerances for factors specific to the production stage. This unique identification follows each specific unit or finite set throughout growing, production, laboratory testing and product packaging and labelling.

Business Entity or *Legal Entity*—a natural person, a corporation, limited liability company, partnership, joint stock association, sole proprietorship, joint venture, business association, cooperative association, professional corporation or any other legal entity or organization through which business is conducted.

Consent to Administrative Supervision—a confidential legal agreement signed by the department and an individual, business, or other entity through which the violator agrees to pay for correction of violations, take the required corrective actions, or refrain from an activity while under the department's supervision.

Department—the Louisiana Department of Agriculture and Forestry.

Department Agent—any employee of the department designated by the commissioner of agriculture and forestry.

Economic Interest—any interest in a license from which a person receives or is entitled to receive, by agreement or otherwise, a profit, gain, thing of value, loss, credit, security interest, ownership interest or other benefit. Economic interest includes voting shares of stock or otherwise exercising control of the day-to-day operations through a management agreement or similar contract. Economic interest does not include a debt unless upon review of the instrument, contract, or other evidence of indebtedness, the department determines a finding of suitability is required based upon the economic relationship with the licensee.

Employee Permit—the permit issued by the department authorizing a person to work for the licensee.

Financial Interest—any actual or future right to ownership, investment, or compensation arrangement with another person, either directly or indirectly, through business, investment, spouse, parent or child, in the licensee. Financial interest does not include ownership of investment securities in a publicly-held corporation that is traded on a national securities exchange or over-the-counter market in the United States, provided the investment securities held by the person and the person's spouse, parent or child, in the aggregate, do not exceed one percent ownership in the licensee.

Financial Statements or *Financial Records*—both summaries of financial matters of any sort and any source documents or records from which summaries are or may be derived. Those statements and the information contained therein which relate to balance sheets, profit and loss statements, mortgages, debt instruments, ledgers, journals, invoices, and any other document bearing on the financial status of an entity, whether historical or current.

Geographic Location—a single location in the control of a licensee, which by definition is the premises, that has

contiguous boundaries and is located within a parish in Louisiana.

Internal Controls—internal procedures and administration and accounting controls designed by the licensee for the purpose of exercising control over the licensee's operations as approved by the department.

License—the authorization by the department to produce medical marijuana and medical marijuana-infused product in accordance with the Act.

Licensed Dispensary Pharmacy or *Dispensary*—a pharmacy licensed by the Louisiana Board of Pharmacy to dispense medical marijuana-infused product.

Licensee—a person or legal entity holding the specialty license issued by the department authorizing the holder to operate a medical marijuana production facility.

Louisiana Medical Marijuana Tracking System (LMMTS)—the required seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the product is sold to a dispensary or is destroyed.

LMMTS Tracking System User—a licensee or authorized employee who is granted LMMTS user account access for the purpose of conducting inventory tracking functions in the LMMTS, who has been successfully trained by LMMTS trained administrator(s) in the proper and lawful use of LMMTS, and who has completed any additional training required by the department.

LMMTS Trained Administrator—a licensee or authorized employee who has attended and successfully completed LMMTS training and who has completed any additional training required by the department.

Medical Marijuana—substances which are identified as including any parts of the plant *Cannabis sativa*, and all derivatives or subspecies of all strains of cannabis, whether growing or not, the seeds thereof; the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC), Cannabidiol (CBD) and all other naturally occurring cannabinol derivatives, whether produced directly or indirectly by extraction. This term shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.

Medical Marijuana Concentrate—a product derived from medical marijuana that is produced by extracting cannabinoids from the plant through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats; water, ice or dry ice; or butane, propane, CO2, ethanol or isopropanol. The use of any other solvent as is expressly prohibited unless and until it is approved by the department.

Medical Marijuana-Infused Product or *Product*—a product infused with medical marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures.

Medical Marijuana Waste—medical marijuana or medical marijuana-infused product that is not usable or cannot be processed.

Monitoring—the continuous and uninterrupted video surveillance of cultivation activities and oversight for potential suspicious actions. The department or law enforcement agencies designated by the department shall have the ability to access the licensee's monitoring system in real-time via a secure web-based portal.

Permit—authorization issued from the department to a natural person to work for, or on behalf of, the licensee.

Permittee—a principle officer or board member of the licensee, or a person employed in the operation or supervision of the licensee's operation, including any individual whose employment duties directly relate to the growing, cultivating, harvesting, processing, weighing, packing, transportation and selling of product.

Permittee Identification Card—a document approved by the department that identifies a person as a production facility permittee.

Premises—land, together with all buildings, improvements, and personal property located thereon, wherein medical marijuana or product is produced.

Produce or *Production*—the growing, compounding, conversion, processing or manufacturing of medical marijuana and medical marijuana-infused product, by extraction from substances of natural origin including any packaging or repackaging of the products or the labeling or relabeling of these products or their containers.

Producer—the licensee or a person or entity under contract, memorandum of understanding, or cooperative endeavor agreement with the licensee for services to grow or produce medical marijuana and medical marijuana-infused product.

Production Facility—a permanent, secured, indoor space designed and located in one geographic location, operated solely for the production of medical marijuana and product by the licensee to perform necessary activities to provide licensed dispensary pharmacies with usable product.

Production Facility Agent-In-Charge or *Agent-In-Charge*—the production facility permittee who has been designated by the licensee to have control and management over the day to day operations of the production facility. The licensee may designate more than one agent-in-charge to cover varying operational work shifts, but may only have one per work shift as approved by the department.

Records—all books, records, writings, accounts, letters and letter books, maps, drawings, photographs, cards, tapes, recordings, memoranda, and papers, and all copies, duplicates, photographs, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, including information contained in electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of a license or permit issued by the department.

Restricted Access Area—a building, room or other area in the production facility where medical marijuana is grown, cultivated, harvested, stored, weighed, packaged, sold or processed for sale to a licensed dispensary pharmacy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

Chapter 3. Administrative Procedures and Authority

§301. Policy

A. It is the declared policy of the department that production of medical marijuana in Louisiana be strictly regulated and controlled through administrative rules to protect the public welfare of the inhabitants of the state of Louisiana.

B. Marijuana is classified as a schedule I controlled substance by the U.S. Department of Justice, Drug Enforcement Administration.

1. As provided by the federal Controlled Substances Act, the procurement, possession, prescribing, distribution, dispensing, or administering of any schedule I controlled substance, including marijuana, is a violation of federal law.

2. Neither Louisiana law nor these rules can preempt federal law. Therefore, the provisions of this chapter notwithstanding, persons engaged in the activities described herein remain subject to the full force of federal law enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§303. Construction of Regulations and Administrative Matters

A. Nothing contained in these regulations shall be so construed as to conflict with any provision of the Act, any other applicable statute. If any regulation is held invalid by a final order of a court of competent jurisdiction at the state or federal level, such provision shall be deemed severed and the court's finding shall not be construed to invalidate any other regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§305. Louisiana State University Agricultural Center and/or Southern University Agricultural Center is Licensee

A. These regulations, subject to any rights in the Act, intend for the term licensee to apply to Louisiana State University Agricultural Center, Southern University Agricultural Center, either separately or jointly, to any of their subordinate contractors, or to the recipient of the license pursuant to R.S. 40:1046.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

Chapter 5. License and Permits

§501. Procedure for Issuing the License

A. The department shall issue the license pursuant to the Act.

B. *Louisiana Revised Statute* 40:1046 entitles the Louisiana State University Agricultural Center and the Southern University Agricultural Center the right of first refusal to be licensed as the production facility. This entitlement carries a presumption of suitability and accordingly, the following administrative rules pertaining to licensing shall not apply to the Louisiana State University Agricultural Center and the Southern University Agricultural Center: 505, 507, 509, 513(A), 515, 517, 519(A)(3), 521, 701(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§503. General Authority of the Department

A. The department shall have the authority to call forth any person who, in their opinion, has the ability to exercise significant influence over an applicant or licensee, and such person shall be subject to all suitability requirements.

B. In the event a person is found unsuitable, then the applicant or licensee shall have no association or connection with such person.

C. The department may grant variances in writing from certain licensing requirements for Louisiana State University Agricultural Center and Southern University Agricultural Center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§505. Applications in General

A. The license and any permit issued by the department is deemed to be a revocable privilege, and no person or legal entity holding such a license or permit is deemed to have acquired any vested rights therein.

B. An applicant for a license or permit authorized by the Act or rule is seeking the granting of a privilege, and the burden of proving qualification and suitability to receive the license or permit is at all times on the applicant.

C. The securing of the license, permit or approval required under the Act or these rules is a prerequisite for conducting, operating, or performing any activity regulated by the Act or these rules. Each applicant must file a complete application as prescribed by the department.

D. The filing of an application under the Act or these rules constitutes a request for a decision upon the applicant's general suitability, character, integrity, and ability to participate or engage in or be associated with the licensee or permittee. By filing an application, the applicant specifically consents to the making of such a decision by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§507. Investigations; Scope

A. The department shall investigate all applications for the license or permit or other matters requiring department approval. The department may investigate, without limitation, the background of the applicant, the suitability of the applicant, the suitability of the applicant's finances, the applicant's business integrity, the suitability of the proposed premises for the facility, the suitability of a person with an ownership or economic interest in the applicant for a license of 5 percent or more, the suitability of any person who in the

opinion of the department has the ability to exercise significant influence over the activities of an applicant for a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§509. Ownership of License and Permits

A. The license and all permits issued by the department as provided in the Act or by rule, are and shall remain the property of the department at all times.

B. The license shall be issued in the name of the licensee. One license will be issued even though multiple individuals may file or be required to file applications related thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§511. Transfer of License or Permits

A. The license and all permits are not transferable or assignable. If the status of the licensee or permittee should change such that the person no longer needs or is entitled to the license or permit, then the license or permit shall be cancelled and any tangible item which evidences such a license or permit shall be surrendered to the department within five days of the change of status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§513. Eligibility Suitability Standards

A. No person shall be eligible to apply for the license unless he meets all of the following requirements:

1. is in compliance with all requirements provided by the act; and

2. is properly registered and in good standing with the Louisiana Secretary of State and Department of Revenue.

B. No person shall be eligible to obtain a license or permit or obtain any other approval pursuant to the provisions of the Act or these rules unless the applicant has demonstrated by clear and convincing evidence to the department, where applicable, that he is suitable. Suitable means the applicant, licensee, permittee, or other person is:

1. a person of good character, honesty, and integrity;

2. a person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state or to the effective regulation and control of the production of medical marijuana or product or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the production of medical marijuana or product or carrying on of the business and financial arrangements incidental thereto;

3. capable of and likely to conduct the activities for which the applicant, licensee, permittee, is licensed, permitted, or approved pursuant to the provisions of the Act or these rules; and

4. not disqualified pursuant to the provisions of Subsection B of this Section.

C. The department, where applicable, shall not grant a license or permit, or issue any other approval pursuant to the provisions of the Act or these rules to any person who is disqualified on the basis of the following criteria:

1. the conviction or a plea of guilty or nolo contendere by the applicant or any person required to be suitable under the provisions of the Act or these rules for any of the following:

a. any offense punishable by imprisonment of more than one year;

b. theft or attempted theft, illegal possession of stolen things, or any offense or attempt involving the misappropriation of property or funds;

c. any offense involving fraud or attempted fraud, false statements or declarations;

d. a crime of violence as defined in R.S.14:2(B); and

e. any offense involving schedule I narcotics;

2. there is a current prosecution or pending charge against the person in any jurisdiction for any offense listed in Paragraph 1 of this Subsection; and

3. the failure to provide information and documentation to reveal any fact material to a suitability determination, or the supplying of information which is untrue or misleading as to a material fact pertaining to the suitability criteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§515. Suitability Determination

A. An applicant and officers, directors, and any person having a 5 percent or more economic interest in the licensee shall be required to submit to an investigation to determine suitability.

B. Any person, who in the opinion of the department, has the ability to exercise significant influence over the activities of an applicant for license or licensee shall be required to submit to an investigation to determine suitability.

C. All costs associated with conducting an investigation for suitability shall be borne by the applicant, licensee, or permittee or the person who is the subject of the investigation.

D. Failure to submit to a suitability determination as required by this Section may constitute grounds for delaying consideration of the application or for denial of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§517. Form of Application

A. An application for a license, permit, or finding of suitability shall be filed by way of forms prescribed by and obtained from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§519. Information Required from an Applicant for a License

A. An application for the license shall contain the following information including but not limited to:

1. information required by the Act;

2. one copy of detailed plans of design of the facility, including the projected use of each area;

3. an estimated timetable for the proposed financing arrangements through completion of construction;

4. the construction schedule proposed for completion of the production facility including therein projected dates for completion of construction and commencement of operations and indicating whether the construction contract includes a performance bond;

5. explanation and identification of the source or sources of funds for the construction of the facility;

6. description of the production facility size;

7. a detailed plan of surveillance and surveillance equipment to be installed;

8. proposed hours of operation;

9. the proposed management plan, management personnel by function and organizational chart by position; and

10. a list of employees which the applicant anticipates employing in the production facility operation, including job classifications.

B. An applicant for the license shall provide a copy of proposed internal controls which shall include:

1. accounting and financial controls including procedures to be utilized in counting, banking, storage and handling of cash;

2. job descriptions and the systems of personnel and chain-of-command, establishing a diversity of responsibility among employees engaged in production facility operations and identifying primary and secondary supervisor positions for areas of responsibility, which areas shall not be so extensive as to be impractical for an individual to monitor;

3. procedures for the inventory control and tracking, security, storage, and recordation of inventory; and

4. procedures and security standards for total operation of the facility.

C. In addition, the department may require an applicant to provide such other information and details as it needs to discharge its duties properly.

D. Failure to comply with the provisions of this Section may constitute grounds for delaying consideration or for denial of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§521. Fingerprinting

A. An initial application is not complete unless all persons required by the department have submitted to fingerprinting at the direction of the department.

B. Failure to submit to fingerprinting may constitute grounds for delaying consideration of the application or for denial of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§523. Employee Permits Required

A. A person employed in the operation or supervision of the licensee's operation including any individual whose employment duties require or authorize access to the premises on a regular basis, or a principle officer or board member of the licensee, shall be permitted by the department annually. A permit is valid for one year from the date of issuance.

B. The licensee shall not employ an individual in a capacity which requires an employee permit unless such individual is the holder of a valid employee permit issued by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§525. Display of Identification Badge

A. Every employee required to be permitted shall be issued a permittee identification badge, which shall be on his person and displayed at all times when on the production facility premises or when transporting product.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§527. Permit Renewal Applications

A. Applications for renewal of permits shall be made in such a manner and by way of forms prescribed by the department and shall contain all information requested by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

Chapter 7. Fees

§701. Fees

A. The license fee of $100,000 shall be payable to the department upon issuance of the license and annually thereafter.

B. The fee for a permit shall be $100 annually.

C. A fee of 7 percent of gross sales shall be paid quarterly to the department.

D. All fees collected by the department shall be used to fund expenses relating to the regulation and control of the medical marijuana program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

Chapter 9. Compliance and Inspections

§901. Applicability and Resources

A. This Chapter is applicable to inspections relative to compliance with the Act and the rules. The department is empowered to employ such personnel as may be necessary for such inspections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§903. Code of Conduct of Licensee and Permittees

A. General provisions:

1. all licensees and permittees shall comply with all applicable federal, state, and local laws and regulations. For purposes of this Chapter, applicable federal law shall not mean the growing, sale, possession, or distribution of medical marijuana; and

2. all notifications to the department required by this Section shall be in writing.

B. Unsuitable conduct:

1. a licensee or permittee shall not engage in unsuitable conduct or practices and shall not employ or have a business association with any person, natural or juridical, that engages in unsuitable conduct or practices; and

2. for purposes of this Section, unsuitable conduct or practices shall include, but not be limited to, the following:

a. employment of, in a managerial or other significant capacity as determined by the department, business association with, or participation in any enterprise or business with a person disqualified pursuant to Section 513 of Chapter 5 of these rules or declared unsuitable by the department;

b. failure to provide information or documentation of any material fact or information to the department;

c. misrepresentation of any material fact or information to the department;

d. engaging in, furtherance of, or profit from any illegal activity or practice, or any violation of these rules or the Act;

e. obstructing or impeding the lawful activities of the department; or

f. persistent or repeated failure to pay amounts due or to be remitted to the state;

3. the licensee or permittee shall not engage in, participate in, facilitate, or assist another person in any violation of these rules or the Act; or

4. any person required to be found suitable or approved in connection with the license, or permitted by the department, shall have a continuing duty to notify the department of his arrest, summons, citation or charge for any criminal offense or violation that would deem him unsuitable in accordance with these rules. The notification required by this Paragraph shall be made within 15 calendar days of the arrest, summons, citation, charge, fact, event, occurrence, matter or action.

C. Responsibility for the employment and maintenance of suitable methods of operation rests with the licensee. Willful or persistent use or toleration of methods of operation deemed unsuitable is cause for administrative action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§905. Compliance with Laws

A. Acceptance of a license or permit or renewal thereof constitutes an agreement on the part of the licensee or permittee to be bound by all of the applicable provisions of the Act and the regulations. It is the responsibility of the licensee or permittee to keep informed of the content of all such laws, and ignorance thereof shall not excuse violations. Violation of any applicable provision of the Act or the rules by a licensee or its agent, or permitte, employee or representative, is contrary to the public health, safety, morals, good order and general welfare of the inhabitants of the state of Louisiana and constitutes cause for administrative action.

B. In the event the licensee subcontracts services in the production of medical marijuana or product, the subcontractor's acts or omissions shall be considered the acts or omissions of the licensee. All obligations, duties, and responsibilities imposed on the licensee by these regulations shall be the obligations, duties and responsibilities of the subcontractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§907. Inspections and Observations

A. The department and its representatives shall have complete, immediate and unrestricted access at all times and without notice or demand to the licensee, permittee or any other person, to enter and:

1. inspect the entire production facility and its ancillary facilities, including all restricted areas;

2. observe production activities; or

3. observe the transportation of product.

B. A licensee shall, upon request, immediately make available for inspection by the department all papers, documents, books and records used in the licensed operations.

C. Such inspections and observations may or may not be made known to the licensee.

D. All requests for access to the production facility and production of records and documents in connection with any inspection shall be granted in accordance with the provisions of the Act and these regulations.

E. In conducting an inspection, the department is empowered to:

1. inspect and examine the entire production facility wherein production activities are conducted or proposed to be conducted, wherein inventory, equipment or supplies are maintained, and wherein all papers, books, records, documents and electronically stored media are maintained;

2. summarily seize and remove product, inventory, supplies, and equipment from such premises for the purpose of examination and inspection;

3. have access to inspect, examine, photocopy and, if necessary seize all papers, books, records, documents, information and electronically stored media of an applicant, licensee, or permittee pertaining to the licensed operation or activity, on all premises where such information is maintained;

4. review all papers, books, records, and documents pertaining to the licensed operation; and

5. conduct audits to determine compliance with all laws, rules and operations authorized by the Act under the department's jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§909. Production Facility Agent-In-Charge

A. The licensee shall designate a permittee as production facility agent-in-charge. A production facility agent-in-charge shall be on the licensee's premises during hours of operation and shall have authority to immediately act in any matter or concern of the department. A description of the duties and responsibilities of the production facility agent-in-charge shall be included in the written system of internal controls.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§911. Waivers and Authorizations

A. All requests to the department for waivers, approvals, or authorizations, except matters concerning emergency situations, shall be submitted in writing no less than 30 days prior to the licensee's planned implementation date, unless a shorter time is approved by the department.

B. No waiver, approval, or authorization is valid until such time as the licensee receives written authorization from the department.

C. The department, in its sole discretion, may determine what constitutes an emergency situation. Such determinations will be made on a case-by-case basis.

D. A licensee shall adhere to all the requirements and provisions of the authorization. Violation of the terms of a written authorization may be cause for administrative action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

Chapter 11. Internal Controls

§1101. Internal Control for Production Facility

A. The licensee shall establish administrative and accounting procedures for the purpose of exercising effective control over the licensee's internal fiscal affairs. The procedures must be designed to reasonably ensure that:

1. assets are safeguarded;
2. financial records are accurate and reliable;
3. transactions are performed only in accordance with management's general or specific authorization;
4. transactions are recorded adequately to permit proper reporting of sales and maintain accountability for inventory and assets;
5. access to assets is permitted only in accordance with management's specific authorization; and
6. functions, duties, and responsibilities are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel.

B. The licensee shall describe, in such manner as the department may approve or require, its administrative and accounting procedures in detail in a written system of internal control. The licensee shall submit for approval a copy of its written system to the department. Each written system shall include:

1. an organizational chart depicting segregation of functions and responsibilities;
2. a description of the duties and responsibilities of each position shown on the organizational chart;
3. a detailed, narrative description of the administrative, accounting, and operational procedures designed to satisfy the requirements of Subsection A. This description shall address operational and management practices, including but not limited to:
   a. record keeping;
   b. security measures to deter and prevent theft of medical marijuana and product;
   c. authorized entrance into areas containing medical marijuana or product;
   d. types and quantities of medical marijuana or products that are produced at the manufacturing facility;
   e. methods of planting, harvesting, drying, batching, and storage of medical marijuana;
   f. estimated quantity of all crop inputs used in production;
   g. estimated quantity of waste material to be generated;
   h. disposal methods for all waste materials;
   i. inventory storage procedures;
   j. employee training methods for the specific phases of production;
   k. biosecurity measures used in production and manufacturing;
   l. strategies for reconciling discrepancies in plant material, medical marijuana or product;
   m. sampling strategy and quality testing for labeling purposes;
   n. medical marijuana and product packaging and labeling procedures;
   o. procedures for the mandatory and voluntary recall of medical marijuana and product;
   p. plans for responding to a security breach at a production facility, or while medical marijuana or product is in transit to another approved facility;
   q. business continuity plan;
   r. procedures and records relating to all transport activities; and
   s. other information requested by the department;
4. a written statement signed by the licensee's chief financial officer and either the licensee's chief executive officer or a licensed owner attesting that the system satisfies the requirements of this Section; and
5. such other items as the department may require.

C. The licensee's system of internal control procedures shall meet, at a minimum, the requirements set forth in the Act and administrative rules. If the department determines that a licensee's administrative or accounting procedures or its written system does not meet the standards, the department shall so notify the licensee in writing. Within 30 days after receiving the notification, the licensee shall amend its procedures and written system accordingly, and shall submit a copy of the written system as amended and a description of any other remedial measures taken.

D. The licensee shall promptly report any amendments to the licensee's system of internal control procedures. The report must include either a copy of the written system of

internal control procedures as amended or a copy of each amended page of the written system of internal control procedures, and a written description of the amendments signed by the licensee's chief financial officer. The department may also request the licensee to submit a copy of the written system of internal control procedures at any time.

E. The licensee shall comply with its written system of internal control procedures submitted pursuant to Subsection B as it relates to compliance with the requirements set forth in these regulations. Failure to comply is an unsuitable method of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§1103. Application Control

A. The licensee shall establish application control procedures for the purpose of exercising effective control over the licensee's management information systems to include the LMMTS, and to provide for a stable operation of the IT environment. The licensee shall comply with its system of application control as it relates to compliance with the requirements set forth in these regulations. The application procedures shall include a business continuity plan, an organizational chart depicting segregation of functions and responsibilities, and a description of the duties and responsibilities of each position shown on the organizational chart.

B. The procedures must be designed to reasonably ensure that:

1. information is safeguarded and logically secured through the use of passwords, biometrics, or other means as approved by the department;

2. electronic records are accurate and reliable;

3. controls assure the accuracy of the data input, the integrity of the processing performed, and the verification and distribution of the output generated by the system. Examples of these controls include:

a. proper authorization prior to data input, for example, passwords;

b. use of parameters or reasonableness checks; and

c. use of control totals on reports and comparison of them to amounts input;

4. transactions are performed only in accordance with control procedures; and

5. transactions are recorded adequately to permit proper reporting of data, and to maintain accountability for processing tracking, inventory, sales, and assets.

C. Data server equipment and system storage shall be housed in a secured environment equipped with a non-water based fire suppression system, redundant power supply and UPS battery backup, redundant HVAC system, and protected by surveillance and security alarm systems. Only authorized personnel shall have physical access to the computer software and hardware.

D. Backup and recovery:

1. the licensee shall perform a backup to the system data daily. Backup and recovery procedures shall be written and distributed to all applicable personnel. These policies shall include information and procedures, which includes, at a minimum, a description of the system and system manual(s) that ensure the timely restoration of data in order to resume operations after a hardware or software failure;

2. the licensee shall maintain copies of system-generated edit reports, exception reports and transaction logs for a minimum of five years; and

3. the licensee shall maintain either printed or electronic copies of system-generated edit reports, exception reports, and transaction logs.

E. Access to software and hardware:

1. the licensee shall establish security groups based on job requirements and access level of employees. This information shall be maintained by the licensee and include the employee's name, position, identification number, and the date authorization is granted. These files shall be updated as employees or the functions they perform change;

2. the licensee shall print and review the computer security access report monthly. Discrepancies shall be investigated, documented, and maintained for five years;

3. only authorized personnel shall have physical access to the computer software and hardware;

4. all changes to the system and the name of the individual who made the change shall be documented; and

5. reports and other output generated by the system shall be available and distributed to authorized personnel only.

F. Computer records:

1. at a minimum, the licensee shall generate, review, document this review, and maintain reports on a daily basis for the respective system(s) utilized in their operation.

G. The licensee may not implement application control procedures that do not satisfy the requirements set forth in these regulations unless the department approves otherwise in writing. If the department determines that the licensee's application control procedures do not comply with the requirements of the Act or administrative rules, the department shall so notify the licensee in writing. Within 30 days after receiving the notification, the licensee shall amend its application controls, and shall submit a copy of the amended application controls and a description of any other remedial measures taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

Chapter 13. Reporting and Record Keeping

§1301. Reporting and Record Keeping

A. The licensee shall keep and maintain all of the true, accurate, complete, legible and current books upon the licensed premises for a five-year period and made available for inspection if requested by the department. Electronic records may be maintained in other locations if access to the records is available on computers located at the production facility or other location approved by the department.

B. The licensee shall conduct a complete system data backup to an off-site location a minimum of once a month. For purposes of this Section, the licensee shall submit the name, location, and security controls of the off-site storage facility to the department.

C. The licensee shall have a written contingency plan in the event of a system failure or other event resulting in the loss of system data. The plan shall address backup and

recovery procedures and shall be sufficiently detailed to ensure the timely restoration of data in order to resume operations after a hardware or software failure or other event that results in the loss of data.

D. The licensee is responsible for keeping and maintaining all of the production facility's records that clearly reflect all financial transactions and the financial condition of the business. The following records shall be kept and maintained on the licensed premises for a five-year period and shall be made available for inspection if requested by the department:

1. purchase invoices, bills of lading, manifests, sales records, copies of bills of sale and any supporting documents, including the items and/or services purchased, from whom the items were purchased, and the date of purchase;

2. bank statements and cancelled checks for all accounts relating to the production facility;

3. accounting and tax records related to the production facility and each producer backer;

4. records of all financial transactions related to the production facility, including contracts and/or agreements for services performed or received that relate to the production facility;

5. all permittee records, including training, education, discipline, etc.;

6. soil amendment, fertilizers, pesticides, or other crop production aids applied to the growing medium or plants or used in the process of growing medical marijuana;

7. production records, including:

a. planting, harvest and curing, weighing, destruction of medical marijuana, creating batches of products, and packaging and labeling; and

b. disposal of medical marijuana, products and waste materials associated with production;

8. records of each batch of medical marijuana concentrate or products made, including, at a minimum, the usable medical marijuana or trim, leaves, and other plant matter used (including the total weight of the base product used), any solvents or other compounds utilized, and the product type and the total weight of the end product produced;

9. transportation records;

10. inventory records;

11. records of all samples sent to an independent testing lab and/or the department's lab and the quality assurance test results;

12. all samples provided to anyone or any entity for any purpose; and

13. records of any theft, loss or other unaccountability of any medical marijuana seedlings, clones, plants, trim or other plant material, extracts, products, or other items containing medical marijuana.

E. The records required by this section shall include the following:

1. the amount of plants being grown at the production facility on a daily basis;

2. the quantity and form of medical marijuana and product maintained at the production facility on a daily basis;

3. the date of each sale, transporting or disposing of any product;

4. the name, address and registration number of the dispensary facility to which the product was sold;

5. the item number, product name (description), and quantity of products registered by the department and sold or otherwise distributed to the dispensary;

6. the name of the dispensary facility and dispensary employee who took custody of the product;

7. the price charged and the amount received for the products from the dispensary;

8. name of production facility employee(s) transporting the product; and

9. if the distribution was for a purpose other than sale, the reason for the distribution.

F. A record of all approved products that have been distributed shall be filed electronically with the department, utilizing a transmission format acceptable to the department, not later than 24 hours after the product was transported to a dispensary or disposed of by the production facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§1303. Annual Report

A. The licensee shall prepare an annual report detailing all of the following:

1. the amount of gross medical marijuana and product produced by the licensee during each calendar year;

2. the details of all production costs including but not limited to seed, fertilizer, labor, advisory services, construction, and irrigation;

3. the details of any items or services for which the licensee subcontracted and the costs of each subcontractor directly or indirectly working for the contractor;

4. the amount of products produced resulting from the medical marijuana grown;

5. the amounts paid each year to the licensee related to the licensee's production of medical marijuana and product; and

6. the amount of medical marijuana and product distributed to each pharmacy licensed to dispense medical marijuana in this state during each calendar year.

B. The report shall cover the previous calendar year and be received by the department no later than January 15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

Chapter 15. Production Facility

§1501. Production Facility and Areas

A. The production facility shall be compartmentalized based on function, and access shall be restricted between areas or compartments. The licensee shall develop, establish, maintain and comply with its written system of internal controls approved by the department regarding best practices for the secure and proper production of medical marijuana or products. These practices shall include, but not be limited to, policies and procedures that:

1. restrict movement between production areas or compartments;

2. ensure that only those personnel necessary for a production function have access to that area or compartment of the production facility;

3. require pocket-less clothing for all production facility employees working in an area containing medical marijuana or products;

4. document the chain of custody of all medical marijuana or products;

5. require the storage of all medical marijuana or products in the process of production, manufacture, distribution, transfer, or analysis in such a manner as to prevent diversion, theft or loss;

6. make all medical marijuana or products accessible only to the minimum number of specifically authorized employees essential for efficient operation;

7. require the return of all medical marijuana or products to their designated, secure locations immediately after completion of the process or at the end of the scheduled business day. If a production process cannot be completed at the end of a working day, the licensee shall securely lock the medical marijuana or products, or tanks, vessels, bins, or bulk containers containing any such materials inside a processing area or compartment that affords adequate security;

8. address mandatory and voluntary recalls of medical marijuana or products in a manner that adequately deals with recalls due to any action initiated at the request of the department and any voluntary action by the licensee to remove defective or potentially defective products from the market, or any action undertaken to promote public health and safety by replacing existing medical marijuana or products with improved products or packaging; and

9. prepare for, protect against, and handle any crises that affect the security or operation of the production facility in the event of fire, flood, or other natural disaster, or other situations of local, state, or national emergency.

B. Each production area or compartment within a production facility shall:

1. develop, establish, maintain and comply with policies and procedures contained in the written system of internal controls for each production area, as approved by the department;

2. be maintained free of debris and kept clean and orderly;

3. be kept free from infestation by insects, rodents, birds or vermin of any kind, including the use of adequate screening or other protection against the entry of pests;

4. implement and maintain biosecurity measures at all times;

5. allow access on all sides of each medical marijuana plant group to allow for unobstructed movement of personnel and materials, for plant observation and for inventory of each plant group;

6. maintain production and storage areas, including areas where equipment or utensils are cleaned, with adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment and security conditions for the production of medical marijuana or products;

7. prevent the growth of undesirable microorganisms that can occur on medical marijuana plants by holding the plants in a manner that prevents such growth;

8. move medical marijuana or products that are outdated, damaged, deteriorated, misbranded or adulterated, or whose containers or packaging have been opened or breached, into a separate storage room, in a quarantined area, until the medical marijuana or products are destroyed pursuant to Chapter 27;

9. ensure that the oldest stock of medical marijuana or products is distributed first. The procedure may permit deviation from this requirement, if such deviation is temporary and appropriate;

10. not produce any products other than medical marijuana or products;

11. maintain a record of all crop inputs for at least five years at the production facility. The record shall include the following (see Section 1507 for additional requirements for the use of pesticides):

a. the date of crop input application;

b. the name and title of the individual making the application;

c. the product that was applied;

d. the section, including the square footage, that received the application (by group designation or number);

e. the amount of product that was applied; and

f. a copy of the label of the product applied;

12. hold and store toxic cleaning compounds, sanitizing agents, solvents used in the production of any products, and pesticide chemicals in a manner that protects against contamination of medical marijuana or products, and in a manner that is in accordance with any applicable local, State or federal law, rule, regulation or ordinance;

13. ensure that the water supply to the production areas or compartments is sufficient for the operations intended and is derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable and adequate supply of water to meet the production facility's needs (see Chapter 27); and

14. ensure that plumbing complies with all applicable plumbing codes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§1503. Age Restrictions

A. No persons under the age of 21 shall:

1. enter any restricted area of the facility; or

2. be licensed or permitted by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§1505. Restricted Areas

A. Only permittees as provided in these rules, or in the internal controls may enter restricted areas. The licensee shall implement procedures to ensure compliance with this Section.

B. All non-permitted employees and visitors shall be accompanied by an authorized permittee.

C. All access to the production area of the facility, any area where product is located, and the vault shall be

documented on a log maintained by the licensee. The logs shall contain entries with the following information:

1. the identity of each person entering the restricted area;

2. for non-permitted employees and visitors authorized by the department, the reason each person entered the restricted area;

3. the date and time each person enters and exits the restricted area;

4. a description of any unusual events occurring in the restricted area; and

5. such other information required in the internal controls.

D. The logs shall be made available to the department upon request.

E. Only transparent trash bags shall be utilized in restricted areas.

F. All authorized persons working in any restricted area when product is present shall wear clothing without any pockets or other compartments, unless otherwise authorized by the department.

G. Employees shall not bring purses, handbags, briefcases, bags or any other similar item into the restricted area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§1507. Pesticide Usage on Medical Marijuana Plants

A. Only pesticides approved by the department may be applied by the licensee to the medical marijuana plant. The department's approved pesticide list shall be published in the Potpourri section of the *Louisiana Register* and on the department's website. Updates to the approved list shall be posted in the same manner.

B. All pesticide products shall be registered with the department, including those products classified by the United States Environmental Protection Agency as 25(b) "minimum risk" products.

C. No application of pesticides shall be made after the budding/flowering of the cannabis plant.

D. All permittees applying pesticides shall adhere fully to product label requirements and shall employ all personal protective equipment prescribed by the label.

E. A record of all pesticide applications shall be maintained at the production facility for at least five years and shall be made available to the department. The application record shall include the following information:

1. owner/operator name, address, and license number;

2. certified applicator, name, address and certification number;

3. product/brand name;

4. LDAF product registration number (if applicable);

5. application date;

6. crop/type of application;

7. location of application;

8. size of area treated acres, square feet, or minutes of spraying;

9. rate of application;

10. total amount of pesticide product (concentrate) applied; and

11. applicator name (working under the supervision of a certified applicator).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

Chapter 17. Surveillance and Security

§1701. Required Surveillance Equipment

A. The licensee shall install a surveillance system on the entire premises which meets or exceeds specifications established by the department and provide access to the department at all times.

B. Cameras, as approved by the department, shall monitor in detail, from various vantage points, the following:

1. the entire premises to include all areas within and outside the production facility excluding restrooms and private offices where product is not located;

2. the movement of medical marijuana and product on the premises;

3. the entrance and exits to the production facility;

4. inside of the vault area and restricted areas; and

5. such other areas as designated by the department.

C. All cameras shall be equipped with lenses of sufficient magnification to allow the operator to clearly distinguish product identifiers and ID tags.

D. All date and time generators shall be based on a synchronized, central or master clock, recorded and visible on any monitor when recorded.

E. The surveillance system and power wiring shall be tamper resistant.

F. The system shall be supplemented with a back-up gas or diesel generator power source which is automatically engaged in case of a power outage and capable of returning to full power within 7 to 10 seconds.

G. The system shall have an additional uninterrupted power supply system so that time and date generators remain active and accurate.

H. Video switchers shall be capable of both manual and automatic sequential switching for the appropriate cameras.

I. Recorders, as approved by the department, shall be capable of producing high quality first generation pictures and recording with high speed scanning and flicker-less playback capabilities in real time, or other medium approved by the department. Such recorders must possess time and date insertion capabilities for recording what is being viewed by any camera in the system.

J. The system shall have audio capability in certain areas as required by the department.

K. The facility shall have adequate lighting in all areas where camera coverage is required. The lighting shall be of sufficient intensity to produce clear recording and still picture production, and correct color correction where color camera recording is required. The video must demonstrate a clear picture, in existing light under normal operating conditions.

L. Adequate back-up replacement equipment shall be maintained on the premises to ensure prompt replacement in the event of failure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§1703. Surveillance System Plans

A. The licensee shall submit to the department for approval a surveillance system plan prior to the commencement of operations. The surveillance system plan shall include a floor plan indicating the placement of all surveillance equipment and a detailed description of the surveillance system and its equipment. The plan shall also include a detailed description of the configuration of the monitoring equipment. The plan may include other information that evidences compliance with this Subsection by the licensee including, but not limited to, a configuration detailing the location of all production equipment.

B. Any changes to the surveillance system shall require prior approval by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§1705. Surveillance Personnel Employment Provisions

A. The licensee shall designate at a minimum one permittee responsible in the use, monitoring, and administration of the surveillance system. This employee is prohibited from having duties in the production process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§1707. Storage and Retrieval

A. All video recordings shall be retained for at least thirty days, unless otherwise provided for in these rules or required by the department.

B. Any video recording of illegal or suspected illegal activity shall, upon completion of the recording, be duplicated and the copy shall be preserved until the department notifies the licensee otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§1709. Security Plan Requirements

A. The licensee shall submit to the department a security plan prior to commencement of operations to include, at a minimum, the following:

1. a detailed description of all security solutions for the facility and transportation of product to and from the facility to be implemented by the licensee;
2. security training requirements and procedures; and
3. other information required by the department that evidences compliance with the Act and these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§1711. Security Alarm System

A. The licensee shall install and maintain in good working order a professionally installed and monitored security alarm system as approved by the department. This system shall provide intrusion and fire detection for all buildings and areas within the premises. The alarm system shall be able to operate in the event of a power outage.

B. The security system shall be able to summon law enforcement personnel during, or as a result of, an alarm condition. The security system must be equipped with the following components or features:

1. motion detectors;
2. a duress alarm
3. a panic alarm;
4. a holdup alarm;
5. an automatic voice dialer; and
6. a failure alert system that provides an audio, text, or visual notification of any failure in the alarm system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§1713. Security of Premises and Production Facility

A. The licensee shall:

1. erect fencing or other barriers as approved by the department of adequate type and height to prevent unauthorized persons from entering the premises. Ingress and egress to the premises shall be controlled by use of a gate or other approved device;
2. install locks or locking mechanisms of adequate type to securely lock and protect the premises and production facility from unauthorized entry at all times. The licensee shall safeguard all keys, combinations, passwords, and other security sensitive measures in a manner that prevents accessibility from unauthorized persons;
3. install exterior lighting sufficient to illuminate all areas of the premises to facilitate surveillance and deter unauthorized activity;
4. load the medical marijuana or product for transportation to dispensaries in a locked, secured area within the perimeter protected by fence or other approved barrier. This area shall be considered a restricted area obscured from public view; and
5. post a sign at all entryways into the premises and production facility which shall be a minimum of 12 inches in height and 12 inches in width which shall state: "DO NOT ENTER—RESTRICTED ACCESS AREA—ACCESS LIMITED TO AUTHORIZED PERSONNEL ONLY", or other wording approved by the department. The lettering shall be no smaller than one-half inch in height.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§1715. Security Log/Notification/Reports

A. The licensee shall maintain a security log of all visitors to the production facility and unusual incidents. Each incident without regard to materiality shall be entered in the log containing, at a minimum, the following information:

1. the assignment number;
2. the date;
3. the time;
4. the description of the incident;
5. the person involved in the incident; and

6. the permittee assigned.

B. The security logs required by this Section shall be retained and stored by month and year.

C. The licensee or its employees shall provide immediate notification to the department of knowledge of any theft of medical marijuana or product, or violation of the Act, or these rules.

D. The licensee shall compile a written report to be promptly filed with the department on any incident in which the licensee has knowledge of, or reasonable suspicion of a violation of the Act, these rules, or its system of internal controls has occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

Chapter 19. Inventory

§1901. Medical Marijuana Inventory; Inventory Tracking System Required

A. The licensee shall provide a reliable and ongoing supply of medical marijuana as required by R.S. 40:1046(C)(2)(D).

B. The licensee shall establish inventory controls and procedures for conducting inventory reviews and comprehensive inventories of plant material, medical marijuana, and product to prevent and detect any diversion, theft, or loss in a timely manner.

C. The licensee shall maintain a record of its inventory of all medical marijuana waste, product waste, and plant material waste for disposal.

D. The licensee shall be required to use the LMMTS as the primary inventory tracking system of record. The system and all use thereof shall conform to the requirements set forth in Section 1903 and Chapter 19.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§1903. General Inventory Tracking System Use

A. All inventory tracking activities by the licensee shall be tracked through use of the LMMTS. The licensee shall reconcile all on-premises and in-transit medical marijuana and product inventories each day in the LMMTS at the close of business.

B. Common weights and measures:

1. the licensee shall utilize a standard of measurement that is supported by the LMMTS to track all medical marijuana and product;

2. a scale used to weigh such product prior to entry into the LMMTS shall be tested and approved in accordance with R.S 3:4601 et seq.

C. LMMTS administrator and user accounts, security and record:

1. the licensee is accountable for all actions permittees take while logged into the LMMTS or otherwise conducting medical marijuana or product inventory tracking activities; and

2. Each individual user is also accountable for all of his or her actions while logged into the LMMTS or otherwise conducting medical marijuana or product inventory tracking activities, and must maintain compliance with all relevant laws and rules.

D. Secondary software systems allowed:

1. nothing in this rule prohibits the licensee from using separate software applications to collect information to be used by the business including secondary inventory tracking or point of sale systems; and

2. a licensee shall ensure that all relevant LMMTS data is accurately transferred to and from the LMMTS for the purpose of reconciliations with any secondary systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§1905. Inventory Tracking System Access

A. The licensee shall have at least one individual permittee who is a LMMTS administrator. The licensee may also designate additional permittees to obtain LMMTS administrator accounts in accordance with internal controls.

B. In order to obtain a LMMTS administrator account, a person must attend and successfully complete all required LMMTS training. The department may also require additional ongoing, continuing education for an individual to retain his or her LMMTS administrator account.

C. The licensee may designate permittees who hold a valid employee permit as a LMMTS User. The licensee shall ensure that all permittees who are granted LMMTS user account access for the purposes of conducting inventory tracking functions in the system are trained by LMMTS administrators in the proper and lawful use of LMMTS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§1907. ID Tags Required

A. The licensee shall be responsible to ensure its inventories are properly tagged where the LMMTS requires ID tag use. The licensee must ensure it has an adequate supply of ID tags to properly identify medical marijuana and product as required by the LMMTS.

B. The licensee is responsible for the cost of all ID tags and any associated fees as approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§1909. Conduct While Using Inventory Tracking System

A. The licensee and its designated LMMTS administrators and LMMTS users shall enter data into the LMMTS that fully and transparently accounts for all inventory tracking activities. Both the licensee and the permittees using the LMMTS are responsible for the accuracy of all information entered into the LMMTS. Any misstatements or omissions may be considered a violation of these rules.

B. Individuals entering data into the LMMTS shall only use that individual's LMMTS account.

C. If at any time the licensee loses access to the LMMTS for any reason, the licensee shall keep and maintain

comprehensive records detailing all medical marijuana and medical marijuana-infused product tracking inventory activities that were conducted during the loss of access. See Section 1301, Reporting and Record Keeping. Once access is restored, all medical marijuana and product inventory tracking activities that occurred during the loss of access shall be entered into the LMMTS. The licensee must document when access to the system was lost and when it was restored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§1911. System Notifications

A. The licensee shall monitor all compliance notifications from the LMMTS. The licensee shall resolve the issues detailed in the compliance notification in a timely fashion. Compliance notifications shall not be dismissed in the LMMTS until the licensee resolves the compliance issues detailed in the notification.

B. The licensee shall take appropriate action in response to informational notifications received through the LMMTS, including but not limited to notifications related to ID billing, enforcement alerts, and other pertinent information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

Chapter 21. Quality Control/ Assurance Program

§2101. Quality Control

A. The licensee shall develop and implement a written quality assurance program for determining necessary storage conditions and shelf life for both medical marijuana concentrates and products:

1. the quality assurance program shall include procedures to be followed if the mandated testing described in Chapter 23 indicates contamination or non-homogenous products;

2. any area within the production facility where medical marijuana will be produced into an edible form shall comply with the Louisiana state food, drug and cosmetic law (R.S. 40:601) et seq.;

3. no products requiring refrigeration or hot-holding shall be manufactured at a production facility for sale or distribution to a dispensary due to the potential for food-borne illness.

B. the licensee shall develop and follow written procedures determining storage conditions and establishing shelf life for each product type such that:

1. samples are collected in a manner that provides analytically sound and representative samples;

2. sample size and test intervals are based on statistical criteria for each attribute examined to ensure valid stability estimates;

3. samples are labeled with the unique batch identifier;

4. samples are tested at a minimum for both potency and microbiological contamination against the limits set forth in Chapter 23;

5. storage conditions do not involve refrigeration, heating, or specialized ventilation systems;

6. the same container-closure system in which the product is dispensed at point of sale is used during the shelf life testing; and

7. the documentation supporting required storage conditions and shelf life determinations are retained for at least five years.

C. The licensee shall develop and follow written procedures for responding to mandated testing results indicating contamination of any kind including:

1. documenting the destruction of the contaminated medical marijuana or product as described in Chapter 14;

2. determining the source of the contamination;

3. documentation of the elimination of the source of contamination; and

4. retention of all documents involved in the incident for at least five years.

D. The licensee shall bear any and all costs incurred in determining the shelf life, the storage conditions and the activities necessary to respond to findings of contamination or non-homogeneity.

E. If shelf life studies have not been completed, the licensee may assign a tentative expiration date based on any available stability information. The licensee shall concurrently conduct shelf life studies to determine the actual product expiration date.

F. After the licensee verifies the tentative expiration date, or determines the appropriate expiration date, the licensee shall include that expiration date on each batch of product.

G. Shelf life testing shall be repeated if the production facility's process or the product's chemical composition is changed.

H. The licensee shall retain a reserve sample that represents each batch of medical marijuana and store it under conditions consistent with product labeling. The reserve sample shall be stored in the same immediate container-closure system in which the product is dispensed, or in one that has similar characteristics. The reserve sample must consist of at least twice the quantity necessary to perform all the required tests.

I. The licensee shall retain the reserve for at least one year following the batch's expiration date. At the end of this time or later, the reserve shall be destroyed following the procedures set forth in Chapter 27.

J. If the department deems that public health may be at risk, the department may require the licensee to release any reserve sample to be tested at any time for any analysis it deems necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

Chapter 23. Laboratory Approval and Testing

§2301. Laboratory Approval

A. No laboratory shall handle, test or analyze medical marijuana or product unless approved by the department in accordance with this Section. A list of approved laboratories will be made available by the department on its website.

B. No laboratory shall be approved to handle, test or analyze medical marijuana or product unless the laboratory:

1. is accredited to International Organization for Standards (ISO) 17025 standards by a private laboratory

accrediting organization for the analyses being conducted. Additionally, the laboratory must provide the department with a copy of the most recent inspection report granting accreditation and every inspection report thereafter. Failure to maintain accreditation to the ISO 17025 will result in the revocation of the department's approval for medical marijuana or product testing;

2. is independent from all other persons involved in the medical marijuana industry in Louisiana, which shall mean that no person with a direct or indirect interest in the laboratory shall have a direct or indirect financial, management or other interest in a licensed dispensary pharmacy, dispensary facility, licensee, production facility, certifying physician or any other entity that may benefit from the production, manufacture, dispensing, sale, purchase or use of medical marijuana or product;

3. employs, at a minimum, a laboratory director with sufficient education and experience in a regulated laboratory environment in order to obtain and maintain certification;

4. maintains a written and documented system to evaluate and document the laboratory's and each employee's competency in performing authorized required tests. Prior to independently analyzing samples, testing personnel must demonstrate acceptable performance on precision, accuracy, specificity, reportable ranges, blanks, and unknown challenge samples (proficiency samples or internally generated quality controls);

5. submits to an on-site facility review by the department or its designated agent prior to the granting of departmental approval. Facilities will continue to be subject to inspection at any time subsequent to approval; and

6. accepts the requirement that laboratories utilize the department's approved computerized inventory tracking system (LMMTS) to post results of sample analyses for review by the department and licensee. The laboratory is responsible for any costs associated with their access to the computerized inventory tracking system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§2303. Laboratory Testing

A. Each batch of medical marijuana concentrate and product shall be made available by the licensee for an employee of an approved laboratory or otherwise independent sample collector to select a random and representative sample of sufficient volume to conduct required analyses, which shall be tested by an approved laboratory.

1. Medical marijuana concentrate shall not be used to produce any form of product until it has passed all analysis limits for:

a. active ingredient analysis for characterization of potency;

b. pesticide active ingredients, including but not limited to, the most recent list of targeted pesticides published by the department;

c. residual solvents;

d. heavy metals; and

e. mycotoxins.

2. Product shall not be released for delivery to a dispensary for sale or consumption until it has passed all analysis limits for:

a. microbiological contaminants;

b. active ingredient analysis for accuracy of potency; and

c. homogeneity.

B. The department may select a random sample at any point in the process for the purpose of analysis for anything the department deems necessary.

C. Samples shall be secured in a manner approved by the department at all times when not in immediate use for the analyses being conducted.

D. Testing Specifications and Limits

1. Every sample shall undergo a microbiological test. For purposes of the microbiological test, a sample shall be deemed to have passed if it satisfies the recommended microbial and fungal limits for cannabis products in colony forming units per gram (CFU/g) as follows:

a. total yeast and mold: <10,000 CFU/g; and

b. E. coli (pathogenic strains) and Salmonella spp. <1 CFU/g.

2. Every sample shall undergo a mycotoxin test. For purposes of the mycotoxin test, a sample shall be deemed to have passed if it meets the following standards:

a. aflatoxin B1: <20 ppb;

b. aflatoxin B2: <20 ppb;

c. aflatoxin G1: <20 ppb;

d. aflatoxin G2: <20 ppb; and

e. ochratoxin: <20 ppb.

3. Every sample shall undergo a pesticide chemical residue test. For purposes of the pesticide chemical residue test, a sample shall be deemed to have passed if it satisfies the most stringent acceptable standard for a pesticide chemical residue in any food item as set forth in subpart C of USEPA's regulations for tolerances and exemptions for pesticide chemical residues in food [40 CFR 180 (2014)];

4. Every sample shall undergo a residue solvent test. For purposes of the residue solvent test, a sample shall be deemed to have passed if the following solvents are below the limits listed below:

a. butanes: <800 ppm;

b. heptanes: <500 ppm;

c. benzene: <1 ppm;

d. toluene: <1 ppm;

e. hexanes: <10 ppm;

f. total xylenes: <1 ppm; and

g. ethanol: <5,000 ppm.

5. Every sample shall undergo a heavy metal test. For the purpose of the heavy metal test, a sample shall be deemed to have passed if it meets the following standards:

a. arsenic: <10ppm;

b. cadmium: <4.1ppm;

c. lead: <10ppm; and

d. mercury:<2.0ppm.

6. Every sample shall undergo an active ingredient analysis or potency analysis. For medical marijuana concentrate samples, the potency test is to establish the presence of active ingredients and their concentrations for accurate calculations of amounts needed for the production of products. For product samples, the potency test is to

establish the active ingredient composition for verification of labeling to ensure accurate dosing:

a. requires analysis of the following actives:

i. THC (tetrahydrocannabinol);

ii. THCA tetrahydrocannabinol acid;

iii. CBD cannabidiol; and

iv. CBDA cannadidiolic acid.

b. for product analysis, a variance of no more than plus or minus fifteen percent is allowed from the labeled amount of active ingredient. Thus a product labeled as containing 10 milligrams THC must contain no less than 8.50 milligrams THC and no more than 11.50 milligrams THC.

7. Every sample shall undergo a homogeneity test. A product will be considered not homogenous if ten percent of the product contains more than twenty percent of the total active ingredient.

E. If a medical marijuana concentrate sample fails testing for pesticides, heavy metals or mycotoxin, the entire batch from which the sample was taken shall be disposed of in accordance with Chapter 27.

F. If a medical marijuana concentrate sample fails residual solvents testing, then, with prior approval of the department, the product may be subjected to an appropriate remedy (ex. vacuum drying) , reformulated and tested again. The reformulation must pass all required tests for a medical marijuana concentrate in duplicate before it can be released for use in products. If either duplicate fails any test, the entire batch shall be disposed of in accordance with Chapter 27. A batch of medical marijuana concentrate can only be reformulated once and only to remedy excessive residual solvents.

G. If a product fails the microbiological testing the entire batch from which the sample was taken shall be disposed of in accordance with Chapter 27.

H. If a product fails the potency or homogeneity testing then, with prior approval of the department, the product can be re-sized and tested again. The re-formulated product shall be tested again in duplicate and pass all required tests before it can be released for sale or consumption. If either duplicate fails any test, the entire batch shall be disposed of in accordance with Chapter 27.

I. The laboratory shall file with the department and licensee an electronic copy of each laboratory test result for any sample that does not pass a test. In addition, the laboratory shall maintain the laboratory test results including all relevant chromatograms and quality control documentation for at least five years and make them available at the department's request.

J. The laboratory shall dispose of any remaining medical marijuana or product samples no sooner than 60 days following the completion of any testing. Disposal will be performed in accordance with Chapter 27.

K. The licensee shall provide to the dispensary the laboratory test results for each batch of product purchased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

Chapter 25. Transportation

§2501. Transportation

A. The licensee or its authorized permittee shall only be allowed to transport medical marijuana or product to the following locations:

1. from its production facility to dispensaries;

2. from its production facility to a laboratory for testing or research; and

3. when a specific non-routine transport request from the licensee is approved in writing by the department.

B. The licensee or its authorized permittee shall:

1. have a valid Louisiana driver's license and be insured above the legal requirements in Louisiana; and

2. be capable of securing (locking) medical marijuana and product items during transportation.

C. Prior to transporting medical marijuana or product, a licensee shall generate a transport manifest, utilizing LMMTS, that accompanies every transport of medical marijuana or product. Such manifests shall contain the following information:

1. the name, contact information of a licensee authorized representative, licensed premises address, and the authorized permittee transporting the medical marijuana or product;

2. the name, contact information, and premises address of the dispensary or laboratory receiving the delivery;

3. medical marijuana or product name and quantities (by weight or unit) of each item contained in each transport, along with the requisite unique identification number for every item;

4. the date of transport and time of departure;

5. arrival date and estimated time of arrival;

6. delivery vehicle make and model and license plate number; and

7. name and signature of the authorized permittee accompanying the transport.

D. Only the licensee or its authorized permittee may transport medical marijuana or product from the production facility to multiple dispensaries in a single trip in the event that each transport manifest correctly reflects specific inventory in transit.

E. Transport manifests shall be available for viewing through LMMTS, to the dispensary, laboratory for testing, and the department before the close of business the day prior to transport.

F. The licensee or its authorized employee shall provide a copy of the transport manifest to law enforcement if requested to do so while in transit.

G. An authorized employee of the dispensary or approved laboratory for testing shall verify that the medical marijuana or product are received as listed in the transport manifest by:

1. verifying and documenting the type and quantity of the transported medical marijuana or product against the transport manifest; and

2. returning a copy of the signed transport manifest to the production facility.

H. A receiving dispensary or approved laboratory for testing shall separately document any differences between

the quantity specified in the transport manifest and the quantities received. Such documentation shall be made in LMMTS and in any relevant business records.

I. The licensee shall ensure that all medical marijuana, plant material, or product transported on public roadways is:

1. only transported in a locked, safe and secure storage compartment that is part of the motor vehicle transporting the medical marijuana or product, or in a locked storage container that has a separate key or combination pad;

2. transported so it is not visible or recognizable from outside the vehicle; and

3. transported in a vehicle that does not bear any markings to indicate that the vehicle contains medical marijuana or bears the name or logo of the licensee.

J. Authorized permittees who are transporting medical marijuana or product on public roadways shall:

1. travel directly to the dispensary or laboratory testing facility; and

2. document refueling and all other stops in transit, including:

a. the reason for the stop;

b. the duration of the stop;

c. the location of the stop; and

d. all activities of employees exiting the vehicle.

K. Every authorized permittee shall have access to a secure form of communication with the licensee and the ability to contact law enforcement through the 911 emergency systems at all times that the motor vehicle contains medical marijuana or product. If an emergency requires stopping the vehicle, the employee shall report the emergency immediately to law enforcement through the 911 emergency systems and the licensee, which shall immediately notify the department. The employee shall also complete an incident report form provided by the department.

L. The licensee shall ensure that all delivery times and routes are randomized.

M. Under no circumstance shall any person other than a designated permittee have actual physical control of the motor vehicle that is transporting the medical marijuana or product.

N. The licensee shall staff all transport motor vehicles with a minimum of two employees. At least one employee must remain with the motor vehicle at all times that the motor vehicle contains medical marijuana or product.

O. A permittee shall carry his permittee identification card at all times when transporting or delivering medical marijuana or product and, upon request, produce the identification card to the department or to a law enforcement officer acting in the course of official duties.

P. The licensee shall ensure that a vehicle containing medical marijuana or product in transit is not left unattended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

Chapter 27. Sanitation and Disposal

§2701. Production Facility Sanitation

A. The production facility shall be designed, constructed and operated in such a manner that:

1. all buildings, fixtures and other facilities are maintained in a sanitary condition;

2. floors, walls and ceilings are adequately cleaned;

3. litter and waste are properly removed and all waste disposal operating systems are maintained in such a manner that they do not constitute a source of contamination;

4. rubbish is disposed of so as to minimize the development of odor and minimize the potential for waste becoming an attractant, harborage or breeding place for pests;

5. all activities and operations involved in the receiving, inspecting, transporting, segregating, preparing, production, packaging and storing of medical marijuana or products shall be conducted in accordance with adequate sanitation principles;

6. all contact surfaces, including utensils and equipment used for the preparation of medical marijuana or products, shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be designed and shall be of such material and workmanship as to be adequately cleanable, and shall be properly maintained;

7. only sanitizing agents registered with the department pursuant to the Act shall be used in the production facility, and they shall be used in accordance with labeled instructions;

8. the licensee shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and in good repair; and

9. hand-washing facilities shall be adequate and conveniently located in the production facility, and furnished with running water at a suitable temperature. They must provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices.

B. Permittees and authorized visitors to the production facility shall follow hygienic practices while present at the facility, including but not limited to the following:

1. maintaining adequate personal cleanliness;

2. washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when hands may have become soiled or contaminated; and

3. permittees and authorized visitors who, by medical examination or supervisory observation, are shown to have, or appear to have, an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with medical marijuana or products, shall be excluded from any operations that may be expected to result in microbial contamination until the condition is corrected.

C. Prior to commencing operation, the production facility in its entirety will be inspected by State Fire Marshall, Department of Health, and any other entity required by law.

D. The authorized health inspectors may at any time enter any building, room, enclosure, or premises occupied or used, or suspected of being occupied or used, in production facility activities for the purpose of inspecting the premises and all utensils, fixtures, furniture, and machinery used in the production facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§2703. Potable Water Supply

A. Potable water supply lines shall not be connected to process water lines, chemical lines or equipment, unless proper backflow protection is installed.

B. Water service lines that connect a production facility to a public water supply shall include either a reduced pressure principle backflow preventer or a fixed proper air gap, in accordance with the Part XIV (Plumbing) of the *Sanitary Code*, state of Louisiana.

C. Water service lines that connect a production facility to a potable water supply other than a community public water supply shall include either a reduced pressure principle backflow preventer or a fixed proper air gap, in accordance with the Part XIV (Plumbing) of the *Sanitary Code*, state of Louisiana

D. Installation, maintenance and inspection of backflow prevention devices shall be carried out in accordance with the requirements of Part XIV (Plumbing) of the *Sanitary Code*, state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§2705. Disposal of Waste

A. Disposal of waste rendered unusable shall follow the methods set forth in this section. For the purpose of this Section "waste" shall include:

1. plant material waste;
2. medical marijuana waste; and
3. product waste.

B. The licensee shall dispose of any waste as provided for in this section, and maintain a written record of disposal that includes:

1. the date returned;
2. the quantity returned; and
3. the type and batch number returned.

C. Waste must be stored, secured, locked and managed in accordance with these rules and as submitted and approved in the licensee's written system of internal controls.

D. The licensee shall provide the department, through the LMMTS, a minimum of seven days notice prior to rendering the product unusable and disposing of the product.

E. The allowable method to render waste unusable is by grinding and incorporating the waste with other ground materials so the resulting mixture is at least 50 percent non-medical marijuana waste by volume. Other methods to render waste unusable must be approved by the department before implementation. Material used to grind with the waste may include:

1. food waste;
2. yard waste;
3. vegetable-based grease or oils;
4. paper waste;
5. cardboard waste;
6. plastic waste;
7. soil; or
8. other wastes approved by the department (e.g., non-recyclable plastic, broken glass, leather, agricultural material, biodegradable products, paper, clean wood, fruits, vegetables, and plant matter).

F. Waste shall be rendered unusable prior to leaving a production facility. Waste rendered unusable following the methods described in this Section shall be disposed of by delivery to an approved solid waste facility for final disposition. Examples of acceptable permitted solid waste facilities include:

1. compost, anaerobic digester;
2. landfill, incinerator, or other facility with approval of the jurisdictional health department; or
3. a waste-to-energy facility

G. Inventory Tracking Requirements

1. In addition to all other tracking requirements set forth in these rules, the licensee shall utilize the LMMTS to ensure its post-harvest waste materials are identified, weighed and tracked while on the licensed premises until disposed of.

2. All waste shall be weighed, recorded and entered into LMMTS prior to mixing and disposal. Verification of this event shall be performed by a supervisor and conducted in an area with video surveillance.

3. All waste shall be weighed before leaving the production facility. A scale used to weigh waste prior to entry into the LMMTS shall be tested and approved in accordance with R.S. 3:4601 et seq.

4. The licensee is required to maintain accurate and comprehensive records regarding waste material that accounts for, reconciles, and evidences all waste activity related to the disposal of waste.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

Chapter 29. Labeling

§2901. Labeling Requirements

A. Each product shall be labeled by the licensee prior to sale to a dispensary. Each label shall be securely affixed to the package and shall include:

1. the batch number(s) assigned by the licensee to the marijuana plant(s) from which the medical marijuana used in the product was harvested;

2. a complete list of solvents, chemicals and pesticides used in the creation of any medical marijuana concentrate;

3. a complete list of all ingredients used to manufacture the product, which may include a list of any potential allergens contained within, or used in the manufacture of a product;

4. the potency of the THC and CBD in the product, expressed in milligrams for each cannabinoid;

5. the net weight, using a standard of measure compatible with the LMMTS, of the product prior to its placement in the shipping container;

6. a product expiration date, upon which the product will no longer be fit for consumption, or a use-by date, upon which the product will no longer be optimally fresh. Once a label with a use-by or expiration date has been affixed to a product, the licensee shall not alter that date or affix a new label with a later use-by or expiration date; and

7. a statement that the product has been tested for contaminants, that there were no adverse findings, and the date of testing.

B. Labeling text on any product may not make any false or misleading statements regarding health or physical benefits to the consumer. Each label must include the following statements:

1. "Contains Medical Marijuana. For Medical Use Only. KEEP OUT OF THE REACH OF CHILDREN.";

2. "There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning on becoming pregnant.";

3. a statement that it is illegal for any person to possess or consume the contents of the package other than the qualifying patient.

C. Labeling text required by this section to be placed on any product may be no smaller than 1/16 of an inch, must be printed in English and must be unobstructed and conspicuous.

D. The following information is permissible on a label:

1. the product's compatibility with dietary restrictions; and

2. a nutritional fact panel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§2903. Packaging Requirements

A. The licensee shall ensure that every product being sent to a dispensary for sale to a qualified patient is placed within a child resistant, light resistant, tamper proof container prior to sale or transport to the dispensary.

B. If it is not intended for the entire product to be used at a single time, the packaging must be resealable in a manner that maintains its child resistant effectiveness for multiple openings.

C. A product may not be placed in packaging that specifically targets individuals under the age of 21. Any packaging must not:

1. bear any resemblance to a trademarked, characteristic or product-specialized packaging of any commercially available candy, snack, baked good or beverage;

2. use the word "candy" or "candies";

3. use a cartoon, color scheme, image, graphic or feature that might make the package attractive to children; or

4. use a seal, flag, crest, coat of arms or other insignia that could reasonably lead any person to believe that the product has been endorsed, manufactured, or used by any state, parish, municipality or any agent thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§2905. Product Dosage Identification

A. Each product shall be marked, stamped or emprinted with the dosage, as approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

§2907. Advertising

A. The licensee shall not advertise through any public medium, including but not limited to newspapers, television, radio, internet, or any other means designated to market its products to the general public. The licensee may market its products directly to the licensed dispensaries and to physicians through direct mail, brochures or other means directed solely to the licensed dispensaries and/or physicians and not available to the general public.

B. Any advertisement permitted by Subsection A shall not:

1. make any deceptive, false, or misleading assertions or statements regarding any product; or

2. assert that its products are safe because they are regulated by the department. The licensee may state in advertisements that its products have been tested by an approved laboratory, but shall not assert that its products are safe because they are tested by an approved laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

Chapter 31. Enforcement

§3101. Enforcement

A. Whenever the department has any reason to believe that a violation of the Act or this Chapter or of any rule or regulation adopted pursuant to this Chapter has occurred, the department may present the alleged violations to a hearing officer for a determination.

B. The department may impose civil penalties and/or suspend, revoke or place on probation any permitee or licensee for the commission of a violation of the Act of these rules. Civil penalties may be assessed, probation may be imposed, and permits and licenses may be suspended or revoked only upon a ruling of the hearing officer based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

1. The department shall appoint a hearing officer to preside over all hearings.

2. The department shall notify the alleged violator of the hearing, by personal service or certified mail, at least thirty days prior to the date the hearing is held.

3. The notice shall contain the following information:

a. a statement of the alleged violation;

b. the specific section of the Act or these rules and regulations alleged to have been violated;

c. the date, time, and place where the hearing will be held;

d. a statement of the rights which will be accorded to the licensee or registered employee at the hearing; and

e. a statement as to the possible penalties which may be imposed upon a finding by the hearing officer at the hearing that the alleged violator committed the alleged violation.

4. The alleged violator shall have the right to representation by legal counsel and the right to examine and cross-examine witnesses as in civil cases. The alleged violator shall have the right to compel the attendance of witnesses and the production of evidence upon depositing

with the department the fees required for issuing subpoenas and subpoenas duces tecum in civil cases.

C. Any person who violates any provision of the Act or this Chapter or any rule or regulation adopted pursuant thereto or any provision of a stop order, shall be subject to a civil penalty of not more than $50,000 for each act of violation and for each day of violation. Each day on which a violation occurs shall be a separate offense.

D. The department may summarily suspend the licensee or a permit without a hearing, simultaneously with the institution of proceedings for a hearing, if the department finds that the public safety or welfare immediately requires this action. In the event that the department summarily suspends a licensee or a permit, a hearing shall be held within 30 days after the suspension has occurred. The suspended party may seek a continuance of the hearing, during which the suspension shall remain in effect. The proceeding shall be concluded without reasonable delay. If the department does not hold a hearing within 30 days after the date of the suspension, and the licensee or permitee has not requested a continuance, the license or permit shall be automatically reinstated.

E. The department may require an individual permitee or the licensee against whom disciplinary action has been taken by the department to pay the reasonable costs incurred by the department for the hearing or proceedings, including its legal fees, court reporter, investigators, witness fees, and any such costs and fees incurred by the department. These costs and fees shall be paid no later than thirty days after the decision of the board becomes final. No license or permit shall be renewed or reinstated until such costs have been paid.

F. The department may institute civil proceedings in the Nineteenth District Court to enforce the rulings of the hearing officer. The department may institute civil proceedings seeking injunctive relief to restrain and prevent violations of the provisions of this Part or of the rules and regulations adopted under the provisions of this Part in the Nineteenth District Court.

G. As to every matter on which a hearing is held, the presiding hearing officer shall prepare a written findings of fact and conclusions of law, which shall contain, at a minimum, the record of the hearing, including all submissions, his finding of the facts that are pertinent to the decision, his conclusions of applicable law related to the decision, and his decision. The submission shall be in writing, shall be provided to all involved applicants, and shall be a public record, except for any submitted materials which are confidential pursuant to law.

H. The hearing officer shall render his decision within thirty days after the hearing is conducted.

I. All appeals from any decision of the hearing officer shall be filed in accordance with R.S. 49:955.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Tabitha Gray, Executive Counsel, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 2000, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on January 4, 2017. No preamble is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Medical Marijuana

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule promulgates the administration, oversight, and permitting/licensing activities surrounding the production and distribution of medical marijuana as authorized by Act 261 of 2015. The proposed rules are being promulgated pursuant to Act 567 of the 2016 Regular Session.

The LA Dept. of Agriculture & Forestry estimates that oversight of the medical marijuana program will cost approximately $701,000 annually. This cost includes laboratory

testing ($300,000), a marijuana inventory tracking system ($70,000), and operating expenses ($7,000). Initial estimates for program personnel costs are estimated to total $324,233 annually. The LDAF has decided to reallocate existing T.O. positions for four additional necessary personnel (auditor, inspector, administrative assistant). Presently these positions are not funded. Initially the LDAF will fill the auditor, inspector, and administrative assistant positions, and utilize a current LDAF employee as the interim program manager. LDAF eventually plans on hiring a full-time program manager.

The department anticipates medical marijuana regulatory expenditures – such as laboratory testing, inspections, and inventory control – to eventually be funded through revenues raised by gross sales of the product (see Effect on Revenue Collections), but LDAF would need funding from some other source (State General Fund, etc.) to fund the initial start-up costs associated with regulating medical marijuana. Presently funds for these expenses are not included in the LDAF appropriation for FY 17 and would need to be appropriated via BA-7 request or in a supplemental appropriation, or funded via treasury seed from the Dept. of Treasury.

At present, the LSU AgCenter and the Southern University AgCenter have opted in to produce medical marijuana, but have not begun construction on production facilities. The LDAF estimates that production of marijuana for therapeutic use will not occur for another 18 – 24 months. LDAF staff indicates that laboratory testing and inventory control will not be necessary until seeds are acquired and the crop planted. As a result, some expenditures for the LDAF made pursuant to the proposed rules (i.e. product testing) may not occur in FY 17 and be delayed until FY 18 or subsequent fiscal years. Furthermore, the LDAF indicates that it will utilize existing resources to the extent possible to fund expenditures related to the start-up of regulating medical marijuana. However, it appears likely that a supplemental appropriation or treasury seed will be necessary to fund expenditures in FY 17 that cannot be absorbed within the LDAF's current appropriation.

Furthermore, the proposed rules set guidelines for the construction of medical marijuana growth facilities, as well as the practice of growing medical marijuana and producing it for therapeutic use. The LSU AgCenter and Southern University AgCenter have opted in to produce the crop, and would have to construct growing facilities pursuant to the guidelines provided in the proposed rules, which represents an indeterminable, though likely significant cost. Neither AgCenter has been appropriated funding specifically for the production of medical marijuana, and would either have to fund the construction of a facility within their existing appropriation or would have to seek third-party investment.

In addition, both AgCenters must pay an annual $100 per employee permit fee for every employee associated with the production of medical marijuana. The number of employees both entities will utilize for the program is unknown; therefore it is reasonable to assume that they will incur an indeterminable increase in expenditures associated with permitting. An annual license fee of $100,000 is also required to grow the crop, but the LDAF is presently waiving it for both entities. In the event the LDAF no longer waives the license fee, both entities will be required to pay $100,000 annually.

The proposed rules will not have any impact on expenditures of local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will increase self-generated revenue collections by the department by an indeterminable amount. The funds for the medical marijuana program are authorized by R.S. 40:1046(J)(9) and proposed rule 701. The rule and law provide for the department to be paid up to 7% of gross sales quarterly. Revenue collections will depend on crop volume, market price, and demand, which cannot be estimated at this time.

Licensees must pay a $100,000 licensing fee to produce medical marijuana. However the LDAF has initially waived this fee since the LSU AgCenter or the Southern AgCenter have opted in to produce medical marijuana. Furthermore, licensees must pay a $100 permit fee for every employee associated with the medical marijuana program. All fees associated with the medical marijuana program will fund LDAF's expenditures associated with the regulation of medical marijuana production.

The proposed rules will not have any impact on revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Under the proposed rules, private licensees must pay to the department up to 7% of gross sales quarterly. In addition, there is a $100 fee for a permit for each employee. Furthermore, licensees must pay an annual license fee of $100,000 to produce medical marijuana. Licensees will also incur expenses associated with constructing a production facility that meets the requirements set forth in the proposed rules. However, due to the LSU AgCenter and the Southern University AgCenter opting to produce medical marijuana, it is unclear if private firms will incur expenses associated with the production of medical marijuana in the future, as the state limits the number of licensees to one if the production is by a private firm, or two if production is by the LSU and Southern University AgCenters. Presently both AgCenters have opted in.

In addition, to the extent private investors license with the LDAF to produce medical marijuana, they would likely realize profits over time to the extent patient counts and use of the substance increases. Similarly, to the extent private investors fund the costs of producing medical marijuana at both AgCenters, they may realize a portion of gross revenues raised through the production and sale of medical marijuana products.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules affect competition, as there are structures in place (i.e. license requirements) to limit the market for production of medical marijuana in Louisiana to two producers at most. In the event the AgCenters opt out of producing medical marijuana, private firms would compete for a single license. The authorization of any entity, public or private, to produce medical marijuana will open a new business enterprise that currently is not present in LA and should offer an avenue to an indeterminable increase in employment opportunities, dependent upon the level of production and market demand.

Dane Morgan	Evan Brasseaux
Assistant Commissioner	Staff Director
1611#037	Legislative Fiscal Office

NOTICE OF INTENT

Department of Children and Family Services
Licensing Section

Residential Home
(LAC 67:V.Chapter 71)

In accordance with the provisions of the Administrative Procedures Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:V, Subpart 8, Chapter 71, Child Residential Care, Class A.

Pursuant to Section 2 of Act 502 of the 2016 Regular Legislative Session, the department shall adopt rules in accordance with the Administrative Procedure Act effective August 1, 2016. The proposed Rule allows the department to revise the child residential licensing standards to incorporate standards to protect the safety and well-being of children residing in residential homes with their parents and to protect the health, safety, and well-being of the children and residents of the state who are in out-of-home care on a regular or consistent basis.

Title 67
SOCIAL SERVICES
Part V. Child Welfare
Subpart 8. Residential Licensing

Chapter 71. Child Residential Care, Class A

§7101. Purpose

A. It is the intent of the legislature to protect the health, safety, and well-being of the children and residents of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of Chapter 14 of Title 46 of the Louisiana Revised Statutes to establish statewide minimum standards for the safety and well-being of children and residents, to ensure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to ensure protection of all individuals under care by specialized providers and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:804 (April 2010), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7103. Authority

A. Legislative Provisions

1. The state of Louisiana, Department of Children and Family Services, is charged with the responsibility of developing and publishing standards for the licensing of residential homes.

a. The licensing authority of the Department of Children and Family Services is established by R.S. 46:1401 et seq. and R.S. 46:51 which mandate the licensing of all residential homes. A residential home is any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group to provide full-time care, 24 hours per day, for more than four children, who may remain at the facility in accordance with R.S. 46:1403.1, who are not related to the operators and, except as provided in this Subparagraph, whose parents or guardians are not residents of the same facility, with or without transfer of custody. However, a child of a person who is a resident of a residential home may reside with that parent at the same facility. The age requirement may be exceeded as stipulated in R.S. 46:1403.1 which states that, "...notwithstanding any other provision of law to the contrary, including but not limited to R.S. 46:1403(1), a child housed at a residential home may stay at such home for a period not to exceed six months beyond his eighteenth birthday to complete any educational course that he began at such facility, including but not limited to a general education development (GED) course, and any other program offered by the residential home". In addition, the R.S. 46:1403.1(B) further stipulates that, "Notwithstanding Subsection A of this Section and any other provision of law to the contrary, including but not limited to R.S. 46:1403(1), a child housed at a residential home that does not receive Title IV-E funding pursuant to 42 USC 670 et seq., may remain at such home until his twenty-first birthday to complete any educational course that he began at such facility, including but not limited to a General Education Development course, and any other program offered by the residential home."

B. Penalties. As mandated by R.S. 46:1421, whoever operates as a specialized provider as defined in R.S. 46:1403, without a valid license issued by the department shall be fined not less than $1,000 for each day of such offense.

C. Waiver Request

1. The secretary of the department, in specific instances, may waive compliance with a standard, as long as the health, safety, and well-being of the staff and/or the health, safety, rights, or well-being of residents or children of residents are not imperiled. Standards shall be waived only when the secretary determines that the economic impact is sufficient to make compliance impractical.

2. Application for a waiver shall be made in writing and shall include:

a. a statement of the provisions for which a waiver is being requested; and

b. an explanation of the reasons why the provisions cannot be met and why a waiver is being requested.

3. The request for a waiver will be answered in writing and approvals will be maintained on file by the requesting provider and the department. A waiver is issued at the discretion of the secretary and continues in effect at her pleasure. It may be revoked by the secretary at any time, either upon violation of any condition attached to it at issuance, upon failure of any of the statutory prerequisites to issuance of a waiver (i.e., the cost of compliance is no longer so great as to be impractical or the health or safety of any staff or any child of a resident or resident is imperiled), or upon her determination that continuance of a waiver is no longer in the best interest of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:805 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:67 (January 2013), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7105. Definitions

A. As used in this Chapter:

Abuse—any one of the following acts which seriously endangers the physical, mental, or emotional health of the resident or child of a resident:

a. the infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the resident or child of a resident by a parent or any other person;

b. the exploitation or overwork of a resident or child of a resident by a parent or any other person; and

c. the involvement of the resident or child of a resident in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the resident's or child of a resident's sexual involvement with any other person or of the resident's or child of a resident's involvement in pornographic displays or any other involvement of a resident or child of a resident in sexual activity constituting a crime under the laws of this state.

Affiliate—

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

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

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

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

e. director of any such.

Age or Developmentally Appropriate Activities or Items—activities or items that are generally accepted as suitable for an individual of the same chronological age or level of maturity or that are determined to be developmentally appropriate for an individual, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific individual, activities or items that are suitable for the individual based on the developmental stages attained by the individual with respect to the cognitive, emotional, physical, and behavioral capacities of the individual.

Behavior Support—the entire spectrum of activities from proactive and planned use of the environment, routines, and structure of the particular setting to less restrictive interventions such as positive reinforcement, verbal interventions, de-escalation techniques, and therapeutic activities that are conducive to each resident's development of positive behavior.

Behavior Support Plan—a written document that addresses the holistic needs of the resident and includes the resident's coping strategies, de-escalation preferences, and preferred intervention methods.

Child—a person who has not reached age eighteen or otherwise legally emancipated.*Complaint*—an allegation that any person is violating any provisions of these standards or engaging in conduct, either by omission or commission, that negatively affects the health, safety, rights, or welfare of any resident or child of a resident who is residing in a residential home.

Criminal Background Check— a review of any and all records containing any information collected and stored in the criminal record repository of the Federal Bureau of Investigation, the state Department of Public Safety and Corrections, or any other repository of criminal history records, involving a pending arrest or conviction by a criminal justice agency, including, but not limited to, child abuse crime information, conviction record information, fingerprint cards, correctional induction and release information, identifiable descriptions and notations of convictions; provided, however, dissemination of such information is not forbidden by order of any court of competent jurisdiction or by federal law.

DAL—the Division of Administrative Law.

Debriefing—a process by which information is gathered from all involved parties after the use of personal restraints or seclusion that includes an evaluation of the incident, documentation detailing the events leading up to the incident, and ways to avoid such incidents in the future.

Department (DCFS)—Department of Children and Family Services.

Direct Care Worker—a person counted in the resident or child/staff ratio, whose duties include the direct care, supervision, guidance, and protection of a resident or child of a resident. This does not include a contract service provider who provides a specific type of service to the operation for a limited number of hours per week or month or works with one particular resident or child of a resident.

Direct Supervision—the function of observing, overseeing, and guiding a resident or child of a resident and/or group of residents or children of residents. This includes awareness of and responsibility for the ongoing activity of each individual and being near enough to intervene if needed. It requires physical presence, accountability for their care, knowledge of activity requirements, and knowledge of the individual's abilities and needs.

Discipline—the ongoing positive process of helping children of residents or residents develop inner control so that they can manage their own behavior in an appropriate and acceptable manner by using corrective action to change the inappropriate behavior.

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

Documentation—written evidence or proof, signed and dated by the parties involved (director, residents, staff, etc.), and available for review.

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

Employee—all full or part-time paid or unpaid staff who perform services for the residential home and have direct or indirect contact with children of residents or residents at the facility. Facility staff includes the director and any other employees of the facility including, but not limited to the cook, housekeeper, driver, custodian, secretary, and bookkeeper.

Facility—residential home as defined in R.S. 46:1403.

Human Service Field—the field of employment similar or related to social services such as social work, psychology, sociology, special education, rehabilitation counseling, child development, guidance and counseling, divinity, education, juvenile justice and/or corrections through which a person gains experience in providing services to the public and/or private clients that serves to meet the years of experience

required for a job as specified on the job description for that position.

Independent Contractor—any person who renders professional, therapeutic, or enrichment services to children of residents or residents such as educational consulting, athletic, or artistic services within a facility, whose services are not integral to either the operation of the facility or to the care and supervision of residents or children of residents. Independent contractors may include but are not limited to dance instructors, gymnastic or sports instructors, computer instructors, speech therapists, licensed health care professionals, state-certified teachers employed through a local school board, art instructors, and other outside contractors. A person shall not be deemed an independent contractor if he is a staff person of the facility.

Individual Owner—a natural person who directly owns a facility without setting up or registering a corporation, LLC, partnership, church, university or governmental entity. The spouse of a married owner is also an owner unless the business is the separate property of the licensee acquired before his/her marriage, acquired through authentic act of sale from spouse of his/her undivided interest; or acquired via a judicial termination of the community of acquets and gains.

Infant—a child that has not yet reached his first birthday.

Injury of Unknown Origin—an injury where the source of the injury was not observed by any person or the source of the injury could not be explained by the resident or child of a resident and the injury is suspicious because of the extent of the injury or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma).

Interdiction—a legal restraint upon a person incapable of managing his estate, because of mental incapacity, from signing any deed or doing any act to his own prejudice, without the consent of his curator or interdictor.

Juridical Entity—corporation, partnership, limited-liability company, church, university, or governmental entity.

Legal Guardian—person who has the legal authority and the corresponding duty to care for the personal and property interest of another person.

Legal Guardianship—the duty and authority to make important decisions in matters having a permanent effect on the life and development of the resident or child of a resident and the responsibility for the resident's or child of a resident's general welfare until he reaches the age of majority, subject to any rights possessed by the parents. It shall include the rights and responsibilities of legal custody.

License—any license issued by the department to operate a facility as defined in R.S. 46:1403.

Licensing Section—DCFS Licensing Section.

Lifebook—a record of a resident's or child of a resident's life which chronicles accomplishments, milestones, and important people in their lives through pictures, words, artwork, and memorabilia.

Mandated Reporter—professionals who may work with children of residents or residents in the course of their professional duties and who consequently are required to report all suspected cases of abuse and neglect. This includes any person who provides training and supervision of a child of a resident or resident, such as a public or private school teacher, teacher's aide, instructional aide, school principal, school staff member, social worker, probation officer, foster home parent, group home or other child care institution staff member, personnel of residential homes, a licensed or unlicensed day care provider, any individual who provides such services to a child of a resident or resident, or any other person made a mandatory reporter under Article 603 of the Children's Code or other applicable law.

Medication—all drugs administered internally and/or externally, whether over-the-counter or prescribed.

Neglect—the refusal or unreasonable failure of a parent or caretaker to supply the child of a resident or resident with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of an individual under the age of 18, as a result of which the individual's physical, mental, or emotional health and safety is substantially threatened or impaired.

Operator—owner of a residential home.

Owner—the individual or juridical entity who exercises ownership over a residential home, whether such ownership is direct or indirect.

Ownership—the right that confers on a person direct, immediate, and exclusive authority over a thing. The owner of a thing may use, enjoy, and dispose of it within the limits and under the conditions established by law. Refers to direct or indirect ownership.

a. *Direct Ownership*—when a natural person is the immediate owner of a residential home, i.e., exercising control personally rather than through a juridical entity.

b. *Indirect Ownership*—when the immediate owner is a juridical entity.

Personal Restraint—a type of emergency behavior intervention that uses the application of physical force without the use of any device to restrict the free movement of all or part of a resident's body in order to control physical activity. Personal restraint includes escorting, which is when a staff uses physical force to move or direct a resident who physically resists moving with the staff to another location.

Program Director—the person with authority and responsibility for the on-site, daily implementation, and supervision of the overall facility's operation.

Provider—any facility, organization, agency, institution, program, or person licensed by the department to provide services to children of residents or residents which includes all owners of a facility, including the program director of such facility.

Reasonable and Prudent Parent Standard—standard that a caregiver shall use when determining whether to allow a resident or child of a resident in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities. The standard is characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a resident or child of a resident while at the same time encouraging the emotional and developmental growth of the resident or child of a resident.

Reasonable and Prudent Parent Training—training that includes knowledge and skills relating to the reasonable and prudent parent standard for the participation of the resident or child of a resident in age or developmentally appropriate activities. This includes knowledge and skills relating to the developmental stages of the cognitive, emotional, physical,

and behavioral capacities of a resident or child of a resident and knowledge and skills relating to applying the standard to decisions such as whether to allow the resident or child of a resident to engage in social, extracurricular, enrichment, cultural, and social activities. Activities include sports, field trips, and overnight activities lasting one or more days. Also included is knowledge and skills in decisions involving the signing of permission slips and arranging of transportation for the resident or child of a resident to and from extracurricular, enrichment, and social activities.

Reasonable Suspicion—suspicion based on specific and articulable facts which indicate that an owner, or current or potential employee or volunteer has been investigated and determined to be the perpetrator of abuse or neglect against a minor resulting in a justified and/or valid finding currently recorded on the state central registry.

Related or *Relative*—a natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

Resident—an individual who receives full time care at a residential home and whose parents do not live in the same facility nor is the individual related to the owner of the facility.

Residential home—any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group to provide full-time care, 24 hours per day, for more than four children, who may remain at the facility in accordance with R.S. 46:1403.1, who are not related to the operators and, except as provided in this Paragraph, whose parents or guardians are not residents of the same facility, with or without transfer of custody. However, a child of a person who is a resident of a residential home may reside with that parent at the same facility.

Rest Time—period between 9 p.m. and 6 a.m. when residents are either asleep or are lying down in their own beds with the intent of going to sleep. Residents may be reading, listening to music, or other individual quiet activities that promote said sleep time.

Safety Interventions—an immediate time limited plan to control the factor(s) that may result in an immediate or impending serious injury/harm to a resident or child(ren) of the resident.

Seclusion—involuntary confinement of a resident away from other residents, due to imminent risk of harm to self or others, in a room which the resident is physically prevented from leaving.

Service Plan—a written plan of action for residents usually developed between the family, resident, social worker, and other service providers, that identifies needs, sets goals, and describes strategies and timelines for achieving goals.

Staff—all full or part-time paid or unpaid staff who perform services for the residential home and have direct or indirect contact with children of residents or residents at the facility. Facility staff includes the director and any other employees of the facility including, but not limited to the cook, housekeeper, driver, custodian, secretary, and bookkeeper.

State Central Registry—repository that identifies any individual reported to have a justified (valid) finding of abuse or neglect of an individual under the age of 18 by DCFS.

Substantial Bodily Harm—physical injury serious enough that a prudent person would conclude that the injury required professional medical attention. It does not include minor bruising, the risk of minor bruising, or similar forms of minor bodily harm that will resolve healthily without professional medical attention.

Supervision—the function of observing, overseeing, and guiding a resident or child of a resident and/or group of residents or children of residents. This includes awareness of and responsibility for the ongoing activity of each individual and being near enough to intervene if needed. It requires accountability for their care, knowledge of activity requirements, and knowledge of the individual's abilities and needs.

Time-Out—a strategy used to teach individuals to calm themselves, during which a child of a resident or resident is not given the opportunity to receive positive reinforcement and/or participate in the current routine or activity until he/she is less agitated.

Type IV License—license held by any public or privately owned residential home.

Unlicensed Operation—operation of a residential home, at any location, without a valid, current license issued by the department for that location.

Volunteer—an individual who works at the facility and whose work is uncompensated. This may include students, interns, tutors, counselors, and other non-staff individuals who may or may not work directly with the residents or children of residents.

Waiver—an exemption granted by the secretary of the department from compliance with a standard that will not place the resident, child of a resident, or staff member at risk.

Youth—a person not less than 16 years of age nor older than 21 years of age in accordance with R.S. 46:1403.1(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:805 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:976 (April 2012), LR 42:220 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7107. Licensing Requirements

A. General Provisions

1. New buildings shall be designed to appear physically harmonious with the neighborhood in which they are located considering such issues as scale, appearance, density, and population. A residential home shall not occupy any portion of a building licensed by another agency. A residential home shall be a self-contained facility. The mixing of differing populations is prohibited.

2. Before beginning operation, it is mandatory to obtain a license from the department.

3. All new construction or renovation of a facility requires approval from agencies listed in Subparagraphs B.2.b-f of this Section.

4. In addition, all facilities shall comply with the requirements of the Americans with Disabilities Act, 42 USC §12101 et seq. (ADA).

5. Documentation of a satisfactory fingerprint based criminal background check from Louisiana State Police shall be submitted for all owners of a residential home, as required by R.S. 46:51.2 and R.S. 15:587.1. No person with a criminal conviction for, or a plea of guilty or nolo contendere to, any offense included in R.S. 15:587.1, or any offense involving a juvenile victim, shall directly or indirectly own, operate, or participate in the governance of a residential home. In addition, an owner, or director shall not have a conviction of, or plea of guilty or nolo contender to any crime in which an act of fraud or intent to defraud is an element of the offense. Effective August 1, 2016, criminal background checks (CBC) shall be dated no earlier than 30 days of the individual being present in the facility or having access to the residents or children of residents. If an individual has previously obtained a certified copy of their criminal background check from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. If an owner obtains a certified copy of their criminal background check from the Louisiana State Police, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the owner is no longer allowed on the premises until a clearance is received. The following is a listing of individuals by organizational type who are required to submit documentation of a satisfactory criminal background clearance:

a. individual ownership—individual and spouse;

b. partnership—all limited or general partners and managers as verified on the Secretary of State's website;

c. church-owned, governmental entity, or university owned—any clergy and/or board member that is present in the home;

d. corporation—any individual who has 25 percent or greater share in the business or any individual with less than a 25 percent share in the business and performs one or more of the following functions:

i. has unsupervised access to the residents or children of residents in the home;

ii. is present in the home ;

iii. makes decisions regarding the day-to-day operations of the home;

iv. hires and/or fires staff including the program director;

v. oversees residential staff and/or conducts personnel evaluations of the staff; and/or

vi. writes the facility's policies and procedures;

e. corporation—if an owner has less than a 25 percent share in the business and does not perform one or more of the functions listed in §7107.A.5.d. i-vi., a signed, notarized attestation form is acceptable in lieu of a criminal background clearance. This attestation form is a signed statement from each owner acknowledging that he/she has less than a 25 percent share in the business and that he/she does not perform one or more of the aforementioned functions as an owner.

6. Documentation of a state central registry disclosure form (SCR-1) shall be submitted for all owners as required by R.S. 46:1414.1. SCR-1 forms shall be dated no earlier than 30 days before the application has been received by the Licensing Section. This information shall be reported prior to the owner being on the premises of the residential home, shall be updated annually at the time of licensure renewal, at any time upon the request of DCFS, and within 24 hours or no longer than the next business day, whichever is shorter, of any owner receiving notice of a justified (valid) finding of child abuse and/or neglect against them. Any current owner of a residential home is prohibited from owning, operating, participating in the governance of or working in a residential home, if they have a justified (valid) finding of child abuse and/or neglect against them. If information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse and/or neglect of a child/youth/resident, the individual shall have a determination by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children/youth/residents in order to continue to operate a residential home.

a. Within 24 hours or no later than the next business day, whichever is shorter, of current owners receiving notice of a justified (valid) finding of child abuse and/or neglect against them, an updated state central registry disclosure form (SCR 1) shall be completed by the owner and submitted to Licensing section management staff as required by R.S. 46:1414.1 The owner must request a risk evaluation assessment in accordance with LAC 67:I.305 within 10 calendar days from completion of the state central registry disclosure form or the license shall be revoked. Immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the owner, at any and all times when he/she is in the presence of a child of a resident/youth/resident, shall be directly supervised by a paid staff (employee) of the residential home. The employee responsible for supervising the owner must have on file a completed state central registry disclosure form indicating that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect. Under no circumstances may the owner with the justified finding be left alone and unsupervised with a child of a resident/youth/resident pending the disposition of the Risk Evaluation Panel or the Division of Administrative Law determination that the owner does not pose a risk to any child of a resident/youth/resident in care. An owner supervised by an employee who does not have a satisfactory disclosure form on file as provided in this Subsection shall be deemed to be alone and unsupervised.

i. Any owner with a justified (valid) finding of abuse and/or neglect on the state central registry must submit, together with the SCR 1 required above, a written, signed statement to Licensing Section management staff acknowledging that they are aware of the supervision requirements and understand that under no circumstances are they to be left alone and unsupervised with a child of a resident/youth/resident and that they shall be directly supervised by a paid staff (employee) of the residential

home, who has completed the required state central registry disclosure form and who has indicated on that form that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect on the state central registry.

ii. If the Risk Evaluation Panel determines that the owner does pose a risk to children/youth/residents and the individual does not appeal the determination within the required timeframe, the owner may close the business or the license shall be revoked.

iii. If the Risk Evaluation Panel determines that the owner poses a risk to children/youth/residents and the individual appeals the determination to the Division of Administrative Law within the required timeframe, the owner shall continue to be under direct supervision when in the presence of a child/youth/resident. Supervision must continue until receipt of a ruling from the Division of Administrative Law that the owner does not pose a risk to children/youth/residents.

iv. If the Division of Administrative Law (DAL) upholds the Risk Evaluation Panel's determination that the individual poses a risk to children/youth/residents, the owner may voluntarily close the business or the license shall be revoked.

b. Prospective owners shall complete, sign, and date the state central registry disclosure form and submit the disclosure form at the time of application to the DCFS Licensing Section. SCR 1 forms shall be dated no earlier than 30 days of the application being received by the Licensing Section. If a prospective owner discloses that his or her name is currently recorded as a perpetrator on the state central registry, the application shall be denied unless the owner requests a risk evaluation assessment on the state central registry risk evaluation request form (SCR 2) within the required timeframe. DCFS will resume the licensure process when the owner provides the written determination by the Risk Evaluation Panel or the Division of Administrative Law that they do not pose a risk to children/youth/residents.

i. If the Risk Evaluation Panel determines that the prospective owner poses a risk to children/youth/residents and the individual does not appeal the determination within the required timeframe, the prospective owner shall withdraw the application in writing immediately or the application shall be denied.

ii. If the Risk Evaluation Panel determines that the prospective owner poses a risk to children/youth/residents and the individual appeals the determination to the Division of Administrative Law within the required timeframe, the department shall not proceed with the licensure process until a ruling is made by the Division of Administrative Law that the owner does not pose a risk to children/youth/residents.

iii. If the Division of Administrative Law upholds the Risk Evaluation Panel determination that the individual poses a risk to children/youth/residents, the prospective owner shall withdraw the application in writing within 10 business days of the mailing of the DAL decision or the application shall be denied.

c. Any information received or knowledge acquired that a current or prospective owner, volunteer, employee, prospective volunteer, or prospective employee has falsified a state central registry disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) determination of abuse or neglect shall be reported in writing to Licensing Section management staff as soon as possible, but no later than the close of business on the next business day.

d. Any state central registry disclosure form, Risk Evaluation Panel finding, and Division of Administrative Law ruling that is maintained in a residential home licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and neglect.

7. Providers and staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 to have physical access to a residential home as defined in R.S. 46:1403.

8. The owner or program director of a residential home shall be required to call and notify law enforcement personnel and the Licensing Section management staff if they have knowledge that a registered sex offender is on the premises of the residential home. The verbal report shall be followed by a written report to the Licensing Section within 24 hours.

9. The owner or director of a residential home shall be required to call and notify law enforcement personnel if they have knowledge that a registered sex offender is within 1,000 feet of the residential home as required by R.S 14:91.1. The verbal report shall be followed by a written report to the Licensing Section within 24 hours.

10. Providers with live-in staff may allow children of staff members to reside with their parents in the private staff quarters of the residential home.

11. Provider nor staff shall permit a resident, age 18 years or older, that has been convicted of, pled guilty, or nolo contendere to any offense listed in R.S. 15:587.1. or to any offense involving a juvenile victim to remain on the premises of the residential home.

B. Initial Licensing Application Process

1. An initial application for licensing as a residential home shall be obtained from the department.

Department of Children and Family Services
Licensing Section
P. O. Box 260036
Baton Rouge, LA 70826
Phone: (225) 342-4350
Fax: (225) 219-4363
Web address: www.DCFS.louisiana.gov

2. After the residential home's location has been established, a completed initial license application packet for an applicant shall be submitted to and approved by the department prior to an applicant providing services. The completed initial licensing packet shall include:

a. completed application and non-refundable fee;

b. current Office of State Fire Marshal approval for occupancy;

c. current Office of Public Health, Sanitarian Services approval;

d. current city fire department approval (if applicable);

e. city or parish building permit office approval (if applicable);

f. local zoning approval (if applicable);

g. copy of proof of current general liability and current property insurance for facility;

h. copy of current proof of insurance for vehicle(s) used to transport residents or children of residents;

i. organizational chart or equivalent list of staff titles and supervisory chain of command;

j. verification of experience and educational requirements for the program director ;k. verification of experience and educational requirements for the service plan manager ;l.list of consultant/contract staff to include name, contact info, and responsibilities;

m. list of all staff to include staff's name and position;

n. a floor sketch or drawing of the premises to be licensed;

o. any other documentation or information required by the department for licensure;

p. documentation of a Louisiana State Police fingerprint based satisfactory criminal record check for all staff including all owners of the facility as noted in Section 7107.A.5., as required by R.S. 46:51.2 and 15:587.1. CBC shall be dated no earlier than 30 days before the application has been received by the Licensing Section;

q. documentation of completed state central registry disclosure form (SCR 1) noting no justified (valid) finding of abuse and/or neglect for all staff including owners as noted in Section 7107.A.6(SCR 1 shall be dated no earlier than 30 days before the application has been received by the Licensing Section) or a determination from the Risk Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to children/youth/residents;

r. current approval from the Department of Education, if educational services will be provided on-site for residents;

s. copy of the completed reasonable and prudent parent authorized representative form;

t. three signed reference letters dated within three months prior to hire for program director attesting affirmatively to his/her character, qualifications, and suitability to manage the program; and

u. three signed reference letters dated within three months prior to hire for service plan manager attesting affirmatively to his/her character, qualifications, and suitability for the position.

3. If the initial licensing packet is incomplete, the applicant will be notified of the missing information and will have 45 calendar days to submit the additional requested information. If the department does not receive the additional requested information within the 45 calendar days, the application will be closed and the fee forfeited. After an initial licensing application is closed, an applicant who is still interested in becoming a residential home provider shall submit a new initial licensing packet with a new initial licensing fee to restart the initial licensing process.

4. Once the department has determined the initial licensing packet is complete, Licensing Section staff will attempt to contact the applicant to schedule an initial inspection; however it is the applicant's responsibility to coordinate the initial inspection. If an applicant fails to schedule the initial inspection within 45 calendar days of the notification, the initial licensing application shall be closed and fee forfeited.

5. After an initial licensing application is closed, an applicant who is still interested in becoming a residential home provider shall submit a new initial licensing packet with a new initial licensing fee to restart the initial licensing process.

6. After the completed application and non-refundable fee have been received by the Licensing Section, Licensing Section staff will notify the Office of State Fire Marshal, Office of City Fire Department (if applicable), and Office of Public Health that an application for licensure has been submitted. However, it is the applicant's responsibility to request and obtain these inspections and approvals.

C. Initial Licensing Inspection

1. Prior to the initial license being issued to the residential home provider, an initial licensing inspection shall be conducted on-site at the residential home to assure compliance with all licensing standards. The initial licensing inspection shall be an announced inspection. No resident shall be provided services by the residential home provider until the initial licensing inspection has been performed and the department has issued an initial license. If the provider is in operation in violation of the law, the licensing inspection shall not be conducted. In these instances, the application shall be denied and DCFS shall pursue legal remedies.

2. In the event the initial licensing inspection finds the residential home provider is compliant with all licensing laws and standards, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department may issue a license to the provider. The license shall be valid until the expiration date shown on the license, unless the license is modified, extended, revoked, suspended, or terminated.

3. In the event the initial licensing inspection finds the residential home provider is noncompliant with any licensing laws or standards, or any other required statutes, laws, ordinances, rules, or regulations, the department may conduct a follow-up inspection to verify compliance with all licensing laws or standards and other required statutes, laws, ordinances, rules, or regulations.

4. The application shall be denied if the department is unable to issue a license within 180 calendar days of receipt of the completed initial application packet due to provider non-compliance.

5. When issued, residential home provider licenses shall specify the licensed bed capacity. Children of residents shall not be counted in the facility's licensed capacity; however the license will note if the provider is licensed to provide services to children of residents.

D. Fees and Notification of Changes

1. All fees are non-refundable and shall be paid by money order, certified check, or electronic payment, if available, made payable to DCFS - Licensing Section.2.

In accordance with R.S 46:1406(E), there shall be a non-refundable fee as prescribed by the department for a license or renewed license, payable to the department with the initial licensing application, CHOL application, CHOW application, and prior to the last day of the anniversary month of the license as listed below, based on capacity.

4 to 6 Residents	7 to 15 Residents	16 or More Residents
$400	$500	$600

NOTE: Children of residents are not counted in the facility's licensed capacity.

3. A non-refundable fee of $5 is required to issue a duplicate license with no changes.

4. The provider shall notify the Licensing Section on a DCFS approved change of information form prior to making changes to residential operations as noted below. For changes that require the issuance of a new replacement license, the provider shall be required to submit a non-refundable change fee of $25 in addition to the change of information form. There is no fee charged when the request is noted on the renewal application; however, the change shall not be effective until the first day of the month following the expiration of the current license.

a. Removal of a service or reduction in capacity is effective upon receipt of a completed change of information form.

b. A capacity increase is effective when the following are received and approved by the Licensing Section and the new space shall not be utilized until approval has been granted by the Licensing Section:

i. completed change of information form;

ii. $25 non-refundable change fee; an additional fee may be required in accordance with Paragraph D.2 of this Section based on new capacity;

iii. current Office of State Fire Marshal approval for new space;

iv. current Office of Public Health approval for new space;

v. current city fire approval for new space (if applicable); and

vi. measurement of the additional space by Licensing Section staff.

c. Name change is effective when the following are received by the Licensing Section:

i. completed change of information form; and

ii. $25 non-refundable change fee.

d. Age range change for residents is effective when the following are received and approved by the Licensing Section:

i. completed change of information form; and

ii. $25 non-refundable change fee.

e. Change to add services provided (acceptance of children of residents) is effective when the following is received and approved by the Licensing Section:

i. completed change of information form;

ii. $25 non-refundable change fee;

iii. current Office of State Fire Marshal approval form noting acceptance of infants or children of residents;

iv. current Office of Public Health approval noting acceptance of infants or children of residents;

v. inspection by the Licensing Section noting compliance with regulations regarding the children of residents.

f. Change in program director is effective when the following is received and approved by the Licensing Section:

i. completed change of information form;

ii. documentation of program director's qualifications as noted in 7111.A.3.a of this Section; and

iii. three signed letters of reference dated within three months prior to hire attesting affirmatively to his/her character, qualifications, and suitability to manage the program.

5. If a provider is found to be non-compliant with regard to a particular service offered or with a particular age group of children of residents/residents, DCFS may require the provider to cease providing the service and/or restrict the age of the children of residents/residents for which the provider is licensed to provide services.

6. All new construction or renovation of a facility requires approval from agencies listed in Paragraph B.2.b-f of this Section and the Licensing Section.

7. A license is not transferable to another person, juridical entity, or location.

E. Renewal of License

1. The license shall be renewed on an annual basis prior to the last day of the anniversary month of the license.

2. The provider shall submit, prior to its license expiration date, a completed renewal application form and applicable fee. The following documentation must also be included:

a. current Office of State Fire Marshal approval for occupancy;

b. current Office of Public Health, Sanitarian Services approval;

c. current city fire department approval (if applicable);

d. copy of proof of current general liability and current property insurance for facility;

e. copy of proof of current insurance for vehicle(s) used to transport residents and children of residents;

f. copy of a criminal background clearance or attestation forms as referenced in §7107.A.5 for all owners and 7111.B.2.a.ii for program directors as required by R.S. 46:51.2 and 15.587.1; and

g. copy of current state central registry disclosure forms (SCR 1) for all owners and program directors.

3. Prior to renewing the facility license, an on-site inspection shall be conducted to ensure compliance with all licensing laws and standards. If the facility is found to be in compliance with the licensing laws and standards, and any other required statutes, laws, ordinances, or regulations, the license shall be renewed for a 12-month period.

4. In the event the annual licensing inspection finds the facility is non-compliant with any licensing laws or standards, or any other required statutes, ordinances or regulations but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the provider shall be required to submit a corrective action plan to the department for approval. The department shall specify the timeline for submitting the corrective action plan based on such non-compliance or deficiencies cited but no later than 10 days from the date of the inspection or receipt of the deficiencies if mailed or emailed. The corrective action plan shall include a description of how the deficiency shall be corrected, the date by which correction(s) shall be completed, an outline of the steps the provider plans to take

in order to prevent further deficiencies from being cited in these areas, and the plan to maintain compliance with the licensing standards. Failure to submit an approved corrective action plan timely shall be grounds for revocation or non-renewal.

5. If it is determined that such noncompliance or deficiencies have not been corrected prior to the expiration of the license, the department may issue an extension of the license not to exceed 60 days.

6. When it is determined by the department that such noncompliance or deficiencies have been corrected, a license may be issued for a period not to exceed 12 months.

7. If it is determined that all areas of noncompliance or deficiencies have not been corrected prior to the expiration date of the extension, the department may revoke the license.

F. Change of Location (CHOL) and Change of Ownership (CHOW)

1. Change of Location (CHOL)

a. When a provider changes the physical location of the residential home, it is considered a new operation and a new license is required prior to opening. In accordance with R.S. 46:1406, the license at the existing location shall not transfer to the new residential home location.

b. After the residential home's new location has been determined, a complete CHOL licensing packet shall be submitted to the Licensing Section. A complete CHOL licensing packet shall include:

i. completed application and non-refundable fee;

ii. current Office of State Fire Marshal approval for occupancy;

iii. current Office of Public Health, Sanitarian Services approval;

iv. current city fire department approval (if applicable);

v. city or parish building permit office approval (if applicable);

vi. local zoning approval (if applicable);

vii. copy of proof of current general liability and current property insurance for facility;

viii. copy of current proof of insurance for vehicle(s) used to transport residents or children of residents;

ix. organizational chart or equivalent list of staff titles and supervisory chain of command;

x. verification of experience and educational requirements for the program director (if applicable);

xi. verification of experience and educational requirements for the service plan manager (if applicable);

xii. list of consultant/contract staff to include name, contact info, and responsibilities;

xiii. list of all staff to include staff's name and position;

xiv. a floor sketch or drawing of the premises to be licensed;

xv. any other documentation or information required by the department for licensure;

xvi. documentation of a Louisiana State Police fingerprint based satisfactory criminal record check for all staff including all owners of the facility, as required by R.S. 46:51.2 and 15:587.1;

xvii. documentation of completed state central registry disclosure form (SCR 1) noting no justified (valid) finding of abuse and/or neglect for all staff including owners (SCR 1 shall be dated no earlier than 30 days before the application has been received by the Licensing Section) or a determination from the Risk Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to children/youth/residents;

xviii. current approval from the Department of Education, if educational services will be provided on-site; and

xix. current completed reasonable and prudent parent authorized representative form as referenced in §7111.A.10.

c. CHOL inspection will be conducted between the currently licensed and new location to determine compliance with all standards. The inspection at the new location shall be to verify compliance with all licensing standards with the exception of staff and children of residents/residents records that will be transferred. After closure of the old location and prior to the services being provided at the new location, all staff's, resident's, and children of resident's records shall be transferred to the new location.

d. Services shall not be provided simultaneously at both locations.

e. The license for the new location may be effective upon receipt of all items listed in Paragraph F.1 of this Section with the approval of DCFS, but not prior to the first day operations begin at the new location.

f. The license for the old location shall be null and void on the last day services were provided at that location, but no later than the effective date of the new location's license. Provider shall submit documentation noting the last day services will be provided at the old location.

2. Change of Ownership (CHOW)

a. Any of the following constitutes a change of ownership for licensing purposes:

i. change in the federal tax id number;

ii. change in the state tax id number;

iii. change in profit status;

iv. any transfer of the business from an individual or juridical entity to any other individual or juridical entity;

v. termination of services by one owner and beginning of services by a different owner without a break in services to the children of residents/residents; and/or

vi. addition of an individual to the existing ownership (individual or partnership) on file with the Licensing Section.

3. Change of Ownership (CHOW) Procedures

a. When a residential home changes ownership, the current license is not transferable. Prior to the ownership change and in order for a new license to be issued, the new owner shall submit a CHOW application packet containing the following:

i. completed application form with a non-refundable licensing fee as noted in Paragraph D.2 of this Section payable by money order, certified check, or electronic payment, if available, made payable to DCFS–Licensing Section;

ii. current Office of State Fire Marshal approval for occupancy;

iii. current Office of Public Health, Sanitarian Services approval;

iv. current city fire department approval (if applicable);

v. city or parish building permit office approval (if applicable);

vi. local zoning approval (if applicable);

vii. copy of proof of current general liability and current property insurance for facility in name of new owner;

viii. copy of current proof of insurance in name of new owner for vehicle(s) used to transport residents or children of residents;

ix. organizational chart or equivalent list of staff titles and supervisory chain of command;

x. verification of experience and educational requirements for the program director;

xi. verification of experience and educational requirements for the service plan manager;

xii. list of consultant/contract staff to include name, contact info, and responsibilities;

xiii. list of all staff to include staff's name and position;

xiv. a floor sketch or drawing of the premises to be licensed;

xv. any other documentation or information required by the department for licensure;

xvi. documentation of a Louisiana State Police fingerprint-based satisfactory criminal record clearance for all staff including owners. CBC shall be dated no earlier than 30 days before the application has been received by the Licensing Section. The prior owner's documentation of a satisfactory criminal background check for staff and/or owners is not transferrable;

xvii. documentation of completed state central registry disclosure form (SCR 1) noting no justified (valid) finding of abuse and/or neglect for all staff including owners (SCR 1 shall be dated no earlier than 30 days before the application has been received by the Licensing Section) or a determination from the Risk Assessment Panel or Division of Administrative Law noting that the individual does not pose a risk to children/youth/residents. The prior owner's documentation of state central registry disclosure forms for staff and/or owners is not transferrable;

xviii. current approval from the Department of Education, if educational services will be provided on-site for residents;

xix. copy of the current completed reasonable and prudent parent authorized representative form;

xx. three signed reference letters dated within three months prior to hire for program director attesting affirmatively to his/her character, qualifications, and suitability to manage the program; and

xxi. three signed reference letters dated within three months prior to hire for service plan manager attesting affirmatively to his/her character, qualifications, and suitability for the position.

b. The prior owner's current Office of State Fire Marshal and Office of Public Health approvals are only transferrable for 60 calendar days. The new owner shall obtain approvals dated after the effective date of the new license from these agencies within 60 calendar days. The new owner will be responsible for forwarding the approval or extension from these agencies to the Licensing Section on or prior to the sixtieth day in order for their license to be extended. If approvals or extensions are not submitted to the licensing section prior to the sixtieth day, the license shall be revoked.

c. A licensing inspection shall be conducted within 60 calendar days to verify compliance with the licensing standards.

d. All staff/children of residents'/resident's information shall be updated under the new ownership as required in LAC 67:V.7111.A.2.c, A.5, A.7, B.2, and B.4.b-c prior to or on the last day services are provided by the existing owner.

e. If all information in Paragraph F.3 of this Section is not received prior to or on the last day services are provided by the existing owner, the new owner shall not operate until a license is issued. The new owner is not authorized to provide services until the licensure process is completed in accordance with Paragraph B.2-6 of this Section.

f. In the event of a change of ownership, the resident's and children of resident's records shall remain with the new provider.

g. A residential home facing adverse action shall not be eligible for a CHOW. An application involving a residential home facing adverse action shall be treated as an initial application rather than a change of ownership application.

4. Change in Ownership Structure

a. Although the following does not constitute a change of ownership for licensing purposes, a change of information form is required.

i. The change of information form shall be submitted to the Licensing Section within 14 calendar days of the change:

(a). if individual ownership, upon death of the spouse;

(b). if individual ownership, upon death of the spouse and execution of the estate, if the surviving spouse remains as the only owner.

b. The change of information form shall be submitted to the Licensing Section within seven calendar days of the change.

i. if individual ownership, undergoing a separation or divorce until a judicial termination of the community aquets and gains, signed by both parties;

ii. change in board members for churches, corporations, limited liability companies, universities, or governmental entities;

iii. any removal of a person from the existing organizational structure under which the residential home is currently licensed.

G. Denial, Revocation, or Non-Renewal of License

1. Even if a facility is otherwise in compliance with these standards, an application for a license may be denied, or a license revoked or not renewed for any of the following reasons:

a. cruelty or indifference to the welfare of the residents or children of residents in the residential home ;

b. violation of any provision of the standards, rules, regulations, or orders of the department;

c. disapproval from any agency whose approval is required for licensing;

d. any validated instance of abuse, neglect, corporal punishment, physical punishment, or cruel, severe or unusual punishment, if the owner is responsible or if the staff member who is responsible remains in the employment of the licensee;

e. the facility is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure;

f. any act of fraud such as falsifying or altering documents required for licensure;

g. the owner, director, officer, board of directors member, or any person designated to manage or supervise staff or any staff providing care, supervision, or treatment to a resident or child of a resident of the facility has been convicted of or pled guilty or nolo contendere to any offense listed in R.S. 15:587.1. A copy of a criminal record check performed by the Louisiana State Police (LSP) or other law enforcement provider, or by the Federal Bureau of Investigation (FBI), or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttals presumption that such a conviction or plea exists;

h. the provider, after being notified that an officer, director, board of directors member, manager, supervisor, or any employee has been convicted of or pled nolo contendere to any offense referenced above, allows such officer, director, or employee to remain employed, or to fill an office of profit or trust with the provider. A copy of a criminal record check performed by the LSP or other law enforcement provider, or by the FBI, or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a reputable presumption that such a conviction or plea exists;

i. failure of the owner, director, or any employee to report a known or suspected incident of abuse or neglect to child protection authorities;

j. revocation or non-renewal of a previous license issued by a state or federal provider;

j. a history of non-compliance with licensing statutes or standards, including but not limited to failure to take prompt action to correct deficiencies, repeated citations for the same deficiencies, or revocation or denial of any previous license issued by the department;

l. failure to submit an application for renewal or required documentation or to pay required fees prior to the last day of the anniversary month;

m. operating any unlicensed facility and/or program;

n. permit an individual with a justified (valid) finding of child abuse/neglect to be on the premises without being directly supervised by another paid employee of the facility, who has not disclosed that their name appears with a justified (valid) finding on the state central registry prior to a determination by the Risk Evaluation Panel or Division of Administrative Law that the individual does not pose a risk to children/youth/residents; or to knowingly permit an individual who has not disclosed that their name appears with a justified (valid) finding on the state central registry to be on the premises at any time, whether supervised or not supervised;

o. permit an individual, whether supervised or not supervised to be on the residential premises with a ruling by the Risk Evaluation Panel that the individual poses a risk to children/youth/residents and the individual has not requested an appeal hearing with DAL within the specified timeframe;

p. have a criminal background, as evidenced by the employment or ownership or continued employment or ownership of or by any individual (paid or unpaid staff) who has been convicted of, or pled guilty or nolo contendere to, any offense included in R.S. 15:587.1, or to any offense involving a juvenile victim;

q. own a residential home and have been convicted of or have pled guilty or nolo contender to any crime in which an act of fraud or intent to defraud is an element of the offense;

r. have knowledge that a convicted sex offender is on the premises and fail to notify law enforcement and licensing management staff immediately upon receipt of such knowledge;

s. have knowledge that a convicted sex offender is physically present within 1,000 feet of the facility and fail to notify law enforcement immediately upon receipt of such knowledge; or

t. have knowledge that a resident age 18 years or older has been convicted of, pled guilty, or nolo contendere to any offense listed in R.S. 15:587.1. or to any offense involving a juvenile victim and allow the resident to remain on the premises of the residential home.

2. If a license is revoked or not renewed or application denied or refused, a license may also be denied or refused to any affiliate of the licensee or applicant.

3. In the event a license is revoked or renewal is denied, (other than for cessation of business or non-operational status), or voluntarily surrendered to avoid adverse action; any owner, officer, member, manager, or program director of such licensee shall be prohibited from owning, managing, directing or operating another licensed facility for a period of not less than two years from the date of the final disposition of the revocation or denial action. The lapse of two years shall not automatically restore a person disqualified under this provision. The department, at its sole discretion, may determine that a longer period of disqualification is warranted under the facts of a particular case.

H. Disqualification of Facility and Provider

1. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not process a subsequent application from the provider for that facility or any new facility for a minimum period of 24 months after the effective date of revocation or non-renewal or a minimum period of 24 months after all appeal rights have been exhausted, whichever is later (the disqualification period). Any subsequent application for a license shall be reviewed by the secretary or her designee prior to a decision being made to grant a license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

2. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its' license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked. In addition, if the applicant has had a history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to process a subsequent application from that applicant for a minimum period of 24 months after the effective date of denial.

3. The disqualification period provided in this rule shall include any affiliate of the provider.

I. Appeal Process for Denial, Non-Renewal, or Revocation

1. The DCFS Licensing Section, shall advise the applicant, program director, or owner by letter of the reasons for non-renewal or revocation of the license, or denial of an application, and the right of appeal. If the program director or owner is not present at the facility, delivery of the written reasons for such action may be made to any staff of the facility. Notice to a staff shall constitute notice to the facility of such action and the reasons therefore. A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for revocation, denial, or non-renewal, together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to: Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

2. A provider shall have 15 calendar days from receipt of the letter notifying of the revocation or non-renewal to request an appeal. Provider may continue to operate during the appeals process as provided in the Administrative Procedure Act.

3. If the provider's license will expire during the appeal process, the provider shall submit all information as required in Paragraph E.2 of this Section. Each provider is solely responsible for obtaining the application form. The required information shall be received on or postmarked by the last day of the month in which the license expires, or the provider shall cease operation at the close of business by the expiration date noted on the license.

4. A provider shall have 30 calendar days from receipt of the letter notifying of the denial of an application for a license to request an appeal.

5. The Appeals Section shall notify the Division of Administrative Law of receipt of an appeal request. Division of Administrative Law shall conduct a hearing. The appellant will be notified by DAL of the decision, either affirming or reversing the original decision.

6. If the decision of DCFS is affirmed or the appeal dismissed, the provider shall terminate operation of the residential home immediately. If the provider continues to operate without a license, the DCFS may file suit in the district court in the parish in which the facility is located for injunctive relief.

7. If the decision of DCFS is reversed, the license will be re-instated and the appellant may continue to operate.

J. Complaint Process

1. In accordance with RS 46:1418, the department shall investigate all complaints (except complaints concerning the prevention or spread of communicable diseases), including complaints alleging abuse or neglect, within prescribed time frames as determined by the department based on the allegation(s) of the complaint. All complaint inspections will be initiated within 30 days.

2. All complaint inspections shall be unannounced.

K. Posting of Notices of Revocation

1. The notice of revocation of the license shall be prominently posted.

a. The Department of Children and Family Services shall prominently post a notice of revocation action at each public entrance of the facility within one business day of such action. This notice must remain visible to the general public, other agencies, parents, guardians, and other interested parties of individuals that receive services from the provider.

b. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to the general public, parents, guardians, and other interested parties throughout the pendency of any appeals of the revocation.

c. The provider shall notify the department's licensing management staff verbally and in writing immediately if the notice is removed or obliterated.

d. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation, or non-renewal of any future license.

L. Retention of Records

1. Documentation of the previous 12 months' activity shall be available for review. Records shall be accessible during the facility's hours of operation.

2. For licensing purposes, children of residents' and resident's information shall be kept on file a minimum of one year from date of discharge from the program.

3. For licensing purposes, staff records shall be kept on file a minimum of one year from termination of employment with the provider.

4. Records for residents or children of residents in the custody of DCFS shall be kept on file a minimum of five years from the date of discharge from the facility.

5. If the facility closes, the owner of the facility shall store the resident records for five years.

6. All records shall be retained and disposed of in accordance with state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.46:1401 et seq., and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:807 (April 2010), amended LR 36:843 (April 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1463 (July 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:977, 984 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7108. Corrective Action Plans

A. A corrective action plan (CAP) shall be submitted for any and all deficiencies noted by Licensing Section staff

regarding any licensing law or standard, or any other required statute, ordinance, or standard. The request for submission of the CAP does not restrict the actions which may be taken by DCFS. If the department does not specify an earlier timeframe for submitting the CAP, the CAP shall be submitted within 10 calendar days from the date of the inspection or receipt of the deficiencies, if mailed or emailed. The CAP shall include a description of how the deficiency will be corrected, the date by which correction(s) shall be completed, and outline the steps the provider plans to take in order to prevent further deficiencies from being cited in these areas, and the plan to maintain compliance with the licensing standards. If the CAP is not sufficient and/or additional information is required, the provider shall be notified and informed to submit additional information within 3 calendar days. If it is determined that all areas of noncompliance or deficiencies have not been corrected, the department may revoke the license.

B. Provider may challenge a specific deficiency or any information within a cited deficiency which the provider contends is factually inaccurate. The provider shall have one opportunity to request a review of a licensing deficiency. A statement of why the deficiency is being disputed and supporting documents (if applicable) shall be submitted with the corrective action plan within the timeframe specified for the submission of the CAP.

C. The statement of deficiencies for which a review has been requested will not be placed on the internet for viewing by the public until a decision has been reached. As a result of the licensing deficiency review request, a deficiency may be upheld with no changes, the deficiency may be removed, or the deficiency may be upheld and revised to include pertinent information that was inadvertently omitted. Once a decision has been reached, provider will be informed in writing of the decision and the reason for the decision. If the deficiency or information within the deficiency was cited in error or the cited deficiency is revised by the DCFS Licensing Section staff, provider will receive a revised "Statement of Deficiencies" with the decision letter. If any enforcement action was imposed solely because of a deficiency or finding that has been deleted through the licensing deficiency review process, the action will be rescinded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 42:

§7109. Critical Violations/Fines

A. In accordance with R.S. 46:1430, when a provider is cited for violations in the following areas, the department may at its' discretion elect to impose sanctions, revoke a license, or both:

1. Paragraph A.5 of Section 7107, Subparagraph E.2.f of Section 7107, Clause F.1.b.xvi of Section 7107, Clause A.2.c.ii of Section 7111, Subparagraph A.5.b of Section 7111, or Clause B.2.a.ii of Section 7111, criminal background check;

2. Subparagraph E.2.g of Section 7107, Clause F.1.b.xvii of Section 7107, Paragraph A.6 of Section 7107, Paragraph L.2 of Section 7107, Clause A.2.d.iii of Section 7111, Subparagraph A.6.c of Section 7111, or Subparagraph B.2.x of Section 7111, state central registry disclosure;

3. Paragraph A.9 of Section 7111, staffing ratios;

4. Paragraph F.19 of Section 7117, motor vehicle checks;

5. Clause A.4.a.xiii of Section 7111, Clause A.4.c.xv of Section 7111, or Subparagraph D.1.a of Section 7111, critical incidents; and/or

6. Paragraph A.9 of Section 7111, Subparagraph A.4.c of Section 7111, or Paragraph B.5 or B.6 of Section 7123—supervision.

B. The option of imposing other sanctions does not impair the right of DCFS to revoke and/or not renew a provider's license to operate if it determines that the violation poses an imminent threat to the health, safety, rights, or welfare of a resident or child of a resident. Only when the department finds that the violation does not pose an imminent threat to the health, safety, rights, or welfare of a resident or child of a resident will the department consider sanctions in lieu of revocation or non-renewal; however, the absence of such an imminent threat does not preclude the possibility of revocation or non-renewal in addition to sanctions, including fines.

C. In determining whether multiple violations of one of the above categories has occurred, both for purposes of this Section and for purposes of establishing a history of non-compliance, all such violations cited during any 24-month period shall be counted, even if one or more of the violations occurred prior to the adoption of the current set of standards. If one or more of the violations occurred prior to adoption of the current set of standards, a violation is deemed to have been repeated if the standard previously violated is substantially similar to the present rule.

D.1.For the first violation of one of the aforementioned categories, if the department does not revoke or not renew the license, the department may issue a formal warning letter noting the department's intent to take administrative action if further violations of the same category occur.

2. The warning letter shall include a directed corrective action plan (CAP) which shall outline the necessary action and timeframe for such action that a provider shall take in order to maintain compliance with the licensing standards. The provider shall acknowledge receipt of the warning letter by submitting a written response to the CAP within 10 calendar days of receipt of the letter. Failure by the provider to submit requested information and/or failure to implement the CAP as evidenced by a repeated violation of the same category of the standards may result in either the assessment of a civil fine, revocation/non-renewal of license, or both.

E. For the second violation of one of the same aforementioned categories within a 24-month period, provider will be assessed a civil fine of up to $250 per day for a violation in each of the aforementioned categories (if same category cited twice) and fined for each day the provider was determined to be out of compliance with one of the aforementioned categories according to the following schedule of fines:

1. The base fine level for all violations shall be $200 per day. From the base fine level, factor in any applicable upward or downward adjustments, even if the adjustment causes the total to exceed $250. If the total fine after all upward and downward adjustments exceeds $250, reduce the fine for the violation to $250 as prescribed by law.

a. If the violation resulted in death or serious physical or emotional harm to a resident or child of a resident, or placed the resident or child of a resident at risk of death or serious physical or emotional harm, increase the fine by $50.

b. If the provider had a previous license revoked for the same critical violation cited, increase the fine by $25.

c. If the critical violation was cited and occurred despite the objective good faith best efforts of licensee to comply, decrease the fine by $25.

d. If the cited critical violation was for a certified criminal background checks not being renewed upon expiration as required, decrease the fine by $25.

e. If the cited critical violation was for criminal background checks not being completed prior to hire, increase the fine by $25.

f. If the cited critical violation was for state central registry disclosure forms not being completed annually as required, decrease the fine by $25.

g. If the cited critical violation was for state central registry disclosure forms not being completed prior to hire, increase the fine by $25.

h. If the provider exceeds staffing ratios by more than one resident, increase the fine by $25.

i. If the provider failed to meet staffing ratios related to children of residents, increase the fine by $25.

j. If the provider self-reported the incident which caused the critical violation to be cited, decrease the fine by $25.

k. If the provider failed to self-report the incident which caused the critical violation to be cited, increase the fine by $25.

l. If a critical violation for supervision was cited due to residents or children of residents being unsupervised in a vehicle, increase the fine by $25.

m. If a critical violation for supervision was cited due to staff not knowing the whereabouts of residents to which they are assigned, increase the fine by $25.

F. For the third violation of one of the same aforementioned categories within a 24 month period, the provider's license may be revoked.

G. The aggregate fines assessed for violations determined in any consecutive 12 month period shall not exceed $2,000 as prescribed by law. If a critical violation in a different category is noted by DCFS that warrants a fine and the provider has already reached the maximum allowable fine amount that could be assessed by the department in any consecutive twelve month period and the department does not revoke or not renew the license, the department may issue a formal warning letter noting the department's intent to take administrative action if further violations of the same category re-occur. The warning letter shall include a directed CAP which shall outline the necessary action and timeframe for such action that a provider shall take in order to maintain compliance with the licensing standards. The Provider shall acknowledge receipt of the warning letter by submitting a written response to the CAP within 10 calendar days of receipt of the letter. Failure by the provider to submit requested information and/or failure to implement the CAP as evidenced by a repeated violation of the same category of the standards may result in revocation/non-renewal of license.

H. Departmental Reconsideration and Appeal Procedure for Fines

1. When a fine is imposed under these standards, the department shall notify the program director or owner by letter that a fine has been assessed due to deficiencies cited at the residential home and the right of departmental reconsideration. The notification may be sent by certified mail or hand delivered to the residential home. If the program director or owner is not present at the residential home, delivery of the written reason(s) for such action may be made to any staff of the residential home. Notice to a staff shall constitute notice to the residential home of such action and the reasons therefore. The letter shall specify the dates and the violation cited for which the fine(s) shall be imposed. Fines are due within 30 calendar days from the date of receipt of the letter unless the provider request a reconsideration of the fine assessment. The provider may request reconsideration of the assessment by asking DCFS for such reconsideration in writing within 10 calendar days from the date of receipt of the letter. A request for reconsideration shall include a copy of the letter from the Licensing Section that notes the reasons for assessment of the fine together with the specific reasons the provider believes assessment of the fine to be unwarranted and shall be mailed to Department of Children and Family Services, Licensing Section, P.O. Box 260036 Baton Rouge, LA 70826. If the provider withdraws the request for reconsideration, the fine is payable within 7 calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

2. The department shall advise the program director or owner by letter of the decision of DCFS after reconsideration and the right to appeal. The notification may be sent by certified mail or hand delivered to the residential home. If the program director or owner is not present at the residential home, delivery of the written decision may be made to any staff of the residential home. Notice to a staff shall constitute notice to the residential home of such action.

a. If DCFS finds that the Licensing Section's assessment of the fine is justified, the provider shall have 15 calendar days from the receipt of the reconsideration letter to appeal the decision to the Division of Administrative Law (DAL). A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for assessment of the fine and a copy of the reconsideration decision letter together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

b. The DCFS Appeals Section shall notify the DAL of receipt of an appeal request. DAL shall conduct a hearing in accordance with the Administrative Procedure Act and shall render a decision. The appellant will be notified by letter from DAL of the decision, either affirming or reversing the department's decision.

c. If the provider has filed a timely appeal and the department's assessment of fines is affirmed by an administrative law judge of the DAL, the fine shall be due within 30 calendar days after mailing notice of the final ruling of the administrative law judge or, if a rehearing is

requested, within 30 calendar days after the rehearing decision is rendered. The provider shall have the right to seek judicial review of any final ruling of the administrative law judge as provided in the Administrative Procedure Act. If the appeal is dismissed or withdrawn, the fines shall be due and payable within 7 calendar days of the dismissal or withdrawal. If a judicial review is denied or dismissed, either in district court or by a court of appeal, the fines shall be due and payable within 7 calendar days after the provider's suspensive appeal rights have been exhausted.

3. If the provider does not appeal within 15 calendar days of receipt of the department's reconsideration decision, the fine is due within 30 calendar days of receipt of the department's reconsideration decision and shall be mailed to Department of Children and Family Services, Licensing Section, P.O. Box 260036 Baton Rouge, LA 70826. If the provider files a timely appeal, the fines shall be due and payable on the date set forth in Subparagraph H.2.c of this Section. If the provider withdraws the appeal, the fine is payable within 7 calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

4. If the provider does not pay the fine within the specified timeframe, the license shall be immediately revoked and the department shall pursue civil court action to collect the fines, together with all costs of bringing such action, including travel expenses and reasonable attorney fees. Interest shall begin to accrue at the current judicial rate on the day following the date on which the fines become due and payable.

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 42:

§7110. Administration and Organization

A. General Requirements

1. Once a residential home provider has been issued a license, the department shall conduct licensing and other inspections at intervals deemed necessary by the department to determine compliance with licensing standards, as well as, other required statutes, laws, ordinances, rules, regulations, and fees. These inspections shall be unannounced.

2. The department may remove any resident, child of a resident, or all residents or children of residents from any facility or agency when it is determined that one or more deficiencies exist within the facility that place the health and well-being of children of residents or residents in imminent danger. The children of residents nor residents shall be returned to the facility until such time as it is determined by the department that the imminent danger has been removed.

3. The provider shall allow representatives of the department in the performance of their mandated duties to inspect all aspects of a program's functioning that impact residents and children of residents and to privately interview any staff member or resident. The department representatives shall be admitted immediately and without delay, and shall be given free access to all relevant files and all areas of a facility, including its grounds. If any portion of a facility is set aside for private use by the facility's owner or staff, department representatives shall be permitted to verify that no residents or children of residents are present in that portion and that the private areas are inaccessible to residents and children of residents. Any area to which residents or children of residents have or have had access is presumed to be part of the facility and not the private quarters of the owner or staff.

4. The provider shall make any information that DCFS requires under the present standards and any information reasonably related to determination of compliance with these standards available to the department. The resident's rights shall not be considered abridged by this standard.

5. The provider accepting any resident from a state other than Louisiana shall show proof of compliance with the terms of the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children, and the Interstate Compact on Mental Health. Proof of compliance shall include clearance letters from the compact officers of each state involved.

B. Other Jurisdictional Approvals. The provider shall comply and show proof of compliance with all relevant standards, regulations, and requirements established by federal, state, local, and municipal regulatory bodies including initial and annual approval by the following:

1. Office of Public Health, Sanitarian Services;
2. Office of State Fire Marshal;
3. city fire department (if applicable);
4. local governing authority or zoning approval (if applicable); and
5. Department of Education (if applicable).

C. Governing Body. The provider shall have an identifiable governing body with responsibility for and authority over the policies, procedures, and activities of the provider.

1. The provider shall have documents identifying all members of the governing body, their addresses, the term of their membership (if applicable), officers of the governing body (if applicable), and the terms of office of all officers (if applicable).

2. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year.

3. When the governing body is composed of more than one person, a provider shall have written minutes of all formal meetings of the governing body and bylaws specifying frequency of meetings and quorum requirements.

D. Responsibilities of a Governing Body. The governing body of the provider shall:

1. ensure the provider's compliance and conformity with the provider's charter;
2. ensure the provider's continual compliance and conformity with all relevant federal, state, local, and municipal laws and standards;
3. ensure the provider is adequately funded and fiscally sound by reviewing and approving the provider's annual budget or cost report;
4. ensure the provider is housed, maintained, staffed and equipped appropriately considering the nature of the provider's program;
5. designate a person to act as program director and delegate sufficient authority to this person to manage the facility;
6. formulate and annually review, in consultation with the program director, written policies and procedures concerning the provider's philosophy, goals, current services, personnel practices and fiscal management;

7. have the authority to dismiss the program director;

8. meet with designated representatives of the department whenever required to do so;

9. inform designated representatives of the department prior to initiating any substantial changes in the program, services, or physical plant of the provider;

10. ensure that the provider establishes a system of business management and staffing which requires maintenance of complete and accurate accounts, books, and records.

E. Authority to Operate. The provider's current Louisiana residential home license shall be on display in a prominent area at the facility, except for facilities operated by a church or religious organization [RS 46:1406(D)] that choose to keep the license on file and available upon request. All homes shall operate within the licensed capacity, age range, and/or other specific services designated on the license.

F. Accessibility of Program Director. The program director, or a person authorized to act on behalf of the program director, shall be accessible to provider staff or designated representatives of the department at all times (24 hours per day, 7 days per week).

G. Statement of Philosophy and Goals

1. The provider shall have a written statement of its' residential home philosophy, purpose, program, and goals. The statement shall contain a description of all the services provided to include:

a. the extent, limitation, and scope of the services for which a license is sought;

b. the geographical area to be served; and

c. the ages of residents, ages of children of residents, and types of behaviors to be accepted for placement.

H. House Rules and Regulations. The provider shall have a clearly written list of rules and regulations governing conduct for residents and children of residents in care and shall document that these rules and regulations are made available to each staff member, resident, and, where appropriate, the resident's legal guardian(s).

I. Representation at Hearings. When requested by the placing agency, the provider shall have a representative present at all judicial, educational, or administrative hearings that address the status of a resident or child of a resident in care of the provider. The provider shall ensure that the resident or child of a resident is given an opportunity to be present at such hearings, unless prohibited by the resident's legal guardian or by his/her service plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:810 (April 2010), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7111. Provider Requirements

A. Provider Responsibilities

1. Enrichment Activities. Provider shall assist children of residents and residents at least twice monthly in creating and updating their lifebook. For children of residents and residents that are not developmentally able to participate in the creation and updating of their own lifebook, staff shall create and update for the children and residents.

a. Lifebooks shall be the property of children of residents and residents and shall remain with the child or resident upon discharge.

b. Lifebooks shall be available for review by DCFS.

2. Personnel Requirements

a. The provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to perform the following functions:

i. administrative;

ii. fiscal;

iii. clerical;

iv. housekeeping, maintenance, and food services;

v. direct resident and child of a resident services;

vi. record keeping and reporting;

vii. social service; and

viii. ancillary services.

b. Personnel can work in more than one capacity as long as they meet all of the qualifications of the position and have met the training requirements.

c. The provider that utilizes volunteers shall be responsible for the actions of the volunteers. Volunteers shall:

i. have orientation and training in the philosophy of the program and the needs of residents and children of residents and methods of meeting those needs prior to working with residents or children of residents;

ii. have documentation of a fingerprint based satisfactory criminal background check from Louisiana State Police as required in R.S. 15:587.1 and R.S. 46:51.2. This check shall be obtained prior to the individual being present in the facility or having access to the residents or children of residents. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility. CBC shall be dated no earlier than 30 days of the individual being present in the facility or having access to the residents or children of residents. If an individual has previously obtained a certified copy of their criminal background check from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. This certified copy of the criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the staff is no longer allowed on the premises until a clearance is received;

iii. have a completed state central registry disclosure form (SCR 1) noting whether or not his/her name is currently recorded on the state central registry for a justified finding of abuse or neglect and he/she is the named perpetrator as required in R.S. 46.1414.1. SCR 1 shall be dated no earlier than 30 days of the individual being present in the facility or having access to the residents or children of residents:

(a). this information shall be reported prior to the individual being on the premises of the facility and shall be

updated annually, at any time upon the request of DCFS, and within three business days of any volunteer receiving notice of a justified (valid) determination of child abuse or neglect;

(b). the prospective non-paid staff (volunteer) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner of the facility:

(i). if a prospective staff non-paid (volunteer) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for volunteer duties at that time due to the state central registry disclosure. The director will provide the prospective volunteer with the risk evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested;

(ii). individuals are eligible for volunteer services if and when they provide written documentation from the Risk Evaluation Panel or the Division of Administrative Law noting that they do not pose a risk to children/youth/residents;

(c). current volunteers receiving notice of a justified (valid) determination of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) determination as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section management staff within 3 business days or upon being on the premises, whichever is sooner. Volunteers will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation on a SCR 2 form in accordance with LAC 67:I.305 or shall be terminated immediately:

(i). if the volunteer will no longer be employed at or provide volunteer services for the facility, the provider shall submit a signed, dated statement indicating that the volunteer will not be on the premises of the facility at any time;

(ii). immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued volunteer services, the staff person shall be directly supervised by a paid staff (employee) of the facility who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the volunteer is under continuous direct supervision by a paid staff who has not disclosed that their name appears with a justified (valid) finding on the state central registry. When these conditions are met, the non-paid staff (volunteer) may be counted in ratio. Under no circumstances may the volunteer with the justified finding be left alone and unsupervised with the children/youth/residents pending the disposition by the Risk Evaluation Panel or the Division of Administrative Law that the staff person does not pose a risk to children/youth/residents;

(iii). if the Risk Evaluation Panel finds the individual does pose a risk to children/youth/residents and the individual chooses not to appeal the finding, the non-paid staff (volunteer) shall be terminated immediately;

(iv). if the Risk Evaluation Panel finds the individual does pose a risk to children/youth/residents and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the non-paid staff (volunteer) shall continue to be under direct supervision at all times by another paid employee of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children/youth/residents. Supervision may end upon receipt of the ruling from the Division of Administrative Law that they do not pose a risk to children/youth/residents;

(v). if the Division of Administrative Law upholds the Risk Evaluation Panel finding that the individual does pose a risk to children/youth/residents, the individual shall be terminated immediately;

(d). any owner, current or prospective employee, or volunteer of a facility requesting licensure by DCFS and/or a facility licensed by DCFS is prohibited from working in a facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children/youth/residents;

iv. have three documented reference checks dated within three months prior to beginning volunteer services;

v. have documentation of a signed and dated job description by volunteer.

3. Personnel Qualifications

a. Program Director—the program director shall meet one of the following qualifications:

i. a doctorate degree in a human services field or in administration, business, or a related field;

ii. a master's degree in a human services field or in administration, business, or a related field and one year of work experience in a human services agency;

iii. a bachelor's degree in a human services field or in administration, business, or a related field, and at least two years of work experience in a human services agency;

iv. six years of work experience in a human services field or a combination of undergraduate education and work experience in a human services field for a total of six years. Fifteen credit hours substitute for 6 months of work experience not to exceed 60 credit hours.

b. Service Plan Manager—The service plan manager shall have a bachelor's degree in a human service field plus a minimum of one year with the relevant population.

c. Documentation of experience for program director and service plan manager shall be verified in writing by previous employer. Documentation of education shall be verified by a copy of the individual's degree or transcript.

d. Direct Care Worker—a direct care worker hired on or after August 1, 2016, shall be at least 21 years of age and have a high school diploma or equivalency and at least two years post-high school job experience.

4. Personnel Job Duties

a. The program director shall be responsible for:

i. implementing and complying with policies and procedures adopted by the governing body;

ii. adhering to all federal and state laws and standards pertaining to the operation of the agency;

iii. addressing areas of non-compliance identified by licensing inspections and complaint inspections;

iv. directing the program;

v. representing the facility in the community;

vi. delegating appropriate responsibilities to other staff including the responsibility of being in charge of the facility during their absence;

vii. recruiting qualified staff and employing, supervising, evaluating, training, and terminating employment of staff;

viii. providing leadership and carrying supervisory authority in relation to all departments of the facility;

ix. providing consultation to the governing body in carrying out their responsibilities, interpreting to them the needs of residents and children of residents, making needed policy revision recommendations, and assisting them in periodic evaluation of the facility's services;

x. supervising the facility's management including building, maintenance, and purchasing;

xi. participating with the governing body in interpreting the facility's need for financial support;

xii. establishing effective communication between staff and residents and children of residents and providing for their input into program planning and operating procedures;

xiii. reporting injuries, deaths, and critical incidents involving residents or children of residents to the appropriate authorities; and

xiv. supervising the performance of all persons involved in any service delivery/direct care to residents or children of residents.

b. The service plan manager shall be responsible for:

i. supervision of the implementation of the resident's service plan;

ii. integration of the various aspects of the resident's program;

iii. recording of the resident's progress as measured by objective indicators and making appropriate changes/modifications;

iv. reviewing quarterly service plan reviews for the successes and failures of the resident's program, including the resident's educational program, with recommendations for any modifications deemed necessary. Designated staff may prepare these reports, however, the service plan manager shall review, sign, and date the reports indicating approval;

v. signing and dating all appropriate documents;

vi. monitoring that the resident receives a review every 30 days of the need for residential placement and ensuring the timely release, whenever appropriate, of the resident to a least restrictive setting; monitoring any extraordinary restriction of the resident's freedom including use of any form of restraint, any special restriction on a resident's communication with others, and any behavior management plan;

vii. asserting and safeguarding the human and civil rights of residents, and children of residents, and their families and fostering the human dignity and personal worth of each resident;

viii. serving as liaison between the resident, provider, family, and community during the resident's admission to and residence in the facility, or while the resident is receiving services from the provider in order to:

(a). assist staff in understanding the needs of the resident and his/her family in relation to each other;

(b). assist staff in understanding social factors in the resident's day-to-day behavior, including staff/resident relationships;

(c). assist staff in preparing the resident for changes in his/her living situation;

(d). help the family to develop constructive and personally meaningful ways to support the resident's experience in the facility, through assistance with challenges associated with changes in family structure and functioning, and referral to specific services, as appropriate;

(e). help the family to participate in planning for the resident's return to home or other community placement; and

(f). supervise and implement the shared responsibility plan regarding resident and child of a resident.

c. The direct care worker shall be responsible for the daily care and supervision of the residents and children of residents in the living group to which they are assigned which includes:

i. protecting children's and residents' rights;

ii. handling separation anxiety and alleviating the stress of a resident or child of a resident in crisis;

iii. modeling appropriate behaviors and methods of addressing stressful situations;

iv. crisis management;

v. behavior intervention and teaching of appropriate alternatives;

vi. training the resident and child of a resident in good habits of personal care, hygiene, eating, and social skills;

vii. protecting the resident and child of a resident from harm;

viii. handling routine problems arising within the living group;

ix. representing adult authority to the residents and children of residents in the living group and exercising this authority in a mature, firm, compassionate manner;

x. enabling the resident or child of a resident to meet his/her daily assignments;

xi. participating in all staff conferences regarding the resident's progress in program evaluation of service plan goals and future planning;

xii. participating in the planning of the facility's program and scheduling such program into the operation of the living group under his/her supervision;

xiii. maintaining prescribed logs of all important events that occur regarding significant information about the performance and development of each resident or child of a resident in the group;

xiv. reporting emergency medical or dental care needs to the administrative staff in a timely manner;

xv. reporting critical incidents to administrative staff in a timely manner; and

xvi. completing duties and responsibilities as assigned regarding residents and children of residents.

5. Contractors

a. Contractors hired to perform work which does not involve any contact with residents or children of residents, shall not be required to have a criminal background check if accompanied at all times by a staff person when residents or children of residents are present in the facility.

b. Contractors hired to perform work which involves contact with residents or children of residents, shall be required to have documentation of a fingerprint based satisfactory criminal background check from Louisiana State Police as required by R.S. 15:587.1 and R.S. 46:51.2. This check shall be obtained prior to the individual being present in the facility or having access to the residents or children of residents. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility. Effective August 1, 2016, criminal background checks (CBC) shall be dated no earlier than 30 days of the individual being present in the facility or having access to the residents or children of residents. If an individual has previously obtained a certified copy of their criminal background check from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. If a contract staff obtains a certified copy of their criminal background check from the Louisiana State Police, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the contract staff is no longer allowed on the premises until a clearance is received.

c. Contractors hired to perform work which involves contact with residents or children of residents, shall be required to have documentation of a state central registry disclosure form (SCR 1) as required by R.S. 46:1414.1. This information shall be reported prior to the individual being on the premises of the facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of the individual receiving notice of a justified (valid) determination of child abuse or neglect. All requirements in §7111.B.2.x.(a)-(c) shall be followed.

6. Post Licensing Information

a. Providers shall advise residents of the licensing authority of DCFS and that residents may contact the Licensing Section with any unresolved complaints. Providers shall post the current telephone number, email address, and mailing address in an area regularly utilized by residents.

7. Orientation

a. All staff hired effective August 1, 2016 or after, shall complete the DCFS "mandated reporter training" available at dcfs.la.gov within five working days of the staff's date of hire and prior to having sole responsibility for residents or children of residents. Documentation of completion shall be the certificate obtained upon completion of the training.

b. The provider's orientation program shall provide training in the following topics for all staff within one week of the staff's date of hire and prior to having sole responsibility for residents or children of residents:

i. philosophy, organization, program, and practices of the provider;

ii. specific responsibilities of assigned job duties with regard to residents and children of residents;

iii. administrative procedures and programmatic goals;

iv. emergency and safety procedures including medical emergencies;

v. resident rights;

vi. detecting and reporting suspected abuse and neglect;

vii. infection control to include blood borne pathogens;

viii. confidentiality;

ix. reporting and documenting incidents;

x. LGTBQ issues;

xi. implementation of service plans to include a behavior plan, when clinically indicated;

xii. staff and resident grievance procedure;

xiii. rights and responsibilities of residents who have children residing in the facility;

xiv. responsibility of staff with regard to children of residents residing in the facility;

xv. transportation regulations, including modeling of how to properly conduct a visual check of the vehicle and demonstration by staff to program director on how to conduct a visual check;

xvi. the proper use of child safety restraints required by these regulations and state law (See reference sheet for training resources);

xvii. recognizing mental health concerns;

xviii. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

xix. basic skills required to meet the dental and health needs and problems of the residents and children of residents;

xx. prohibited practices;

xxi. behavior management techniques, including acceptable and prohibited practices;

xxii. use of time-out, personal restraints, and seclusion that is to include a practice element in the chosen method performed by a certified trainer for direct care staff;

xxiii. safe self-administration and handling of all medications including psychotropic drugs, dosages, and side effects;

xxiv. working with people with disabilities, attending to the needs of such residents and children of residents in care, including interaction with family members with disabilities; and

xxv. use of specialized services identified in §7117 of this Subpart.

c. The provider shall maintain sufficient information to determine content of training noted in section 7111.A.7.b.i-xxv. This information shall be available for review.

d. Documentation of the orientation training shall consist of a statement/checklist in the staff record signed and dated by the staff person and program director or service plan manager, attesting to having received the applicable orientation training and the dates of the orientation training.

e. Effective August 1, 2016, staff in facilities licensed to care for children under age two years or facilities providing services for children of residents shall complete the "Reducing the Risk of SIDS in Early Education and Child Care" training available at www.pedialink.org. Documentation of completion shall be the certificate obtained upon completion of the training.

f. All direct care staff shall receive certification in adult cardiopulmonary resuscitation (CPR) and first aid within 45 days of employment. Effective August 1, 2016, if residents or children of residents under the age of 10 are accepted into the program, then staff shall also obtain a certificate in infant/child CPR. No staff member shall be left unsupervised with residents or children of residents until he/she has completed all required training. CPR and first aid shall be updated prior to the expiration of the certification as indicated by the American Red Cross, American Heart Association, or equivalent organization. Online only training is not acceptable.

8. Annual Training

a. The provider shall ensure that all staff receive training on an annual basis in the following topics:

i. administrative procedures and programmatic goals;

ii. emergency and safety procedures including medical emergencies;

iii. resident rights;

iv. detecting and reporting suspected abuse and neglect;

v. infection control to include blood borne pathogens;

vi. confidentiality;

vii. reporting and documenting incidents;

viii. specific responsibilities of assigned job duties with regard to residents and children of residents.

ix. implementation of service plans to include a behavior plan when clinically indicated;

x. staff and resident grievance procedure;

xi. prohibited practices;

xii. recognizing mental health concerns;

xiii. detecting signs of illness or dysfunction that warrant medical or nursing intervention;

xiv. basic skills required to meet the dental and health needs and problems of the residents and children of residents;

xv. behavior management techniques including acceptable and prohibited practices;

xvi. use of time-out, personal restraints, and seclusion which is to include a practice element in the chosen method performed by a certified trainer for direct care staff;

xvii. safe self-administration and handling of all medication including psychotropic drugs, dosages, and side effects;

xviii. rights and responsibilities of residents who have children residing in the facility;

xix. responsibility of staff with regard to children of residents residing in the facility;

xx. working with people with disabilities, attending to the needs of such residents and children of residents in care, including interaction with family members with disabilities;

xxi. use of specialized services identified in §7117 of this Subpart; and

xxii. LGBTQ issues.

xxiii. transportation regulations, including modeling of how to properly conduct a visual check of the vehicle and demonstration by staff to program director on how to conduct a visual check;

xiv. the proper use of child safety restraints required by these regulations and state law (see reference sheet for training resources);

b. Documentation of annual training shall consist of a statement/checklist in the staff record signed and dated by the staff person and program director, attesting to having received the applicable annual training and the dates of the training.

c. The provider shall maintain sufficient information available to determine content of training. This information shall be available for review.

d. All direct care staff shall have documentation of current certification in adult CPR and first aid. Effective August 1, 2016, if residents or children of residents under the age of 10 are accepted into the program, then staff shall also obtain a certificate in infant/child CPR. No staff member shall be left unsupervised with residents or children of residents until he/she has completed all required training.

e. Effective August 1, 2016, all staff currently employed shall complete the DCFS "mandated reporter training" available at dcfs.la.gov within 45 days and shall be updated annually. Documentation of completion shall be the certificate obtained upon completion of the training.

f. Staff in facilities licensed to care for children under age two years or facilities providing services for children of residents shall annually complete the "Reducing the Risk of SIDS in Early Education and Child Care" training available at www.pedialink.org. Documentation of completion shall be the certificate obtained upon completion of the training.

9. Staffing and Supervision Requirements

a. The provider shall ensure that an adequate number of qualified direct care staff are present with the residents and children of residents as necessary to ensure the health, safety and well-being of residents and children of residents. Staff coverage shall be maintained in consideration of the time of day, the size and nature of the provider, the ages and needs of the residents and children of residents, and shall assure the continual safety, protection, direct care, and supervision of residents and children of

residents. In addition to the required number of direct care staff, the provider shall employ a sufficient number of maintenance, housekeeping, administrative, support, and management staff to ensure that direct care staff can provide direct care services.

i. The provider shall have at least one adult staff present for every six residents when residents are present and awake. In addition, there shall be one additional staff person for every six children of residents present. There shall always be a minimum of two staff present when children of residents are on the premises.

ii. The provider shall have at least 1 adult staff present and awake for every 12 residents when residents are present and participating in rest time. Between 9:00 p.m. and 6:00 a.m., the ratio of 1 staff to every 12 residents is acceptable only if the residents are in their assigned bedrooms and participating in rest time. In addition, there shall be 1 additional staff person for every 6 children of residents present. There shall always be a minimum of 2 staff present when children of residents are on the premises, regardless of the number of children of residents present.

iii. In addition to required staff, at least one staff person shall be on call in case of emergency.

iv. Independent contractors (therapists, tutors, etc.) shall not be included in ratio while providing said individualized services to a specific resident(s) or child(ren) of resident(s).

v. Management or other administrative staff may be included in ratio only if they are exclusively engaged in providing supervision of the residents or direct supervision of the children of residents.

vi. Staff are allowed to sleep, during nighttime hours, only if the following are met:

(a). There is a functional security system monitored by an alarm company. Alarms shall be placed on all windows and exterior doors. The security system shall be enabled during nighttime hours and anytime that the staff/house parents are sleeping. Residents shall not be given the security system code.

(b). There shall be a functional monitoring system on all interior resident and children of resident bedroom doors.

vii. When residents or children of residents are away from the facility, staff shall be available and accessible to the residents and children of residents to handle emergencies or perform other necessary direct care functions.

viii. The provider utilizing live-in staff shall have sufficient relief staff to ensure adequate off duty time for live-in staff.

ix Six or more residents under two years of age shall have an additional direct care worker on duty when the residents are present to provide a staff ratio of one staff per every six residents under age two, in addition to staff noted in §7111.A.9.a.i.

x. The provider shall not contract with outside sources for any direct care staff, including one-on-one trainers or attendants.

xi. Staff shall be assigned to supervise residents and children of residents whose names and whereabouts that staff person shall know.

xii. When the resident is at the facility with her child, she is responsible for the care and supervision of her own child when not engaged in services or other activities. Staff shall be present and available as a resource and to lend support and guidance to the resident.

xiii. During nighttime hours, staff shall participate in the individual care of a resident and/or assisting a resident in the care of her child.

(a). In bedrooms where a child of a resident resides with their parent, an auditory device shall be required to enable staff to provide assistance to the resident in the care of her child. The monitor shall have an on/off feature which is controlled by the resident, or the devise shall be placed in the resident's room during nighttime hours and removed in the morning allowing the resident privacy.

xiv. Children of residents shall be directly supervised by staff on the playground, in vehicles, and while away from the facility; unless the child is accompanied by their own parent.

xv. Staff shall actively and directly supervise residents and/or children of residents engaged in water activities and shall be able to see all parts of the swimming pool, including the bottom.

10. Reasonable and Prudent Parent Standard

a. The provider shall designate in writing at least one on-site staff person as the authorized representative to apply the reasonable and prudent parent standard to decisions involving the participation of a child of a resident who is in foster care or a resident who is in foster care and placed in the facility in age or developmentally appropriate activities. The staff person(s) designated as the authorized representative shall be at the licensed location at all times during the facility's hours of operation. The Licensing Section shall be notified in writing within five calendar days if there is a change to one of the designated representatives.

b. The authorized representative shall utilize the reasonable and prudent parent standard when making any decision involving the participation of a child of a resident who is in foster care or a resident who is in foster care and placed in the facility in age or developmentally appropriate activities.

c. The authorized representative shall receive training or training materials shall be provided on the use of the reasonable and prudent parent standard within one week of hire and prior to having responsibility for residents or children of residents and updated annually. Documentation of the reasonable and prudent parent training shall be maintained. The reasonable and prudent parent training or training materials, as developed or approved by DCFS, shall include, but is not limited to the following topic areas:

i. age- or developmentally-appropriate activities or items;

ii. reasonable and prudent parent standard;

iii. role of the provider and of DCFS; and

iv. allowing for normalcy for the resident or child of a resident while respecting the parent's residual rights.

B. Record Keeping

1. Administrative File

a. The provider shall have an administrative file that shall contain, at a minimum, the following:

i. a written program plan describing the services and programs offered by the provider;

ii. organizational chart of the provider;

iii. all leases, contracts, and purchase-of-service agreements to which the provider is a party;

iv. insurance policies. Every provider shall maintain in force at all times current comprehensive general liability insurance policy, property insurance, and insurance for all vehicles used to transport residents or children of residents. This policy shall be in addition to any professional liability policies maintained by the provider and shall extend coverage to any staff member who provides transportation for any resident or child of a resident in the course and scope of his/her employment;

v. all written agreements with appropriately qualified professionals, or a state agency, for required professional services or resources not available from employees of the provider.

vi. written documentation of all residents' exits and entrances from facility property. Documentation must include, at a minimum, date, time, destination, name of person with whom resident leaves premises.

2. Staff File

a. The provider shall have a personnel file for each staff that shall contain, at a minimum, the following:

i. the application for employment, including education, training, and experience;

ii. a criminal background check in accordance with state law:

(a). prior to employment, a Louisiana State Police fingerprint based criminal background check shall be conducted in the manner required by R.S. 15:587.1 and 46:51.2. Effective August 1, 2016, criminal background checks (CBC) shall be dated no earlier than 30 days of the individual being present in the facility or having access to the residents or children of residents. If an individual has previously obtained a certified copy of their criminal background check from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police, such certified copy shall be acceptable as meeting the CBC requirements. This certified copy of the criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. This certified copy shall be kept on file at the facility. Prior to the one-year expiration of the certified criminal background check, a new fingerprint-based satisfactory criminal background check shall be obtained from Louisiana State Police. If the clearance is not obtained prior to the one-year expiration of the certified criminal background check, the staff is no longer allowed on the premises until a clearance is received.

(b). no person, having any supervisory or other interaction with residents or children of residents, shall be hired or on the premises of the facility until such person has submitted his or her fingerprints to the Louisiana Bureau of Criminal Identification and Information and it has been determined that such person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C).

(c). any employee who is convicted of or has pled nolo contendere to any crime listed in R.S. 15:587.1(C) shall not continue employment after such conviction or nolo contendere plea.

iii. evidence of applicable professional or paraprofessional credentials/certifications according to state law;

iv. written job description signed and dated by individual staff;

v. documentation of three signed and dated reference checks or telephone notes dated within three months prior to hire attesting affirmatively to the individual's character, qualifications, and suitability for the position assigned. References shall be obtained from individuals not related to the staff person;

vi. staff's hire and termination dates;

vii. documentation of current driver's license for operating provider or private vehicles in transporting residents or children of residents;

viii. annual performance evaluations addressing the quality of work to include staff person's interaction with residents and children of residents, family, and other providers. The evaluations are completed by the program director and signed and dated by program director and staff;

ix. personnel action, other appropriate materials, reports, and notes relating to the staff's employment with the facility;

x. state central registry disclosure forms (SCR 1) noting whether or not his/her name is currently recorded on the state central registry for a justified finding of abuse or neglect and he/she is the named perpetrator.

(a). Prior to employment, each prospective employee shall complete a state central registry disclosure form (SCR 1) as required in RS 46:1414.1. SCR-1 forms shall be dated no earlier than 30 days of the individual being present in the facility or having access to the residents or children of residents. This information shall be reported prior to the individual being on the premises of the facility and shall be updated annually, at any time upon the request of DCFS, and within three business days of any staff receiving notice of a justified (valid) determination of child abuse or neglect.

(i). The prospective paid staff (employee) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner of the facility.

(ii). If a prospective staff (employee) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for employment at that time due to the state central registry disclosure. The director will provide the prospective employee with the risk evaluation panel form (SCR 2) so that a risk assessment evaluation may be requested.

(iii). Individuals are not eligible for employment unless and until they provide written documentation from the Risk Evaluation Panel or the Division of Administrative Law expressly stating that they do not pose a risk to children/youth/residents.

(b). Current staff receiving notice of a justified (valid) determination of child abuse and/or neglect shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) determination as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section

management staff within three business days or upon being on the premises, whichever is sooner. Staff will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation on an SCR 2 form in accordance with LAC 67:I.305 or shall be terminated immediately.

(i). If the staff person will no longer be employed at the facility, the provider shall submit a signed, dated statement indicating that the staff will not be on the premises of the facility at any time.

(ii). Immediately upon the receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued employment the staff person shall be directly supervised by a paid staff (employee) of the facility who has not disclosed that their name appears with a justified (valid) finding on the state central registry. Provider shall submit a written statement to Licensing Section management staff acknowledging that the staff is under continuous direct supervision by a paid staff who has not disclosed that their name appears with a justified (valid) finding on the state central registry. When these conditions are met, the staff (employee) may be counted in ratio. Under no circumstances may the staff person with the justified finding be left alone and unsupervised with the residents or children of residents pending the disposition by the Risk Evaluation Panel or the Division of Administrative Law that the staff person does not pose a risk to children/youth/residents.

(iii). If the Risk Evaluation Panel finds the individual does pose a risk to children/youth/residents and the individual chooses not to appeal the finding, the staff (employee) shall be terminated immediately.

(iv). If the Risk Evaluation Panel finds the individual does pose a risk to children/youth/residents and the individual appeals the finding to the Division of Administrative Law within the required timeframe, the staff (employee) shall continue to be under direct supervision at all times by another paid employee of the facility who has not disclosed that they have a justified finding on the state central registry until a ruling is made by the Division of Administrative Law that they do not pose a risk to children/youth/residents. Supervision may end upon receipt of the ruling from the Division of Administrative Law that they do not pose a risk to children/youth/residents.

(v). If the Division of Administrative Law upholds the Risk Evaluation Panel finding that the individual does pose a risk to children/youth/residents, the individual shall be terminated immediately.

(c). Any owner, current or prospective employee, or volunteer of a facility requesting licensure by DCFS and/or a facility licensed by DCFS is prohibited from working in a facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law that the individual does not pose a risk to children/youth/residents.

b. Staff shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

3. Records

a. The provider shall ensure that all entries in records are legible, signed by the person making the entry, and accompanied by the date on which the entry was made.

b. All records shall be maintained in an accessible, standardized order and format, and shall be retained and disposed of according to state and federal law.

c. The provider shall have sufficient space, facilities, and supplies for providing effective record keeping services.

4. Resident Record

a. Active Record. The provider shall maintain a separate active record for each resident and child of a resident. The records shall be current and complete and shall be maintained in the facility in which the resident and child of a resident resides and readily available to facility staff. The provider shall have sufficient space, facilities, and supplies for providing effective storage of records. The records shall be available for inspection by the department.

b. Each resident's record shall contain at least the following information:

i. resident's name, date of birth, Social Security number, previous home address, sex, religion, and birthplace of the resident;

ii. dates of admission and discharge;

iii. other identification data including documentation of court status, legal status or legal custody and who is authorized to give consents;

iv. for residents placed from other states, proof of compliance with the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children, and the Interstate Compact on Mental Health, when indicated. Proof of compliance shall include clearance letters from the compact officers of each state involved;

v. name, address, and telephone number of the legal guardian(s), and parent(s), if appropriate;

vi. name, address, and telephone number of a physician and dentist to be called in an emergency;

vii. resident's authorization for routine and emergency medical care;

viii. the pre-admission screening and admission assessment. If the resident was admitted as an emergency admission, a copy of the emergency admission note shall be included as well;

ix. resident's history including family data, educational background, employment record, prior medical history, and prior placement history;

x. a copy of the physical assessment report;

xi. reports of assessments and of any special problems or precautions;

xii. individual service plan, updates, and quarterly reviews;

xiii. continuing record of any illness, injury, or medical or dental care when it impacts the resident's ability to function or impacts the services he or she needs;

xiv. reports of any incidents of abuse, neglect, or incidents, including use of timeout, personal restraints, or seclusion;

xv. photo of resident updated at least annually;

xvi. a summary of court visits;

xvii. a summary of all visitors and contacts including dates, name, relationship, telephone number,

address, the nature of such visits/contacts, and feedback, if indicated from the family;

xviii. a record of all personal property and funds, which the resident has entrusted to the facility;

xix. reports of any resident grievances and the conclusion or disposition of these reports;

xx. written acknowledgment that the resident has received clear verbal explanation and copies of his/her rights, the house rules, written procedures for safekeeping of his/her valuable personal possessions, written statement explaining his/her rights regarding personal funds, and the right to examine his/her record;

xxi. all signed informed consents;

xxii. immunization record within 30 calendar days of admission; and

xxiii. a discharge summary.

c. Each child of a resident's record shall contain at least the following information:

i. child's information form signed and dated by the legal guardian and updated as changes occur, listing:

(a). the child's name, date of birth, sex, date of admission;

(b). name of parent(s) and legal guardian;

(c). name and telephone number of child's physician;

(d). name and telephone number of the child's dentist (if applicable);

(e). any special concerns, including but not limited to allergies, chronic illness, and any special needs of the child (if applicable);

(f). any special dietary needs, restrictions, or food allergies/intolerances (if applicable);

(g). name and telephone number of child's caseworker (if applicable); and

(h). written authorization to care for child from legal guardian.

ii. For residents that retain custody of their children, a written authorization signed and dated by the resident to secure emergency medical treatment in the event the child of the resident is left in the care of staff.

iii. For residents that retain custody of their children, a written authorization signed and dated by the resident noting the first and last names of individuals to whom the child of the resident may be released, including child care facilities, transportation services, or any person or persons who remove the child of the resident from the facility.

(a). The provider shall verify the identity of the authorized person prior to releasing the child of a resident.

d. For residents that retain custody of their children, the provider shall obtain written, informed consent from the resident prior to releasing any information, recordings, or photographs from which the child might be identified, except for authorized state and federal agencies. This one time written consent shall be obtained from the resident and updated as changes occur.

e. Provider shall have a signed and dated shared responsibility plan between the resident and provider detailing how they will share the responsibilities of meeting the child of the resident's daily needs to include, but not limited to, who will care for the child at certain times and days of the week, who is responsible for supervising, feeding, changing, bathing, tending to the developmental needs of the child, and purchasing items for the child.

f. If the resident does not retain custody of her child, the provider shall have a written individual child care agreement for each child with the person or agency holding custody of the child.

g. If the resident retains custody of her child, the provider shall obtain written authorization signed and dated by the resident to transport her child on a regular basis. Authorization shall include (if staff transports without resident):

i. name of child;

ii. type of service (to and from home, and to and from school to include the name of the school); and

iii. names of individuals or school to whom the child may be released.

5. Staff Communication

a. The provider shall establish and follow procedures to assure adequate communication among staff to provide continuity of services to the residents and children of residents. This system of communication shall include recording and sharing of daily information noting unusual circumstances, individual and group problems of residents and children of residents, and other information requiring continued action by staff. Documentation shall be legible, signed, and dated by staff.

b. A daily log/record for all children of residents, to include first and last name and in/out times shall be maintained. This record shall accurately reflect all children of residents on the premises at any given time.

C. Confidentiality of Records

1. The provider shall have written policies and procedures for the maintenance, security and retention of records. The provider shall specify who shall supervise the maintenance of records, who shall have custody of records, to whom records may be released, and disposition or destruction of closed service record materials. Records shall be the property of the provider, and the provider, as custodian, shall secure records against loss, tampering, or unauthorized use or access.

2. The provider shall maintain the confidentiality of all records to include all court related documents, as well as, educational and medical records. Every employee of the provider has the obligation to maintain the privacy of the resident, child of a resident, and his/her family and shall not disclose or knowingly permit the disclosure of any information concerning the resident, child of a resident or his/her family, directly or indirectly, to other residents or children of residents in the facility or any other unauthorized person.

3. When the resident is of majority age and not interdicted, a provider shall obtain the resident's written, informed permission prior to releasing any information from which the resident or his/her family might be identified, except for authorized state and federal agencies.

4. When the resident is a minor or is interdicted, the provider shall obtain written, informed consent from the legal guardian(s) prior to releasing any information from which the resident might be identified, except for accreditation teams and authorized state and federal agencies.

5. When the resident retains custody of her child the provider shall obtain written, informed consent from the resident prior to releasing any information from which the resident might be identified, except for accreditation teams and authorized state and federal agencies.

6. When the resident does not retain custody of her child, the provider shall obtain written, informed consent from the legal guardian(s) prior to releasing any information from which the child might be identified, except for accreditation teams and authorized state and federal agencies.

7. The provider shall, upon written authorization from the resident or his/her legal guardian(s), make available information in the record to the resident, his/her counsel or the resident's legal guardian(s). If, in the professional judgment of the administration of the provider, it is felt that information contained in the record would be injurious to the health or welfare of the resident, the provider may deny access to the record. In any such case, the provider shall prepare written reasons for denial to the person requesting the record and shall maintain detailed written reasons supporting the denial in the resident's file.

8. The provider may use material from the residents' or children of a residents' records for teaching and research purposes, development of the governing body's understanding, and knowledge of the provider's services, or similar educational purposes, provided names are deleted, other identifying information disguised or deleted, and written authorization is obtained from the resident or his/her legal guardian(s).

D. Incidents

1. Critical Incidents. The provider shall have written policies and procedures for documenting, reporting, investigating, and analyzing all critical incidents.

a. The provider shall report any of the following critical incidents to the Louisiana Child Protection Statewide Centralized Intake Hotline 1-855-4LA-KIDS (1-855-452-5437), resident's or child of a resident's assigned caseworker, and the Licensing Section as noted in subpart D.1.b below:

i. abuse;

ii. neglect;

iii. injuries of unknown origin;

iv. death;

v. attempted suicide;

vi. serious threat or injury to the health, safety, or well-being of the resident or child of a resident, i.e., elopement or unexplained absence of a resident or child of a resident;

vii. injury with substantial bodily harm while in seclusion or during use of personal restraint; or

viii. unplanned hospitalizations, emergency room visits, and emergency urgent care visits.

b. The program director or designee shall:

i. immediately verbally notify the legal guardian of the incident;

ii. immediately verbally notify the appropriate law enforcement authority and Louisiana Child Protection Statewide Centralized Intake Hotline 1-855-4LA-KIDS in accordance with state law;

iii. submit a written critical incident report form within 24 hours of the incident to Louisiana Child Protection Statewide Centralized Intake Hotline and Licensing Section ;

iv. if requested, submit a final written report of the incident to the legal guardian as soon as possible, but no later than five working days of the incident;

v. conduct an analysis of the incident and take appropriate corrective steps to prevent future incidents from occurring;

vi. maintain copies of any written reports or notifications in the resident's or child of a resident's record;

vii. ensure that a staff person accompanies residents and children of residents when emergency services are needed.

2. Other Incidents. The provider shall have and adhere to written policies and procedures for documenting, reporting, investigating, and analyzing all other accidents, incidents, and other situations or circumstances affecting the health, safety, or well-being of a resident or child of a resident.

a. The provider shall initiate a detailed report of any other unplanned event or series of unplanned events, accidents, incidents, and other situations or circumstances affecting the health, safety, or well-being of a resident or child of a resident excluding those identified in Subparagraph D.1.a of this Section within 24 hours of the incident.

3. When a child of a resident residing in the facility with their parent, sustains any of the following, the resident shall be immediately notified:

a. blood not contained in an adhesive strip;

b. injury of the neck and head;

c. eye injury;

d. human bite which breaks the skin;

e. any animal bite;

f. an impaled object;

g. broken or dislodged teeth;

h. allergic reaction skin changes (e.g. rash, spots, swelling, etc.);

i. unusual breathing;

j. symptoms of dehydration;

k. any temperature reading over 101 oral, 102 rectal, or 100 axillary; or

l. any injury or illness requiring professional medical attention.

4. The provider shall not delay seeking care for a resident or child of a resident while attempting to make contact with the resident or legal guardian in a situation which requires emergency medical attention.

5. At a minimum, the incident report for critical and other incidents shall contain the following:

a. date and time the incident occurred;

b. a brief description of the incident;

c. where the incident occurred;

d. names of residents, children of residents, or staff involved in the incident;

e. immediate treatment provided, if any;

f. symptoms of pain and injury discussed with the physician;

g. date and signature of the staff completing the report;

h. name and address of witnesses;

i. date and time the legal guardian, child welfare, licensing, and law enforcement (if applicable) was notified;

j. any follow-up required;

k. preventive actions to be taken in the future; and

l. documentation of actions regarding staff involved to include corrective action.

6. A copy of all written reports shall be maintained in the resident's or child of a resident's record.

E. Abuse and Neglect

1. The provider shall establish and follow a written, abuse/neglect policy that includes the following information:

a. describes communication strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, mandated reporting requirements to the Louisiana child protection Statewide Centralized Intake Hotline and applicable laws;

b. ensures the resident and child of a resident are protected from potential harassment during the investigation;

c. ensures that the provider shall not delay reporting suspected abuse and/or neglect to the Louisiana Child Protection Statewide Centralized Intake Hotline in an attempt to conduct an internal investigation to verify the abuse/neglect allegations;

d. ensures that the provider shall not require any staff, including unpaid staff, to report suspected abuse/neglect to the provider or management prior to reporting to the Child Protection Statewide Hotline 1-855-4LA-KIDS (1-855-452-5437);

e. ensures the staff member involved in the incident does not work directly with the resident or child of a resident involved in the program until an internal investigation is conducted by the facility or the child protection unit staff makes an initial report;

f. ensures the staff member that may have been involved in the incident is not involved in conducting the investigation;

g. ensures that confidentiality of the incident is protected.

2. As mandated reporters, all staff and owners shall report any suspected abuse and/or neglect of a resident or child of a resident whether that abuse or neglect was perpetrated by a staff member, a family member, or any other person in accordance with R.S. 14:403 to the Louisiana Child Protection Statewide Centralized Intake Hotline 1-855-4LA-KIDS (1-855-452-5437). This information shall be posted in an area regularly used by residents.

3. After reporting suspected abuse and/or neglect as required by Louisiana law, provider shall notify licensing section. At a minimum the report shall contain:

a. name of suspected resident or child victim of alleged child abuse and/or neglect;

b. address and telephone number of where suspected victim may be contacted;

c. name(s) of alleged perpetrator(s);

d. alleged perpetrator(s)' address;

e. nature, extent, and cause of resident's or child of a resident's injury, neglect or condition;

f. current circumstance of resident or child of a resident and if resident or child of a resident is currently in danger;

g. identify names of possible witnesses;

h. identify how incident came to reporter's attention;

i. have other incidents of suspected abuse and/or neglect been reported regarding this resident, child of a resident, or alleged perpetrator;

j. any other pertinent information; and

k. name of person reporting to child protection and time of notification.

F. Grievance Process

1. The provider shall have and adhere to a written policy and procedure, which establishes the right of every resident and the resident's legal guardian(s) to file grievances without fear of retaliation.

2. The written grievance procedure shall include, but not be limited to:

a. a formal process for the resident and the resident's legal guardian(s) to file grievances that shall include procedures for filing verbal, written, or anonymous grievances; and

b. a formal process for the provider to communicate with the resident and/or legal guardian about the grievance within five calendar days of receipt of the grievance;

3. Each resident shall be fully informed of the grievance and complaint policy and procedure and be provided with a written copy. Each resident's record shall contain written acknowledgement signed and dated by program director or designee and resident of understanding and receipt of grievance and complete policies and procedures.

4. The provider shall maintain a log documenting all verbal, written, or anonymous grievances filed.

5. Documentation of any resident's or resident's legal guardian(s)' grievance and the conclusion or disposition of these grievances shall be maintained in the resident's record. This documentation shall include any action taken by the provider in response to the grievance and any follow up action involving the resident.

G. Data Collection and Quality Improvement

1. The provider shall have and adhere to a written policy and procedure for maintaining a quality improvement program to include:

a. systematic data collection and analysis of identified areas that require improvement;

b. objective measures of performance;

c. at least monthly review of resident's and children of resident's records;

d. quarterly review of incidents and the use of personal restraints and seclusion to include documentation of the date, time, and identification of residents and staff involved in each incident to include a critical analysis of the incidents to note patterns of behavior by specific residents or specific staff; and

e. implementation of plans of action to improve in identified areas.

2. Documentation related to the quality improvement program shall be maintained for at least two years.

H. Family Involvement. The provider shall have and adhere to written strategies to foster ongoing positive communication and contact between children of residents, residents, and their families, their friends, and others significant in their lives.

I. Influenza Notice to Parents

1. In accordance with R.S. 46:1428 providers shall make available to each resident's parent or legal guardian and to each resident aged eighteen or above information relative to the risks associated with influenza and the availability, effectiveness, known contraindications and possible side effects of the influenza immunization. This information shall include the causes and symptoms of influenza, the means by which influenza is spread, the places a parent or legal guardian may obtain additional information and where a resident or youth may be immunized against influenza. The information shall be updated annually if new information on the disease is available. The information shall be provided annually to each licensed facility by the Department of Children and Family Services and shall be made available to parents or legal guardians prior to November 1 of each year. This information shall also be provided to residents with children residing in the facility.

J. Recalled Products

1. The provider shall post the current copy of "The Safety Box" newsletter issued by the Office of the Attorney General as required by chapter 55 of title 46 of the R.S. 46:2701–2711. Items listed as recalled in the newsletter shall not be used and shall be immediately removed from the premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:811 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:979, 984 (April 2012), LR 42:221 (February 2016), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7113. Admission and Discharge

A. Admission

1. Policies and Procedures

a. The provider shall have and adhere to written policies and procedures that shall include, at a minimum, the following information regarding an admission to the facility:

i. the application process and the possible reasons for rejection of an application;

ii. pre-admission screening assessment;

iii. the age and sex of residents and children of residents to be served;

iv. the needs, problems, situations, or patterns best addressed by the provider's program;

v. criteria for admission;

vi. authorization for care of the resident and child of a resident;

vii. authorization to obtain medical care for the resident and child of a resident;

viii. criteria for discharge;

ix. procedures for insuring that placement within the program are the least restrictive alternative, appropriate to meet the resident's needs.

b. No resident shall be admitted from another state unless the provider has first complied with all applicable provisions of the Interstate Compact on Juveniles, the Interstate Compact on Placement of Children, and the Interstate Compact on Mental Health. Proof of compliance shall be obtained prior to admission and shall be kept in the resident's file.

c. When refusing admission to a resident or child of a resident, the provider shall notify the referring party of the reason for refusal of admission in writing. If his/her parent(s) or legal guardian(s) referred the resident, he/she shall be provided written reasons for the refusal. Copies of the written reasons for refusal of admission shall be kept in the provider's administrative file.

2. Pre-Admission Screening

a. The provider shall receive an assessment of the applicant from the placing agency prior to admission that identifies services that are necessary to meet the resident's needs and verifies that the resident cannot be maintained in a less restrictive environment within the community. This assessment shall be maintained in the resident's record. The provider shall conduct the pre-admission screening within 24 hours of admission to assess the applicant's needs and appropriateness for admission and shall include the following:

i. current health status and any emergency medical needs, mental health, and/or substance abuse issues;

ii. allergies;

iii. chronic illnesses or physical disabilities;

iv. current medications and possible side effects;

v. any medical illnesses or condition that would prohibit or limit the resident's activity or behavior plan;

vi. proof of legal custody or individual placing agency agreement;

vii. other therapies or ongoing treatments;

viii. family information; and

ix. education information.

b. Information gathered from the preadmission screening shall be confirmed with resident and legal guardian (if applicable).

3. Admission Assessment

a. An admission assessment shall be completed or obtained within three business days of admission to determine the service needs and preferences of the resident. This admission assessment shall be maintained in the resident's record. Information gathered from the pre-admission screening and the admission assessment shall be used to develop the interim service plan for the resident.

B. Service Plan

1. Within 15 days of admission, the provider, with input from the resident, his/her parents, if appropriate and legal guardian shall develop an interim service plan using information gathered from the pre-admission screening and the admission assessment. This interim service plan shall include:

a. the services required to meet the resident's needs;

b. the scope, frequency, and duration of services;

c. monitoring that will be provided; and

d. who is responsible for providing the services, including contract or arranged services.

2. Within 30 days of admission, the provider shall have documentation that a resident has an individual service plan developed that is comprehensive, time-limited, goal-oriented, and addresses the needs of the resident. The service plan shall include the following components:

a. a statement of goals to be achieved for the resident and his/her family;

b. plan for fostering positive family relationships for the resident, when appropriate;

c. schedule of the daily activities including training/education for residents and recreation to be pursued by the program staff and the resident in attempting to achieve the stated goals;

d. any specific behavior management plan:

i. the provider shall obtain or develop, with the participation of the resident and his/her legal guardian or family, an individualized behavior management plan for each resident receiving service. Information gathered from the pre-admission screening and the admission assessment will be used to develop the plan. The plan shall include, at a minimum, the following:

(a). identification of the resident's triggers;

(b). the resident's preferred coping mechanisms;

(c). techniques for self-management;

(d). anger and anxiety management options for calming;

(e). a review of previously successful intervention strategies;

(f). a summary of unsuccessful behavior management strategies;

(g). identification of the resident's specific targeted behaviors;

(h). behavior intervention strategies to be used;

(i). the restrictive interventions to be used, if any;

(j). physical interventions to be used, if any; and

(k). specific goals and objectives that address target behaviors requiring physical intervention;

e. any specialized services provided directly or arranged for will be stated in specific behavioral terms that permit the problems to be assessed and methods for insuring their proper integration with the resident's ongoing program activities;

f. any specific independent living skills needed by the resident which will be provided or obtained on behalf of the resident by the facility staff;

g. overall goals and specific objectives that are time limited;

h. methods for evaluating the resident's progress;

i. use of community resources or programs providing service or training to that resident, and shall involve representatives of such services and programs in the service planning process whenever feasible and appropriate. Any community resource or program involved in a service plan shall be appropriately licensed or shall be a part of a reputable program;

j. any restriction to residents' "rights" deemed necessary to the resident's individual service plan. Any such restriction shall be expressly stated in the service plan, shall specifically identify the right infringed upon, and the extent and duration of the infringement, and shall specify the reasons such restriction is necessary to the service plan, and the reasons less restrictive methods cannot be employed;

k. goals and preliminary plans for discharge;

l. identification of each person responsible for implementing or coordinating implementation of the plan;

m. mental health screening; and

n. developmental and psychological assessments.

3. The service plan shall be developed by a team including, but not limited to, the following:

a. service plan manager;

b. representatives of the direct care staff working with the resident on a daily basis;

c. the resident;

d. the resident's parent(s), if indicated;

e. the resident's legal guardian(s); and

f. any other person(s) significantly involved in the resident's care on an ongoing basis.

4. All team participants shall sign and date the completed service plan.

5. The service plan shall be monitored by the team on an ongoing basis to determine its continued appropriateness and to identify when a resident's condition or preferences have changed. A team meeting shall be held at least quarterly. The quarterly review shall be signed and dated by all team participants.

6. The provider shall ensure that all persons working directly with the resident are appropriately informed of the service plan and have access to information from the resident's records that is necessary for effective performance of the employee's assigned tasks.

7. The provider shall document that the resident, parent(s), where applicable, and the legal guardian have been invited to participate in the planning and quarterly review process. When they do not participate, the provider shall document the reasons for nonparticipation.

8. All service plans including quarterly reviews shall be maintained in the resident's record.

C. Discharge

1. The provider shall have a written policy and procedure for all discharges. The discharge procedure shall include at least the following:

a. projected date of discharge;

b. responsibilities of each party (provider, resident, family) with regard to the discharge and transition process;

c. transfer of any pertinent information regarding the resident's stay at the facility; and

d. follow-up services, if any and the responsible party.

2. Emergency discharges initiated by the provider shall take place only when the health and safety of a resident or staff might be endangered by the resident's further stay at the facility. The provider shall have a written report detailing the circumstances leading to each unplanned discharge within seven calendar days of the discharge. The discharge summary is to be kept in the resident's record and shall include:

a. the name and home address of the resident, the resident's parent(s), where appropriate, and the legal guardian(s);

b. the name, address, and telephone number of the provider;

c. the reason for discharge and, if due to resident's unsuitability for provider's program, actions taken to maintain placement;

d. a summary of services provided during care including medical, dental, and health services;

e. a summary of the resident's progress and accomplishments during care; and

f. the assessed needs that remain to be met and alternate service possibilities that might meet those needs.

3. When a discharge is planned, the provider shall compile or obtain a complete written discharge summary

within seven days of discharge. The discharge summary is to be kept in the resident's record and shall include:

a. the name and home address of the resident, the resident's parent(s), where appropriate, and the legal guardian(s);

b. the name, address, and telephone number of the provider;

c. the reason for discharge and, if due to resident's unsuitability for provider's program, actions taken to maintain placement;

d. a summary of services provided during care including medical, dental, and health services;

e. a summary of the resident's progress and accomplishments during care; and

f. the assessed needs that remain to be met and alternate service possibilities that might meet those needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:818 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:984 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7115. Resident Protection

A. Rights

1. Provider Responsibility

a. The provider shall have written policies and procedures that ensure each resident's and child of a resident's rights are guaranteed and protected.

b. None of the resident's rights shall be infringed upon or restricted in any way unless such restriction is necessary and indicated in the resident's individual service plan. When individual rights restrictions are implemented, the provider shall clearly explain and document any restrictions or limitations on those rights, the reasons that make those restrictions necessary in the resident's individual service plan and the extent and duration of those restrictions. The documentation shall be signed by provider staff, the resident, and the legal guardian(s) or parent(s), if indicated. No service plan shall restrict the access of a resident to legal counsel or restrict the access of state or local regulatory officials to a resident.

c. Residents and children of residents with disabilities have the rights guaranteed to them under the Americans with Disabilities Act (ADA), 42 USC §12101 et seq., and regulations promulgated pursuant to the ADA, 28 CFR Parts 35 and 36 and 49 CFR Part 37; section 504 of the Rehabilitation Act of 1973, as amended, 29 USC §794, and regulations promulgated pursuant thereto, including 45 CFR Part 84. These include the right to receive services in the most integrated setting appropriate to the needs of the individual; to obtain reasonable modifications of practices, policies, and procedures where necessary (unless such modifications constitute a fundamental alteration of the provider's program or pose undue administrative burdens); to receive auxiliary aids and services to enable equally effective communication; to equivalent transportation services; and to physical access to a provider's facilities.

2. Privacy

a. Residents and children of residents have the right to personal privacy and confidentiality. Any records and other information about the resident or child of a resident shall be kept confidential and released only with the legal guardian's expressed written consent or as required by law.

b. A child of a resident shall not be photographed or recorded without the express written consent of the resident or the child's legal guardian(s). A resident shall not be photographed or recorded without the express written consent of the resident and the resident's legal guardian(s). All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the child of the resident and resident.

c. Residents nor children of residents shall participate in research projects without the express written consent of the resident, child of the resident, and the legal guardian(s).

d. Residents nor children of residents shall participate in activities related to fundraising and publicity without the express written consent of the resident, child of the resident, and the legal guardian(s).

3. Contact with Family and Collaterals

a. A child of a resident and resident have the right to consult freely and have visits with his/her family (including but not limited to his or her mother, father, grandparents, brothers, and sisters), legal guardian(s) and friends subject only to reasonable rules. Special restrictions shall be imposed only to prevent serious harm to the child of a resident or resident. The reasons for any special restrictions shall be recorded in the child of the resident's record or resident's service plan, as applicable and explained to the child of the resident, resident, and his or her family. The service plan manager shall review the special restrictions every 30 days and, if restrictions are renewed, the reasons for renewal shall be recorded in the child of the resident's record or resident's service plan, as applicable. Home visits shall be approved by the legal guardian.

b. A child of a resident and resident have the right to telephone communication. The provider shall allow children of residents and residents to receive and place telephone calls in privacy subject only to reasonable rules and to any specific restrictions in the child of the resident's record or resident's service plan, as applicable. The service plan manager shall formally approve any restriction on telephone communication in a child of the resident's record or resident's service plan, as applicable. The service plan manager shall review the special restrictions every 30 days and, if restrictions are renewed, the reasons for renewal shall be recorded in the child of the resident's record or resident's service plan, as applicable. The cost for long distance calls shall not exceed the usual and customary charges of the local phone company provider. There shall be no restrictions on communication between a child of a resident and their legal counsel.

c. A child of a resident and resident have the right to send and receive mail. The provider shall allow children of residents and residents to receive mail unopened, uncensored, and unread by staff unless contraindicated in the child of a resident's record or resident's service plan, as applicable. The service plan manager shall review this restriction every 30 days. No service plan or record shall restrict the right to write letters in privacy and to send mail unopened, uncensored, and unread by any other person. Correspondence from a child of a resident's or resident's legal counsel shall not be opened, read, or otherwise

interfered with for any reason. Children of residents and residents shall have access to all materials necessary for writing and sending letters and when necessary, shall receive assistance.

d. Children of residents and residents have the right to consult freely and privately with legal counsel, as well as, the right to employ legal counsel of their choosing.

e. Children of residents and residents have the right to communicate freely and privately with state and local regulatory officials.

4. Safeguards

a. Residents and children of residents have the right to file grievances without fear of reprisal as provided in the grievances section of these standards.

b. Residents and children of residents have the right to be free from mental, emotional, and physical abuse and neglect and be free from chemical or mechanical restraints. Any use of personal restraints shall be reported to the legal guardians(s).

c. Residents and children of residents have the right to live within the least restrictive environment possible in order to retain their individuality and personal freedom.

5. Civil Rights

a. Residents' nor children of residents' civil rights shall be abridged or abrogated solely as a result of placement in the provider's program.

b. A resident nor child of a resident shall be denied admission, segregated into programs, or otherwise subjected to discrimination on the basis of race, color, religion, national origin, sexual orientation, physical limitations, political beliefs, or any other non-merit factor. Facilities must comply with the requirements of the Americans with Disabilities Act, 42 USC §12101 et seq. (ADA).

6. Participation in Program Development

a. Residents and children of residents have the right to be treated with dignity in the delivery of services.

b. Residents and children of residents have the right to receive preventive, routine, and emergency health care according to individual needs which will promote his or her growth and development.

c. Residents and children of residents have the right to be involved, as appropriate to age, development, and ability in assessment and service planning.

d. Residents and children of residents have the right to consult with clergy and participate in religious services in accordance with his/her faith, but shall not be forced to attend religious services or punished for not participating in religious services. The provider shall have and adhere to a written policy of its religious orientation, particular religious practices that are observed, and any religious restrictions on admission. This description shall be provided to the resident, child of a resident, and the legal guardian(s). When appropriate, the provider shall determine the wishes of the legal guardian(s) with regard to religious observance and make every effort to ensure that these wishes are carried out. The provider shall, whenever possible, arrange transportation and encourage participation by those residents or children of residents who desire to participate in religious activities in the community.

7. Acknowledgement of Resident

a. Each resident shall be fully informed of all rights noted in Paragraphs A.1-6 of this Section and of all rules and regulations governing residents' conduct and responsibilities, as evidenced by written acknowledgment, at the time of admission of the receipt of a copy of resident's rights, and when changes occur. Each resident's record shall contain a copy of the written acknowledgment, which shall be signed and dated by the program director, or designee, and the resident.

b. Each resident shall be informed of how and where to safely evacuate the facility during an emergency situation. The acknowledgement of understanding shall be signed and dated by the resident and program director, or designee.

B. Prohibited Practices

1. The provider shall have a written list of prohibited practices by staff members. Staff members shall not be allowed to engage in any of the prohibited practices. Staff shall not promote or condone these prohibited practices between residents or children of residents. This list shall include the following:

a. use of a chemical or mechanical restraint;

b. corporal punishment such as slapping, spanking, paddling or belting;

c. marching, standing, or kneeling rigidly in one spot;

d. any kind of physical discomfort except as required for medical, dental or first aid procedures necessary to preserve the resident's or child of a resident's life or health;

e. denial or deprivation of sleep or nutrition except under a physician's order;

f. denial of access to bathroom facilities;

g. verbal abuse, ridicule, or humiliation, shaming or sarcasm;

h. withholding of a meal, except under a physician's order;

i. requiring a resident or child of a resident to remain silent for a long period of time;

j. denial of shelter, warmth, clothing, or bedding;

k. assignment of harsh physical work;

l. punishing a group of residents or children of residents for actions committed by one or a selected few; a group activity shall not be cancelled for the entire group, prior to the activity, due to the behavior of one or more individuals;

m. withholding family visits or communication with family;

n. extensive withholding of emotional response;

o. denial of school services or denial of therapeutic services;

p. other impingements on the basic rights of children of residents or residents for care, protection, safety, and security;

q. organized social ostracism, such as codes of silence;

r. pain compliance, slight discomfort, trigger points, pressure points, or any pain inducing techniques;

s. hyperextension of any body part beyond normal limits;

t. joint or skin torsion;

u. pressure or weight on head, neck, throat, chest, lungs, sternum, diaphragm, back, or abdomen, causing chest compression;

v. straddling or sitting on any part of the body;

w. any position or maneuver that obstructs or restricts circulation of blood or obstructs an airway;

x. any type of choking;

y. any type of head hold where the head is used as a lever to control movement of other body parts;

z. any maneuver that involves punching, hitting, poking, pinching, or shoving;

aa. separation of a resident and her child as a means of punishment;

bb. punishment for actions over which the child has no control such as bedwetting, enuresis, encopresis, or incidents that occur in the course of toilet training activities;

cc. use of threats or threatening an individual with a prohibited action even though there is/was no intent to follow through with the threat;

dd. cruel, severe, unusual, degrading, or unnecessary punishment;

ee. yelling, yanking, shaking;

ff. requiring a child of a resident or resident to exercise as punishment or placing a child of a resident or resident into uncomfortable positions;

gg. exposing a child of a resident or resident to extreme temperatures or other measures producing physical pain;

hh. putting anything in a resident's or child of a resident's mouth as a means of punishment;

ii. using abusive or profane language, including but not limited to telling a child of a resident to "shut up"; or

jj. any technique that involves covering of the mouth, nose, eyes or any part of the face.

2. The resident and child of a resident, where appropriate, and the resident's legal guardian(s) shall receive a list of the prohibited practices. There shall be documentation signed and dated acknowledging receipt of the list of prohibited practices by the resident and, where appropriate, the child of the resident and resident's legal guardian(s) in the record.

3. A list of prohibited practices shall be posted in the facility in an area regularly utilized by residents.

C. Behavior Support and Intervention Program

1. The provider shall have and adhere to a behavior support and intervention program that:

a. describes the provider's behavior support philosophy;

b. safeguards the rights of residents, children of residents, families, and staff;

c. governs allowed and prohibited practices; and

d. designates oversight responsibilities.

2. The provider shall have and adhere to written policies and procedures that include, but are not limited to:

a. a behavior support and intervention model consistent with the provider's mission;

b. proactive and preventive practices;

c. development of behavior support plans for residents and children of residents;

d. prohibited behavior intervention practices;

e. restrictive practices, if any, that are allowed and circumstances when they can be used;

f. physical interventions to be used, if any;

g. informed consent of legal guardians for use of behavior support and interventions; and

h. oversight process.

3. An informed consent shall be obtained from the legal guardian for the use of any restrictive intervention.

4. There shall be a system in place that monitors the effectiveness of behavior support and interventions implemented.

5. All persons implementing physical interventions shall be trained and certified in behavior management under nationally accredited standards.

6. Participation by the resident, family, and the resident's legal guardian(s) in the development and review of the behavior support plan shall be documented in the resident's record.

7. There shall be documentation of written consent to the behavior support plan by the resident and the resident's legal guardian(s) in the resident's record.

D. Time-Out

1. The provider shall have and adhere to a written policy and procedure that governs the use of time-out to include the following:

a. any room used for time out shall be unlocked and the resident or child of a resident shall, at all times, be free to leave if he or she chooses;

b. time-out procedures shall be used only when less restrictive measures have been used without effect. There shall be written documentation of less restrictive measures used in the resident's or child of a resident's record;

c. emergency use of time-out for residents shall be approved by the service plan manager or program director for a period not to exceed one hour for residents age 6 and above;

d. time-out used in an individual behavior support plan for residents shall be part of the overall service plan;

e. the plan shall state the reasons for using time-out and the terms and conditions under which time-out will be terminated or extended, specifying a maximum duration of the use of the procedure that shall under no circumstances exceed two hours for residents;

f. staff shall make periodic checks but at least every 15 minutes while the resident is in time-out;

g. the resident shall be allowed to return to the daily activities at any time he/she has regained control of his/her behavior and is ready to participate in the group activities;

h. a resident or child of a resident in time-out shall not be denied access to bathroom facilities, water, or meals;

i. after each use of time out, the staff shall document the incident and place in the resident's record;

j. an administrative review of the incident by the program director or other facility management staff shall be conducted within three calendar days to include an analysis of specific precipitating factors and strategies to prevent future occurrences;

k. time-out shall not be used for children of residents or residents under two years of age;

l. the length of time out for children 2 years – 5 years of age shall be based on the age of the child and shall not exceed a maximum of one minute per year of age. Provider shall take into account the child's developmental stage, tolerances, and ability to learn from time-out.

E. Personal Restraints

1. The provider shall and adhere to have a written policy and procedure that governs the use of personal restraints.

2. Use of personal restraints shall never be used as a form of punishment, a form of discipline, in lieu of adequate staffing, as a replacement of active treatment, or for staff convenience.

3. Written documentation of any less restrictive measures attempted shall be documented in the resident's record.

4. A personal restraint shall be used only in an emergency when a resident's behavior escalates to a level where there is imminent risk of harm to the resident or others and other de-escalation techniques have been attempted without effect. The emergency use of personal restraints shall not exceed the following:

a. 30 minutes for a resident under nine years old; or

b. one hour for a resident nine years old or older.

5. The specific maximum duration of the use of personal restraints as noted in Paragraph E.4 of this Section may be exceeded only if prior to the end of the time period, a written continuation order noting clinical justification is obtained from a licensed psychiatrist, psychologist, or physician. The maximum time for use of personal restraints shall be 12 hours.

6. During any personal restraint, staff qualified in emergency behavior intervention must monitor the resident's breathing and other signs of physical distress and take appropriate action to ensure adequate respiration, circulation, and overall well-being. If available, staff that is not restraining the resident should monitor the resident. The resident must be released immediately when an emergency health situation occurs during the restraint. Staff must obtain treatment immediately.

7. The resident must be released as soon as the resident's behavior is no longer a danger to himself or others.

8. Restraints are only to be used by employees trained by a certified trainer under a program that aligns with the nationally accredited standards. A single person restraint can only be initiated in a life-threatening crisis. Restraint by a peer is prohibited. Staff performing a personal restraint on a resident with specific medical conditions must be trained on risks posed by such conditions.

9. As soon as possible after the use of a personal restraint, the provider shall provide and document debriefing. Separate debriefing meetings must be held with senior staff and the staff members(s) involved, the resident involved, witnesses to the event, and family members, if indicated.

10. After use of a personal restraint, the staff shall document the incident and place in the resident's record.

11. An administrative review of the incident by the program director or other facility management staff shall be conducted within three calendar days to include an analysis of specific precipitating factors and strategies to prevent future occurrences.

12. All incidents of personal restraint use shall be trended in the quality improvement program. A summary report on the use of personal restraints will be prepared and submitted to the Licensing Section on a quarterly basis.

13. In the event a death occurs during the use of a personal restraint, the facility shall conduct a review of its personal restraint policies and practices and retrain all staff in the proper techniques and in methods of de-escalation and avoidance of personal restraint use within five calendar days. Documentation to include staff signatures and date of training shall be submitted to the Licensing Section upon completion of training.

F. Seclusion

1. The provider shall have and adhere to a written policy and procedure that governs the use of seclusion, if such a room exists in the facility. Seclusion may only be used in accordance with this Subsection.

2. Use of seclusion shall never be used as a form of punishment, a form of discipline, in lieu of adequate staffing, as a replacement of active treatment or for staff convenience.

3. A resident will be placed in a seclusion room only in an emergency, when there is imminent risk of harm to the resident or others and when less restrictive measures have been used without effect. Written documentation of the less restrictive measures attempted shall be documented in the resident’s record. The emergency use of seclusion shall not exceed the following:

a. one hour for a resident under nine years old; or

b. two hours for a resident nine years old or older.

4. The specific maximum duration of the use of seclusion as noted in Paragraph F.3 of this Section may be exceeded only if prior to the end of the time period, a written continuation order noting clinical justification is obtained from a licensed psychiatrist, psychologist, or physician. The maximum time for use of seclusion shall be 12 hours.

5. A staff member shall exercise direct physical observation of the resident at all times while in seclusion. During the seclusion, the staff must monitor the resident's physical well-being for physical distress and take appropriate action, when indicated. The resident must be released immediately when an emergency health situation occurs during the seclusion and staff must obtain treatment immediately. The staff member must assess the resident's psychological well-being to ensure that the intervention is being completed in a safe and appropriate manner and that the facility's policies and procedures are being upheld.

6. Seclusion used as part of an individual behavior support plan shall state the reasons for using seclusion and the terms and conditions under which seclusion shall be terminated or extended.

7. A resident in seclusion shall not be denied access to bathroom facilities, water or meals.

8. As soon as possible, but no later than 72 hours after the use of seclusion, the provider shall provide and document debriefing. Separate debriefing meetings must be held with senior staff and the staff member(s) involved, the resident involved, witnesses to the event, and family members, if indicated.

9. After use of seclusion, the staff shall document the incident and place in the resident's record.

10. An administrative review of the incident by the program director or other facility management staff shall be conducted within three calendar days to include an analysis of specific precipitating factors and strategies to prevent future occurrences.

11. All incidents of seclusion shall be trended in the quality improvement program. A summary report on the use of seclusion will be prepared and submitted to the Licensing Section on a quarterly basis.

12. The resident's legal guardian, the Louisiana Child Protection Statewide Hotline 1-855-4LA-KIDS (1-855-452-5437), and the Licensing Section shall be notified if injury or death occurs while the resident is in seclusion.

13. In the event a death occurs during the use of seclusion, the facility shall conduct a review of its seclusion policies and practices and retrain all staff in the proper use of seclusion and in methods of de-escalation and avoidance of seclusion within five calendar days. Documentation to include staff signatures and date of training shall be submitted to the Licensing Section upon completion of training.

14. Seclusion Room

a. The resident shall be unable to voluntarily leave the room.

b. The room shall be large enough to allow easy access for staff to enter and exit and deep enough to ensure that the person being secluded cannot keep the door from closing by blocking it with the body or an object.

c. The ceiling of the seclusion room shall be unreachable and of solid construction.

d. If there are windows in the seclusion room, they should be locked with security locks and not allowed to open to the outside. Safety glass or plastic that cannot be broken shall be used for the panes. The view from the door observation window must not be obstructed.

e. The inside walls of the seclusion room shall be constructed of safe material with give that can be easily cleaned. Nothing shall protrude or extend from the wall.

f. The door of the room shall swing outward to prevent a person from blocking the door from opening and thus barricading himself in the room.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:819 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7117. Provider Services

A. Education

1. The provider shall have and adhere to written policies and procedures to ensure that each resident and child of a resident has access to the most appropriate educational services consistent with the resident's and child of a resident's abilities and needs, taking into account his/her age and level of functioning.

2. The provider shall ensure that educational records from the resident's or child of a resident's previous school are transferred to the new educational placement timely.

3. A resident's service plan shall identify if the resident has any disabilities. Residents and children of residents with disabilities shall be identified to the local education agency. If the resident or child of a resident is eligible for Individual with Disabilities Education Act (IDEA) services, the provider shall work with the legal guardian to ensure that he or she has a current educational evaluation, an appropriate Individualized Educational Plan (IEP), and surrogate parent to assist him or her in enforcing rights under the IDEA. If the resident or child of a resident is eligible for section 504 accommodations in the Rehabilitation Act of 1973, as amended, the provider shall work with the legal guardian.

4. If a resident or child of a resident is suspected of having a disability that would qualify him or her for special education services, the provider shall work with the legal guardian to ensure that a request for a special education evaluation is made and that the local education agency responds appropriately.

5. The provider shall work with the legal guardian and, where applicable, surrogate parent, to identify any deficiencies or problems with a resident's or child of a resident's IEP or individualized accommodations plan (IAP), and to ensure that the resident's or child of a resident's IEP or IAP is being implemented by the local education agency.

6. Whether educational services are provided on or off-site, all residents and children of residents of school age shall be enrolled in and attending the least restrictive available option of either a school program approved by the Department of Education or an alternative educational program approved by the local school board within three school days of admission to the facility. Children of residents residing in the facility shall attend school off site.

7. The provider shall ensure residents have access to vocational training, GED programs, and other alternative educational programming, if appropriate.

8. Whether educational services are provided on or off-site, the provider shall coordinate residents' participation in school-related extracurricular activities, including any related fees or costs for necessary equipment.

9. The provider shall coordinate children of residents' participation in school-related extracurricular activities, including any related fees or costs for necessary equipment.

10. Whether educational services are provided on or off-site, the provider shall notify the resident's legal guardian(s) and, where applicable, the resident's surrogate parent, verbally and in writing within 24 hours of any truancy, expulsion, suspension, or informal removal from school. Notification shall be documented in the resident's or child of a resident's record.

11. The provider shall notify the resident or child of a resident's legal guardian(s) verbally and in writing within 24 hours of any truancy, expulsion, suspension, or informal removal of their child from school. Notification shall be documented in the child of the resident's record.

12. All residents and children of residents shall receive a free and appropriate education. If transportation is not provided by the local educational authority, the provider shall transport the resident or child of a resident to school or other educational program in order for the resident to fulfill the requirements of their educational program.

13. When children of residents are picked up or dropped off at the facility by a public or private school bus or transportation service, staff shall be present to safely escort children of residents to and from the bus.

14. If educational services are provided on-site, the following also apply:

a. The provider shall provide accommodations for educational services to be provided by the local school district in accordance with local school board calendar. The

school classes shall be held in classrooms/multi-purpose rooms. The provider shall ensure that the educational space is adequate to meet the instructional requirements of each resident.

b. Prior to the end of the first official school day following admission, the resident shall receive a brief educational history screening with respect to their school status, special education status, grade level, grades, and history of suspensions or expulsions. Staff shall use this information to determine initial placement in the facility's educational program.

c. Within three school days of the resident's arrival at the facility, the provider shall request educational records from the resident's previous school. If records are not received within 10 school days of the request, the program director shall report in writing on the eleventh day to the local school district from which records were requested that the information has been requested and not received. If the records are not received within the following seven school days of notifying the local school district, the program director shall file a written complaint with the Board of Elementary and Secondary Education (BESE) on the eighth day.

d. Residents in restricted, disciplinary, or high security units shall receive an education program comparable to residents in other units in the facility consistent with safety needs.

e. When residents are suspended from the facility school, the suspension shall comply with local jurisdiction due process requirements.

f. Behavior intervention plans shall be developed for a resident whose behavior or emotional stability interferes with their school attendance and progress.

g. The provider shall have available reading materials geared to the reading levels, interests, and primary languages of residents.

h. The provider shall ensure that residents are engaged in instruction for the minimum minutes in a school day required by law.

i. The program director shall immediately report in writing to the local school district if the facility school is not being staffed adequately to meet state student to teacher ratios for education, including but not limited to, special education staff and substitute teaching staff. If the issue is not resolved within five school days by the local school district, then the program director shall file a written complaint on the sixth day with BESE and cooperate with any subsequent directives received from BESE.

B. Daily Living Responsibilities

1. Routines

a. The provider shall have and adhere to a written schedule of daily routines for residents designed to provide for reasonable consistency and timeliness in daily activities, in the delivery of essential services to residents, and in the provision of adequate periods of recreation, privacy, rest, and sleep.

b. Written schedules of daily routines shall be posted and available to the residents.

c. Daily routines shall be determined in relation to the needs and convenience of the residents who live together.

d. Whenever appropriate, the residents shall participate in making decisions about schedules and routines.

e. The program for daily routines shall be reviewed periodically and revised as the needs of the residents or living group change.

f. The Provider shall develop and adhere to written policies regarding a daily schedule for children of residents that includes planned/unplanned activities, allowing for flexibility and change. Activities shall accommodate and have due regard for individual needs and differences among children. Children of residents' routines shall include time daily for indoor and outdoor play (weather permitting) that incorporate free play, gross/fine motor activities and vigorous and quiet activities. Time should also be designated for activities that support children's development of social, emotional, physical, language/literacy, cognitive/intellectual and cultural skills, as well as for routine occurrences such as meals/snacks, rest time, etc.

2. Personal Possessions

a. The provider shall allow residents and children of residents to bring their personal possessions and display them, when appropriate.

b. Residents and children of residents shall be allowed to acquire possessions of their own. The provider may, as necessary, limit or supervise the use of these items. Where restrictions are imposed, the resident or child of a resident shall be informed by staff of the reason of the restriction. The decision and reason shall be recorded in the individual's record.

c. Each resident and child of a resident shall have a secure place to store his/her personal property.

d. Possessions confiscated by staff will be documented to include:

i. signature of the staff and resident or child of a resident;

ii. date and time of confiscation; and

iii. date and time when returned to resident or child of a resident and signature of resident or child of resident.

iv. description of items confiscated and reason confiscated.

e. The provider shall be responsible for all confiscated items, including replacement if the item is damaged, lost, or stolen while in the provider's possession.

f. A log of any valuable personal possessions to include any assistive devices, i.e., hearing aide, glasses, etc., shall be maintained by the provider.

3. Clothing and Personal Appearance

a. The provider shall ensure that residents and children of residents are provided with clean, well-fitting clothing appropriate to the season and to the individual's age, sex, and individual needs. Whenever possible, the resident or child of a resident should be involved in selecting their clothing.

b. The provider shall have and adhere to a written policy concerning any limitations regarding personal appearance. Any limitations should be related to maintaining the safety and well-being of the residents or children of residents receiving services.

c. Clothing and shoes shall be of proper size and adequate in amount to permit laundering, cleaning, and repair.

d. Clothing shall be maintained in good repair.

e. Clothing shall belong to the individual resident or child of a resident and not be required to be shared.

f. All clothing provided to a resident or child of a resident shall remain with the resident or child of a resident upon discharge.

g. The provider shall ensure residents and children of residents have access to adequate grooming services, including haircuts.

4. Independent Life Training

a. The provider shall have a program to ensure that residents receive training in independent living skills appropriate to their age and functioning level. Individualized independent life training goals shall be included in each resident's service plan.

b. This program shall include but not be limited to instruction in:

i. health and dental care, hygiene and grooming;

ii. family life;

iii. sex education including family planning and venereal disease counseling;

iv. laundry and maintenance of clothing;

v. appropriate social skills;

vi. housekeeping;

vii. use of transportation;

viii. budgeting and shopping;

ix. money management;

x. cooking and proper nutrition;

xi. employment issues, including punctuality and attendance;

xii. use of recreation and leisure time;

xiii. education, college, trade, and/or long-term planning/life goals;

xiv. accessing community services; and

xv. parenting skills.

c. In addition, residents with children shall also receive training in the following topics:

i. parenting preparation classes;

ii. stages of growth in infants, children and adolescents (as applicable);

iii. day-to-day care of infants, children and adolescents (as applicable);

iv. disciplinary techniques for infants, children, and adolescents (as applicable);

v. child-care resources;

vi. stress management;

vii. life skills; and

viii. decision making.

5. Money:

a. The provider shall permit and encourage a resident or child of a resident, as age appropriate, to possess his/her own money. The provider can give the resident or child of a resident an allowance. Residents and children of residents should be given the opportunity to earn additional money by providing opportunities for paid work, unless otherwise indicated by the resident's service plan, and reviewed every 30 days by the service plan manager;

b. money earned or received either as a gift or an allowance by a resident or child of a resident, shall be deemed to be that individual's personal property;

c. limitations may be placed on the amount of money a resident or child of a resident may possess or have unencumbered access to when such limitations are considered to be in the individual's best interests and are duly recorded in the resident's service plan or child of a resident's record. The reasons for any limitations should be fully explained to the resident, child of the resident, and their families;

d. resident's monetary restitution for damages shall only occur when there is clear evidence of individual responsibility for the damages and the program director approves the restitution. The resident and his/her legal guardian(s) shall be notified in writing within 24 hours of any claim for restitution and shall be provided with specific details of the damages, how, when and where the damages occurred, and the amount of damages claimed. If the amount is unknown, an estimate of the damages shall be provided and an exact figure provided within 30 days. The resident and his/her legal guardian(s) shall be given a reasonable opportunity to respond to any claim for damages. If the provider receives reimbursement for damages either through insurance or other sources, the resident shall not be responsible for restitution;

e. the provider shall maintain a separate accounting of each resident's or child of a resident's money; and

f. upon discharge, the provider shall provide the resident, child of a resident, or legal guardian(s) any outstanding balance.

6. Work

a. The provider shall have and adhere to a written policy regarding the involvement of residents in work including:

i. description of any unpaid tasks required of residents;

ii. description of any paid work assignments including the pay for such assignments that are at least minimum wage;

iii. description of the provider's approach to supervising work assignments; and

iv. assurance that the conditions and compensation of such work are in compliance with applicable state and federal laws.

b. The provider shall demonstrate that any resident's work assignments are designed to provide a constructive experience and are not used as a means of performing vital provider functions at low cost. All work assignments shall be in accordance with the resident's service plan.

c. The provider shall assign, as unpaid work, age appropriate housekeeping tasks similar to those performed in a normal family home. Any other work assigned shall be compensated. The provider shall ensure that all such employment practices comply fully with state and federal laws and standards. No resident shall be employed in any industrial or hazardous occupation, or under any hazardous conditions.

d. When a resident engages in off-grounds work, the provider shall be responsible for ensuring the resident

has access to transportation and other supports needed to perform the work successfully. The provider shall document that:

i. such work is voluntary and in accordance with the resident's service plan;

ii. the service plan manager approves such work;

iii. the conditions and compensation of such work are in compliance with the Fair Labor Standards Act and other applicable state and federal laws; and

iv. such work does not conflict with the resident's program.

C. Food Service

1. The provider shall ensure that a staff person has oversight of the total food service of the facility. This person shall be familiar with nutrition and food service management and shall be responsible for implementation and/or delegation of:

a. purchasing food according to the approved dietary menu;

b. oversight of storing and handling of food;

c. oversight of food preparation;

d. oversight of food serving;

e. maintaining sanitary standards in compliance with state and local regulations;

f. orientation, training, and supervision of food service personnel to include proper feeding techniques as age appropriate;

g. maintaining a current list of residents and children of residents with special nutritional needs;

h. having an effective method of recording and transmitting diet orders and changes;

i. recording information in the resident's or child of a resident's record relating to special nutritional needs; and

j. providing information on residents' and children of residents' diets to staff.

2. The provider shall have and adhere to written policies and procedures that ensure that residents and children of residents are , on a daily basis, provided with food of such quality and in such quantity as to meet the recommended daily dietary allowances adjusted for age, gender, and activity of the United States Department of Agriculture and doesn't deny any rights of the resident or child of a resident. Two of the three meals (breakfast, lunch, supper) served shall be hot meals. Residents and children of residents shall also be provided with a snack between meals and prior to bedtime. Breakfast shall be served within at least one hour from when residents awake.

3. The provider shall maintain a master menu, including appropriate substitutions, which is written and approved annually, by a registered dietician.

a. The provider shall post the written menu at least one week in advance in an area regularly used by residents.

b. Menus shall provide for a sufficient variety of foods, vary from week to week and reflect all substitutions. Any substitution shall be of equal nutritional value. Residents shall be allowed to provide input into these menus.

c. Written menus and records of foods purchased shall be maintained on record for one year.

4. The provider shall ensure that any modified diet for a resident or child of a resident shall be:

a. prescribed by the individual's physician, approved by the registered dietician, and identified in the resident's service plan or child of a resident's record; and

b. planned, prepared, and served by persons who have received instruction on the modified diet.

5. Condiments appropriate for the ordered diet will be available.

6. When meals are provided to staff, the provider shall ensure that staff members eat the same food served to residents or children of residents, unless special dietary requirements dictate differences in diet.

7. Food provided to a resident or child of a resident shall be in accordance with his/her religious beliefs.

8. No resident or child of a resident shall be denied food or force-fed for any reason except as medically required pursuant to a physician's written order. A copy of the order shall be maintained in the individual's record.

9. The provider shall have and adhere to written policies and procedures to ensure that all food shall be stored, prepared, and served under sanitary conditions. e The provider shall ensure that:

a. food served to the resident or child of a resident is in a form consistent with the developmental level of the individual ; and with appropriate utensils;

b. food served to a resident or child of a resident not consumed is discarded;

c. food and drink purchased shall be of safe quality. Milk and milk products shall be grade A and pasteurized.

10. Hand washing facilities, including hot and cold water, soap, and paper towels, shall be provided adjacent to food service work areas.

11. Food shall be stored separate from cleaning supplies and equipment.

12. Food storage areas are free of rodents, roaches, and/or other pests and the provider shall take precautions to ensure such pests do not contaminate food.

13. Persons responsible for food preparation shall not prepare food if they have symptoms of acute illness or an open wound.

14. Information regarding food allergies/special diets shall be posted in the food prep area with special care so that the individual names are not in public view.

15. Children under four years of age shall not have foods that are implicated in choking incidents. Examples of these foods include but are not limited to the following: whole hot dogs, hot dogs sliced in rounds, raw carrot rounds, whole grapes, hard candy, nuts, seeds, raw peas, hard pretzels, chips, peanuts, popcorn, marshmallows, spoonfuls of peanut butter, and chunks of meat larger than what can be swallowed whole.

16. Formula for an infant prepared by or in a residential home shall be prepared in accordance with the instructions of the formula or by the techniques recommended by the physician which shall be on file at the facility.

17. Formula for an infant shall be labeled with the child's name and date of preparation.

18. Formula for an infant shall be refrigerated immediately after preparation and shall not be used more than 24 hours after preparation. The timeframe for use after preparation may be longer than 24 hours if directed by written order of a physician or as documented in the

instructions of the formula. The timeframe shall not be extended beyond the physician's written recommendation or the instructions of the formula.

19. Formula shall not be heated in a microwave oven.

20. Water shall be given to infants only with written instructions from child's physician.

21. A child's bottle shall not be propped at any time.

22. Infants shall be held while being bottle-fed to provide a nurturing, safe feeding experience.

D. Health Related Services

1. Health Care

a. The provider shall have and adhere to written policies and procedures for providing preventive, routine, and emergency medical and dental care for residents and children of residents and shall show evidence of access to the resources. They shall include, but are not limited to, the following:

i. ongoing appraisal of the general health of each resident and child of a resident;

ii. provision of health education, as appropriate;

iii. provision for maintaining current immunizations;

iv. approaches that ensure that any medical service administered will be explained to the resident or child of a resident in language suitable to his/her age and understanding;

v. an ongoing relationship with a licensed physician, dentist, and pharmacist to advise the provider concerning medical and dental care;

vi. availability of a physician on a 24-hour, seven days a week basis;

vii. reporting of communicable diseases and infections in accordance with law;

viii. procedures for ensuring residents and children of residents know how and to whom to voice complaints about any health issues or concerns.

2. Medical Care

a. The provider shall arrange a medical examination by a physician for the resident or child of a resident within a week of admission unless the resident or child of a resident has received such an examination within 30 days before admission and the results of this examination are available to the provider. If the resident or child of a resident is being transferred from another residential home and has had a physical examination within the last 12 months, a copy of this examination may be obtained to meet the requirement of the admission physical. The physical examination shall include:

i. an examination of the resident or child of a resident for any physical injury, physical disability, and disease;

ii. vision, hearing, and speech screening; and

iii. a current assessment of the resident's or child of resident's general health.

b. The provider shall arrange an annual physical examination of all residents and children of residents.

c. Whenever indicated, the resident or child of a resident shall be referred to an appropriate medical specialist for either further assessment or service, including gynecological services for female residents or children of residents. The provider shall schedule such specialist care within 30 days of the initial exam. If the specialist's service needed is a result of a medical emergency, such care shall be obtained immediately.

d. The provider shall ensure that a resident or child of a resident receives timely, competent medical care when he/she is ill or injured. The provider shall notify the legal guardian, verbally and/or in writing, within 24 hours of a resident's or child of a resident's illness or injury that requires service from a physician or hospital. The notification shall include the nature of the injury or illness and any service required.

e. Records of all medical examinations, services, and copies of all notices to legal guardian(s) shall be kept in the resident's or child of a resident's record.

3. Dental Care

a. The provider shall have and adhere to written policies and procedures for providing comprehensive dental services to include:

i. provision for dental service;

ii. provision for emergency service on a 24-hour, seven days a week basis by a licensed dentist;

iii. a recall system specified by the dentist, but at least annually;

iv. dental cleanings annually; and

v. training and prompting for residents and children of residents to brush their teeth at least twice per day.

b. The provider shall arrange a dental exam for each resident and child of a resident within 90 days of admission unless the resident or child has received such an examination within six months prior to admission and a copy of the examination is obtained by the provider. Children of residents shall begin receiving annual examinations at the eruption of their first tooth and no later than 12 months of age.

c. Records of all dental examinations, follow-ups and service shall be documented in the record.

d. The provider shall notify the legal guardian(s), verbally and/or in writing, immediately when a resident or child of a resident requires or receives dental services of an emergency nature. The notification shall include the nature of the dental condition and any service required. Notification shall be documented in the record.

4. Immunizations

a. The provider shall have and adhere to written policies and procedures regarding immunizations to ensure that:

i. within 30 days of admission, the provider shall obtain documentation of a resident's or child of a resident's immunization history, ensuring that the resident and child of a resident have received and will receive all appropriate immunizations and booster shots that are required by the Office of Public Health;

ii. the provider shall maintain a complete record of all immunizations received in the resident's or child of a resident's record.

5. Medications

a. The provider shall have and adhere to written policies and procedures that govern the safe administration and handling of all medication, to include the following:

i. a system for documentation and review of medication errors;

ii. self-administration of both prescription and nonprescription medications;

iii. handling medication taken by residents and children of residents on pass; and

iv. a plan of action for residents and children of residents who require emergency medication (e.g., Epipen, Benadryl).

b. The provider shall have a system in place to ensure that there is a sufficient supply of prescribed medication available for each resident and child of a resident at all times.

c. The provider shall ensure that medications are either self-administered or administered by persons with appropriate credentials, training, and expertise.

i. Effective August 1, 2016, providers licensed to care for children of residents or licensed to care for residents under five years of age shall have staff trained in medication administration. Trained staff shall be scheduled for each shift when residents under five years of age or children of residents under five years of age are present on the premises. Training shall be obtained every two years from an approved child care health consultant. By virtue of his/her current license, a licensed practical nurse (LPN) or registered nurse (RN) shall be considered to have medication administration training.

d. There shall be written documentation requirements for the administration of all prescription and non-prescription medication, whether administered by staff, supervised by staff or self-administered. This documentation shall include:

i. resident's or child of resident's name, date, medication name, dosage, and time administered;

ii. signature of person administering medication; and

iii. signature of person witnessing resident or child of resident self-administer medication (if applicable).

e. When residents administer medication to their own children, the medication administration record shall be documented by either the resident or by facility staff as indicated in Subparagraph D.5.d of this Section.

f. If prescription medication is not administered as prescribed or resident or child of resident refuses to take medication, the physician ordering the medication shall be immediately notified and documentation noted to include:

i. resident's or child of resident's name, date, and time;

ii. medication name and dosage;

iii. person attempting to administer medication, if other than resident or child of resident;

iv. reason for refusal or medication not being given as prescribed;

v. name of staff notifying physician's office;

vi. date and time of notification to physician's office; and

vii. name of person notified and next steps (if applicable).

g. The provider shall ensure that any medication given to a resident or child of resident for therapeutic and/or medical purposes is in accordance with the written order of a physician.

h. There shall be no standing orders for prescription medications.

i. There shall be standing orders, signed by the physician, for nonprescription medications with directions from the physician indicating when he/she is to be contacted. The physician shall update standing orders annually.

j. Copies of all written orders shall be maintained in the resident's or child of a resident's record.

k. Medication shall not be used as a disciplinary measure, a convenience for staff, or as a substitute for adequate, appropriate programming.

l. Prescription medications shall be reviewed and renewed on at least an annual basis by a licensed physician; however psychotropic medications shall be reviewed and renewed at least every 90 days by a licensed physician.

m. Residents and children of residents shall be informed of any changes to their medications, prior to administration of any new or altered medications.

n. Residents, staff, and, where appropriate, residents' legal guardian(s) are educated on the potential benefits and negative side effects of the medication and are involved in decisions concerning the use of the medication.

o. The provider shall ensure that the prescribing physician is immediately informed of any side effects observed by staff, or any medication errors. Any such side effects or errors shall be promptly recorded in the resident's or child of a resident's record and the legal guardian(s) shall be notified verbally or in writing within 24 hours.

p. Discontinued and outdated medications and containers with worn, illegible, or missing labels shall be properly disposed of according to state law.

q. Medications shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security.

i. External medications and internal medications shall be stored on separate shelves or in separate cabinets.

ii. All medication shall be kept under lock and key. Refrigerated medication shall be stored in a secure container with a lid to prevent access by children and avoid contamination of food.

r. All medications shall be maintained in the original container/packaging or as dispensed by the pharmacist.

s. A plan of care shall be developed for each resident or child of a resident who requires emergency medication (e.g., Epipen, Benadryl). The plan of care shall include:

i. method of administration;

ii. symptoms that would indicate the need for the medication;

iii. actions to take once symptoms occur;

iv. description of how to use the medication; and

v. signature and date of program director or medical personnel.

t. Medication administration records for emergency medication shall be maintained in accordance with Subparagraph D.5.d of this Section and shall also include the following:

i. symptoms noted that indicated the need for the medication;

ii. actions taken once symptoms occurred;

iii. description of how medication was administered;

iv. signature (not initials) of the staff member who administered the medication; and

v. notification to legal guardian (date, time, and signature of person who contacted the legal guardian) following the administration of the emergency medication.

u. If the non-prescription medication label reads "to consult physician", a written authorization from a Louisiana, or adjacent state, licensed medical physician or dentist, shall be on file in order to administer the medication, and shall include the following information:

i. child's name;

ii. date of authorization;

iii. medication name and strength; and

iv. clear directions for use, including the route (e.g., oral, topical), dosage, and frequency, time, or schedule of medication.

6. Professional and Specialized Services

a. The provider shall monitor that residents and children of residents receive specialized services to meet their needs; these services shall include but are not limited to:

i. physical/occupational therapy;

ii. speech pathology and audiology;

iii. psychological and psychiatric services;

iv. social work services;

v. individual, group and family counseling; and

vi. substance abuse counseling/drug or alcohol addiction treatment.

b. The provider shall monitor that all providers of professional and special services:

i. record all significant contacts with the resident or child of a resident;

ii. provide quarterly written summaries of the resident's or child of a resident's response to the service, the resident's or child of a resident's current status relative to the service, and the resident's or child of a resident's progress;

iii. participate, as appropriate, in the development, implementation, and review of resident's service plans and aftercare plans and participates in the interdisciplinary team responsible for developing such plans;

iv. provide services appropriately integrated into the overall program and provide training to direct service staff as needed to implement service plans;

v. provide resident assessments/evaluations as needed for service plan development and revision.

c. The provider shall monitor that any provider of professional or special services (internal or external to the facility) meets the criteria noted below:

i. have adequately qualified and, where appropriate, currently licensed or certified staff according to state or federal law;

ii. have adequate space, facilities, and privacy;

iii. have appropriate equipment, supplies, and resources.

d. The providers shall ensure that residents and children of residents are evaluated for specialized services in a timely manner when a need is identified.

E. Recreation

1. The provider shall have and adhere to a written policy and procedure for a recreation program that offers indoor and outdoor activities in which participation can be encouraged and motivated on the basis of individual interests and needs of the residents and children of residents and the composition of the living group.

2. The provider shall provide recreational services based on the individual needs, interests, and functioning levels of the residents and children of residents served. In planning recreational programs and activities, staff should assess the ages, interests, abilities and developmental and other needs of the residents and children of residents served to determine the range of activities that are safe and appropriate. Residents and children of residents shall be allowed time to be alone and to engage in solitary activities that they enjoy. There should be opportunities for group activities to develop spontaneously, such as group singing, dancing, storytelling, listening to music, games, etc. Recreational activities should be planned throughout the week.

3. Recreational objectives shall be included in each resident's service plan. Residents should be involved in planning and selecting activities as part of their individual service plan.

4. The provider shall provide adequate recreation and yard spaces to meet the needs and abilities of residents and children of residents regardless of their disabilities. Recreation equipment and supplies shall be of sufficient quantity and variety to carry out the stated objectives of the provider's recreation plan. Recreational equipment should be selected in accordance with the number of residents and children of residents, their ages and needs, and should allow for imaginative play, creativity, and development of leisure skills and physical fitness.

5. The provider shall utilize the recreational resources of the community whenever appropriate. The provider shall arrange the transportation and supervision required for maximum usage of community resources. Unless the restriction is part of the facility's master behavior program plan, access to such community resources shall not be denied or infringed except as may be required as part of the resident's service plan. Any such restrictions shall be specifically described in the service plan, together with the reasons such restrictions are necessary and the extent and duration of such restrictions.

F. Transportation

1. The provider shall have and adhere to written policies and procedures to ensure that each resident is provided with transportation necessary to meet his/her needs as identified in the individualized service plan.

2. The provider shall have means of transporting residents and children of residents in cases of emergency.

3. The provider shall ensure and document that any vehicle used in transporting residents or children of residents, whether such vehicle is operated by a staff member or any other person acting on behalf of the provider, is licensed in accordance with state law and carries current liability insurance.

4. All vehicles used for the transportation of residents or children of residents shall be maintained in a safe condition and in conformity with all applicable motor vehicle laws.

5. Preventative maintenance shall be performed on a monthly basis to ensure the vehicles are maintained in working order. The provider shall maintain documentation

supporting adherence to vehicle maintenance schedules and other services as indicated.

6. Any staff member of the provider or other person acting on behalf of the provider, operating a vehicle for the purpose of transporting residents or children of residents shall maintain a current driver's license. The staff member operating the vehicle shall have the applicable type of driver's license to comply with the current motor vehicle laws.

7. The provider shall not transport residents nor children of residents in the back or the bed of a truck.

8. The provider shall conform to all applicable state motor vehicle laws regarding the transport of residents and children of residents.

9. The provider shall ensure that residents and children of residents being transported in the vehicle are properly supervised while in the vehicle and during the trip. Residents nor children of residents are to be unattended in the vehicle.

10. Vehicles used to transport residents and children of residents shall not be identified in a manner that may embarrass or in any way produce notoriety for residents or children of residents.

11. The provider shall ascertain the nature of any need or problem of a resident or child of a resident that might cause difficulties during transportation, such as seizures, a tendency toward motion sickness, or a disability. The provider shall communicate such information to the individual of any vehicle transporting residents or children of residents.

12. The following additional arrangements are required for a provider serving residents or children of residents with physical limitations:

a. a ramp device to permit entry and exit of a resident or child of a resident from the vehicle shall be provided for all vehicles except automobiles normally used to transport physically handicapped residents or children of residents. A mechanical lift may be utilized if a ramp is also available in case of emergency;

b. in all vehicles except automobiles, wheelchairs used in transit shall be securely fastened to the vehicle;

c. in all vehicles except automobiles, the arrangement of the wheelchairs shall provide an adequate aisle space and shall not impede access to the exit door of the vehicle.

13. No resident or child of a resident shall be transported in any vehicle unless age appropriate child restraints are utilized. In addition, transportation arrangements shall conform to state laws, including but not limited to those requiring the use of seat belts and child restraints.

14. Only one resident or child of a resident shall be restrained in a single safety belt.

15. All aspects of the vehicle shall be maintained in good repair including, but not limited to proper working order of doors, lights, tires, etc.

a. ventilation and heating systems shall be operational and used to maintain a comfortable temperature during transport;

b. the vehicle's engine shall be maintained in working mechanical order;

c. the vehicle's interior shall be clean and free of trash and debris;

d. the vehicle's seat coverings shall be in good repair;

16. The use or possession of alcohol, tobacco in any form, illegal substances or unauthorized potentially toxic substances, firearms (loaded or unloaded), or pellet or BB guns (loaded or unloaded) in any vehicle used to transport residents or children of residents is prohibited.

17. The number of persons in a vehicle used to transport residents or children of residents shall not exceed the manufacturer's recommended capacity.

18. The vehicle shall have evidence of a current safety inspection.

19. A visual inspection of the vehicle is required to ensure that no child of a resident or resident was left on the vehicle. A staff person shall physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all enclosed spaces and recesses in the vehicle's interior. For field trips, staff shall check the vehicle and conduct a face-to-name count conducted prior to leaving facility for the destination, when destination is reached, before departing destination for return to facility, and upon return to facility. For all other transportation, the staff shall inspect the vehicle at the completion of each trip prior to the staff person exiting the vehicle. The staff conducting the visual check for all transportation, shall document the time of the visual check inspection and sign his or her full name, indicating that no child of a resident or resident was left on the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:823 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7119. Physical Environment

A. Physical Appearance and Conditions

1. The provider shall maintain all areas of the facility accessible to residents and children of residents in good repair and free from any reasonably foreseeable hazard to health or safety. All structures on the grounds of the facility shall be maintained in good repair.

2. The provider shall have an effective pest control program to prevent insect and rodent infestation.

3. The provider shall maintain the grounds of the facility in good condition.

a. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on at least a weekly basis.

b. Trash collection receptacles shall be separate from play area.

c. Fences shall be in good repair.

d. Areas determined to be unsafe, including steep grades; cliffs, open pits, swimming pools, high voltage boosters or high-speed roads (45 mph or higher) shall be fenced or have natural barriers to protect residents and children of residents.

e. Playground equipment shall be so located, installed, and maintained as to ensure the safety of residents and children of residents.

4. Residents and children of residents shall have access to safe, suitable, outdoor recreational space and age appropriate equipment.

5. The provider shall have at least 75 square feet of accessible exterior space for each resident. The exterior space shall be adequate to accommodate one-half the licensed capacity of the facility.

6. In facilities licensed to care for residents less than 10 years of age or licensed to accept children of residents, the outdoor play space shall be enclosed with a permanent fence or other permanent barrier in such a manner as to protect the children from traffic hazards, to prevent the children from leaving the premises without proper supervision, and to prevent contact with animals or unauthorized persons.

7. In facilities licensed to care for residents less than 10 years of age or licensed to accept children of residents, all air conditioning/heating units, mechanical equipment, electrical equipment, or other hazardous equipment shall be inaccessible to children.

8. Culverts are prohibited within outdoor play spaces.

9. In facilities licensed to care for residents less than 10 years of age or licensed to accept children of residents, areas where there are open cisterns, wells, ditches, fish ponds, swimming pools, and other bodies of water shall be made inaccessible to children by fencing and locked gates.

10. All equipment used by residents and children of residents shall be maintained in a clean, safe condition and in good repair.

11. In facilities licensed to care for residents less than 10 years of age or licensed to accept children of residents, all poisons, cleaning supplies, harmful chemicals, equipment, tools, kitchen knives or potentially dangerous utensils, and any substance with a warning label stating it is harmful to or that is should be kept out of reach of children, shall be locked away from and inaccessible to children. Whether these items are in a cabinet or in an entire room, the area shall be locked.

12. The use or possession of alcohol, tobacco in any form, illegal substances, or unauthorized potentially toxic substances on the premises of the residential home is prohibited.

B. Interior Space

1. The provider shall have and adhere to policies and procedures to ensure that the facility maintains a safe, clean, orderly, and homelike environment.

2. All equipment, furnishings, and interior spaces shall be clean and maintained at all times. The provider shall have a program in place to monitor regular maintenance, preventative maintenance, cleaning and repair of all equipment and furnishings that is performed on a routine basis. Written documentation of the maintenance and cleaning program activities shall be maintained by administration to include cleaning schedules and reports of repairs.

3. The facility shall have sufficient living and program space available for residents and children of residents to gather for reading, study, relaxation, structured group activities, and visitation. Space shall be available that allows for confidentiality for family visits, counseling, groups, and meetings. The living areas shall contain such items as television, stereo, age-appropriate books, magazines, and newspapers.

4. A facility shall have a minimum of 60 square feet of unencumbered floor area per resident in living and dining areas accessible to residents and excluding halls, closets, bathrooms, bedrooms, staff or staff's family quarters, laundry areas, storage areas, and office areas.

5. Each child shall be provided with an opportunity to safely and comfortably sit, crawl, toddle, walk, and play according to the child's stage of development and in a designated space apart from sleeping quarters each day in order to enhance development.

6. Computers that allow internet access by the residents or children of residents shall be equipped with monitoring or filtering software, or an analogous software protection, that limits access to inappropriate websites, e-mail, and instant messages.

7. Programs, movies, and video games shall be age appropriate.

8. A variety of books, educational materials, toys, and play materials shall be provided, organized, and displayed within resident's and children of resident's reach so that they may select and return items independently.

9. At least one corded land line capable of incoming and outgoing calls for emergency purposes shall be accessible to residents and children of residents at all times at the facility.

C. Dining Areas

1. The provider shall have dining areas that permit residents, children of residents, staff, and visitors to eat together and create a homelike environment.

2. Dining areas shall be clean, well lit, ventilated, and equipped with dining tables and appropriate seating for the dining tables.

3. Highchairs shall be used in accordance with the manufacturer's instructions including restrictions based on age and minimum/maximum weight of infants and children. Staff shall ensure that the highchair manufacturer's restraint device is used when children are sitting in the highchair. Children who are too small or too large to be restrained using the manufacturer's restraint device shall not be placed in the highchair. Provider shall take into account the child's developmental stage, tolerances, and ability to sit up safely by themselves.

D. Bedrooms

1. Each resident and child of a resident shall have his/her own designated area for rest and sleep.

2. The provider shall ensure that each single occupancy bedroom space has a floor area of at least 70 square feet of unencumbered space and that each multiple occupancy bedroom space has a floor area of at least 60 square feet of unencumbered space for each occupant.

3. The provider shall not use a room with a ceiling height of less than 7 feet 6 inches as a bedroom space. In a room with varying ceiling height, only portions of the room with a ceiling height of at least 7 feet 6 inches are allowed in determining usable space.

4. The bedroom space for residents and children of residents shall be decorated to allow for the personal tastes and expressions of the residents and children of residents.

5. Any provider that licenses beds subsequent to April 2012, shall have bedroom space that does not permit more

than two residents per designated bedroom space. All others shall not exceed four residents to occupy a designated space.

6. No resident or child of a resident over the age of five years shall occupy a bedroom with a member of the opposite sex, unless that individual is the child's parent in accordance with R.S. 46:1403 or the child's sibling.

7. The provider shall ensure that the age of residents sharing bedroom space is not greater than four years in difference unless contraindicated based on family dynamics.

8. Each resident and child of a resident age 1 year and above shall have his/her own bed. The bed shall be longer than the resident or child of a resident is tall, no less than 30 inches wide, and shall have a clean, comfortable, nontoxic, fire retardant mattress.

9. The provider shall ensure that sheets, pillow, bedspread, and blankets are provided for each resident and child of a resident:

a. enuretic residents and children of residents shall have mattresses with moisture resistant covers; and

b. sheets and pillowcases shall be changed at least weekly, but shall be changed more frequently if necessary. Sheets and coverings shall be changed immediately when soiled or wet.

10. Each resident shall have a solidly constructed bed. Cots or other portable beds shall be used on an emergency basis only and shall not be in use for longer than one week.

11. All bunk beds in use in a residential home shall be equipped with safety rails on the upper tier for a child under the age of 10, or for any child whose physical, mental, or emotional condition indicates the need for such protection. A child under 6 years of age shall not sleep on the upper bunk of a bunk bed. No beds shall be bunked higher than 2 tiers. The provider shall ensure that- the uppermost mattress of any bunk bed shall be far enough from the ceiling to allow the occupant to sit up in bed.

12. Each resident shall have his/her own nightstand. Each resident shall have his/her own dresser or other adequate storage space for private use in the bedroom.

13. There shall be a closet for hanging clothing in proximity to the bedroom occupied by the resident and child of a resident. For beds licensed after April 2012, there shall be a closet for hanging clothing within the bedroom or immediately adjacent to the bedroom. The closet shall not be within a bathroom.

14. No resident and her child shall share a bedroom with another resident.

15. A resident shall not be allowed to sleep in the same bed with her child.

E. Bathrooms

1. The facility shall have an adequate supply of hot and cold water.

2. The facility shall have toilets and baths or showers that allow for individual privacy. For beds licensed after April 2012, the following ratio shall be met. Whenever calculations include any fraction of a fixture, the next higher whole number of fixtures shall be installed.

Lavatories	1:6 resident beds
Toilets	1:6 resident beds
Showers or tubs	1:6 resident beds

3. Bathrooms shall be so placed as to allow access without disturbing other residents or children of residents during sleeping hours.

4. Each bathroom shall be properly equipped with toilet paper, towels, and soap.

5. Tubs and showers shall have slip proof surfaces.

6. Bathrooms shall contain mirrors secured to the walls at convenient heights and other furnishings necessary to meet the residents' and children of residents' basic hygienic needs.

7. Each resident and child of a resident shall be provided personal hygiene items such as hairbrushes, toothbrushes, razors, etc.

8. Bathrooms shall be equipped to facilitate maximum self-help by residents and children of residents. Bathrooms shall be large enough to permit staff assistance of residents and children of residents, if necessary.

9. Toilets, washbasins, and other plumbing or sanitary facilities in a facility shall be maintained in good operating condition.

F. Kitchens

1. Kitchens used for meal preparations shall be provided with the necessary equipment for the preparation, storage, serving and clean-up of all meals for all of the residents, children of residents, and staff regularly served. All equipment shall be maintained in proper working order.

2. The provider shall not use disposable dinnerware at meals except for special occasions such as picnics or barbeques or in an emergency situation unless the facility documents that such dinnerware is necessary to protect the health or safety of residents or children of residents in care.

3. The provider shall ensure that all dishes, cups, and glasses used by residents and children of residents are free from chips, cracks, or other defects and are in sufficient number to accommodate all the residents and children of residents.

4. Animals, other than those used as service animals, shall not be permitted in food storage, preparation, and dining areas.

G. Laundry Space. The provider shall have a laundry space complete with washer and dryer.

H. Staff Quarters. The provider utilizing live-in staff shall provide adequate, separate living space with a private bathroom for these staff and their children.

I. Administrative and Discussion Space

1. The provider shall provide a space that is distinct from residents' and children of residents' living areas to serve as an administrative office for records, secretarial work, and bookkeeping.

2. The provider shall have a designated space to allow private discussions between individual residents, children of residents, and staff. If there is a window in the space, it shall have a covering to provide privacy during private discussions.

3. There shall be a covering on the window.

J. Furnishings

1. The provider shall have comfortable customary furniture as appropriate for all living areas. Furniture for the use of residents and children of residents shall be appropriately designed to suit the size and capabilities of these residents and children of residents.

2. The provider shall replace or repair broken, run-down, or defective furnishings and equipment promptly.

K. Doors and Windows

1. When opened, all windows shall have insect screening. This screening shall be readily removable in emergencies and shall be in good repair.

2. All closets, bedrooms, and bathrooms shall have doors that allow egress from both sides.

3. Each window shall have a covering to provide privacy unless otherwise stipulated in the service plan.

L. Storage

1. The provider shall ensure that there are sufficient and appropriate storage facilities.

2. The provider shall have securely locked storage space for all potentially harmful materials. Keys to such storage spaces shall only be available to authorized staff members.

M. Electrical Systems

1. The provider shall ensure that all electrical equipment, wiring, switches, sockets, and outlets are maintained in good order and safe condition.

2. The provider shall ensure that any room, corridor, or stairway within a facility shall be well lit.

3. The provider shall ensure that exterior areas are well lit when dark.

N. Heating, Ventilation and Air Conditioning (HVAC)

1. The facility shall provide safe HVAC systems sufficient to maintain comfortable temperatures in all indoor public and private areas of the facility in all seasons of the year.

2. The provider shall not use open flame heating equipment.

3. The use of portable heaters by the residents, staff, and children of residents are strictly prohibited, unless in an emergency situation.

4. The provider shall take all reasonable precautions to ensure that heating elements, including exposed hot water pipes, are insulated and installed in a manner that ensures the safety of residents and children of residents.

O. Safe Sleep Practices and Infant Furnishings

1. Only one infant shall be placed in each crib. All infants shall be placed on their backs for sleeping.

a. Written authorization from the child's physician is required for any other sleeping position. A notice of exception to this requirement shall be posted on or near the infant's crib and shall specify the alternate sleep position.

b. Written authorization from the child's physician is required for a child to sleep in a car seat or other similar device and shall include the amount of time that the child is to remain in said device. The written authorization shall be updated every three months and as changes occur.

2. Infants shall not be placed in positioning devices for sleeping unless the child has a note on file from the child's physician authorizing the device.

3. Infants who use pacifiers will be offered their pacifier when they are placed to sleep and it shall not be placed back in the mouth once the child is asleep.

4. Bibs shall not be worn by any child while asleep.

5. Infants shall not sleep in an adult bed, on a couch, or in a chair.

6. A safety-approved crib shall be made available for each infant.

a. Effective December 28, 2012, each crib in use shall meet U.S. Consumer Product Safety Commission (CPSC) requirements for full-size cribs as defined in 16 Code of Federal Regulations (CFR) 1219, or non full-size cribs as defined in 16 CFR 1220.

b. A crib meets the requirements of this Section if:

i. the crib has a tracking label which notes that the crib was manufactured on or after June 28, 2011; or

ii. the provider has a registration card which accompanies the crib and notes that the crib was manufactured on or after June 28, 2011; or

iii. the provider has obtained a Children's Product Certificate (CPC) certifying the crib as meeting requirements for full-size cribs as defined in 16 Code of Federal Regulations (CFR) 1219, or non full-size cribs as defined in 16 CFR 1220.

7. Each crib shall be equipped with a firm mattress and well fitting sheets. Mattresses shall be of standard size so that the mattress fits the crib frame without gaps of more than one-half inch. Homemade mattresses are prohibited.

8. The minimum height from the top of the mattress to the top of the crib rail shall be 20 inches at the highest point.

9. The mattress support system shall not be easily dislodged from any point of the crib by an upward force from underneath the crib.

10. Stackable cribs are prohibited.

11. Children sleeping in playpens or mesh-sided cribs is prohibited.

12. Cribs shall be free of toys and other soft bedding, including blankets, comforters, bumper pads, pillows, stuffed animals, and wedges when the child is in the crib.

13. Nothing shall be placed over the head or face of the infant.

14. While residents are awake, napping infants shall be checked on at least every 30 minutes.

P. Care of Children

1. Diapers shall be changed immediately when wet or soiled.

2. While awake, children shall not remain in a crib/baby bed, swing, high chair, carrier, playpen, etc., for more than 30 consecutive minutes.

3. Pacifiers attached to strings or ribbons shall not be placed around a child's neck or attached to a child's clothing.

4. Staff shall adhere to proper techniques for lifting a child. Staff shall not lift a child by one or both of child's arms.

5. Children shall be changed and cleaned immediately following a toileting accident.

6. A child's request for toileting assistance shall be responded to promptly.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:828 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7121. Emergency Preparedness

A. Emergency Plan

1. The provider, in consultation with appropriate state or local authorities, shall establish and follow a written

multi-hazard emergency and evacuation plan to protect residents and children of residents in the event of any emergency. The written overall plan of emergency procedures shall:

a. provide for the evacuation of residents and children of residents to safe or sheltered areas. Evacuation plans shall include procedures for addressing both planned and unplanned evacuations to alternate locations within the city and long distance evacuations;

b. provide for training of staff and, as appropriate, residents and children of residents in preventing, reporting, and responding to fires and other emergencies. The plan shall be reviewed with all staff at least annually. Documentation evidencing that the plan has been reviewed with all staff shall include staff signatures and date reviewed;

c. provide for training of staff in their emergency duties for all types of emergencies and the use of any fire fighting or other emergency equipment in their immediate work areas;

d. provide for adequate staffing in the event of an emergency;

e. ensure access to medication and other necessary supplies or equipment;

f. include shelter in place, lock down situations, and evacuations with regard to natural disasters, manmade disasters, bomb threats, and national security threats;

g. be appropriate for the area in which the facility is located and address any potential disaster due to that particular location;

h. include a system to account for all residents and children of residents whether sheltering in place, locking down, or evacuating to a pre-determined relocation site;

i. include lock down procedures for situations that may result in harm to persons inside the facility, including but not limited to a shooting, hostage incident, intruder, trespassing, disturbance, or any situation deemed harmful at the discretion of the program director or public safety personnel;

j. account for residents and children of residents and ensure that no one leaves the designated safe area in a lock down situation. Staff shall secure facility entrances, ensuring that no unauthorized individual enters the facility;

k. include an individualized emergency plan (including medical contact information and additional supplies/equipment needed) for each resident and child of a resident with special needs;

l. ensure that residents and children of residents who are prescribed prescription medication are able to receive medication if evacuated from facility;

m. include plans for nuclear evacuation if the facility is located within a 10-mile radius of a nuclear power plant or research facility;

n. include emergency contact information for staff in the event evacuation from the facility is necessary.

2. At a minimum, the plan shall be reviewed annually by the program director for accuracy and updated as changes occur. Documentation of review by the program director shall consist of the program director's signature and date.

3. The emergency and evacuation plan shall by submitted to the Licensing Section at least annually, any time changes are made, and upon the request of the Licensing Section.

4. If evacuation of children from the facility is necessary, provider shall have an evacuation pack and all staff shall know the location of the pack. The contents shall be replenished as needed. At a minimum, the pack shall contain the following:

a. hand sanitizer;

b. wet wipes;

c. tissue;

d. diapers for children who are not yet potty trained;

e. plastic bags;

f. food for all ages of children, including infant food and formula;

g. disposable cups; and

h. bottled water.

NOTE: For additional information contact the Office of Emergency Preparedness (Civil Defense) in your area.

B. Drills

1. The provider shall conduct fire drills at least once per month. There shall be at least one drill per shift every 90 days, at varying times of the day and the drills shall be documented. Effective August 1, 2016, documentation shall include:

a. date and time of drill;

b. names of residents and children of residents present;

c. amount of time to evacuate the facility;

d. problems noted during drill and corrections noted; and

e. signatures (not initials) of staff present.

2. The provider shall make every effort to ensure that staff, residents, and children of residents recognize the nature and importance of fire drills.

C. Notification of Emergencies

1. The provider shall immediately notify the Licensing Section, other appropriate agencies, and the resident's legal guardian of any fire, disaster, or other emergency that may present a danger to residents or children of residents or require their evacuation from the facility.

D. Access to Emergency Services

1. The provider shall have access to 24-hour telephone service.

2. The provider shall either prominently post telephone numbers of emergency services on or near each phone located in the facility, including the fire department, police department, medical facility , poison control (1-800-222-1222), ambulance services, 911, the facility's physical address or show evidence of an alternate means of immediate access to these services.

3. The provider shall ensure direct care staff can access emergency services at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:830 (April 2010), amended by the Department of Children and Family Services, Licensing Section, LR 42:

§7123. Safety Program

A. Policies and Procedures

1. The provider shall have and adhere to policies and procedures for an on-going safety program that includes continuous inspection of the facility for possible hazards, continuous monitoring of safety equipment and investigation of all incidents.

B. General Safety Practices

1. The use or possession of any firearm (loaded or unloaded), pellet or BB gun (loaded or unloaded), or chemical weapon on the premises of the residential home is prohibited with the exception of law enforcement personnel.

2. The provider shall ensure that all poisonous, toxic, and flammable materials are safely stored in appropriate containers labeled as to contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of residents, staff, children of residents, and visitors.

3. The provider shall ensure that a first aid kit is available in the living units and in all vehicles used to transport residents or children of residents.

4. The provider shall prohibit the use of candles in the facility.

5. Power-driven equipment used by the provider shall be safe and properly maintained. Such equipment shall be used by residents only under the direct supervision of a staff member and according to state law.

6. The provider shall allow residents and children of residents to swim only in areas determined to be safe and under the supervision of a person certified/trained in American Red Cross Basic Water Rescue or equivalent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:831 (April 2010), amended by the Department of Children and Family Services, Licensing Section, LR 42:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? There is no effect on the stability of the family.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? There is no effect on the rights of the persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This proposed Rule allows children of residents in residential homes to reside with their parents in an environment which is supervised and with staff that model appropriate behaviors.

4. What effect will this have on family earnings and family budget? There is no effect on the family earnings and budget.

5. What effect will this have on the behavior and personal responsibility of children? There is no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No.

Poverty Impact Statement

The proposed rulemaking is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Impact Statement

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through December 28, 2016, to Rhenda Hodnett, Assistant Secretary for Child Welfare, Department of Children and Family Services, P.O. Box 3776, Baton Rouge, LA 70821.

Public Hearing

A public hearing on the proposed Rule will be held on December 28, 2016, at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA, beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit or Division of Administrative Law at least seven working days in advance of the hearing. For assistance, call (225)342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Residential Home

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to amend LAC Title 67, Part V, Subpart 8, Chapter 71 to incorporate regulations pertaining to the inclusion of children as residents in residential homes authorized with Act 502 of 2016. The purpose of these amendments is to enact licensing standards that protect the safety and well-being of youths (age 16-21) and children (under 18) residing in residential homes with their parents.

In addition, in accordance with R.S. 46:1407(D) that requires a comprehensive review of licensing standards every 3 years, DCFS completed a review of the current standards and revised the licensing standards to protect the health, safety, and well-being of the residents of the state who are in out-of-home care on a regular or consistent basis. The substantive changes from the comprehensive review include technical changes such as re-organization of sections, adding clarifying language such as definitions, codified current practices such as license not being issued until all deficiencies are cleared, and provide a formal process for providers to challenge deficiencies citied, and allow DCFS to promulgate rules on sanctions for cited violations before issuing penalties and fines.

The only cost of this proposed rule is the cost of publishing rulemaking, which is estimated to be approximately $70,929 ($23,643 State General Funds and $47,286 Federal Funds) in FY 16-17. This is a one-time cost that is routinely included in the department's annual operating budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule is anticipated to result in a minimal increase in licensing fee revenues depending on the number of

specialized residential facilities seeking licensing. Implementation of this rule will have no effect on local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule enacts standards that protect the health, safety and well-being of residents including youth and children in residential homes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Rhenda Hodnett	Gregory V. Albrecht
Assistant Secretary	Chief Economist
1611#044	Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development
Office of Business Development

Industrial Ad Valorem Tax Exemption Program
(LAC 13:I.Chapter 5)

This proposed Rule is being promulgated in the *Louisiana Register* as required by R.S. 47:4351 et seq. The Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 36:104 hereby proposes to enact §§501 and 502 and to amend and reenact §§503-537 for the administration of the Industrial Ad Valorem Tax Exemption Program in LAC 13:I.Chapter 5 to implement programmatic changes in alignment with Executive Orders 16-26 and 16-73.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs
Chapter 5. Industrial Ad Valorem Tax Exemption Program

§501 Statement of Purpose

A. New Rules

1. These rules amend and restate prior rules and upon adoption are to implement two important policies for the industrial tax exemption property tax exemption. The first is as a competitive incentive for job creation and under compelling circumstances, job retention. The second is to provide for input from local parish and municipal governments, school boards and sheriffs as to the extent of, and other terms and conditions for the Industrial Tax Exemption.

2. On all projects, applicant manufacturers are to demonstrate a genuine commitment to investing in the communities in which they operate, and a genuine commitment to creating and retaining jobs in those communities. These are the expectations for the program's future, and the board will continue to operate it in a way that makes Louisiana competitive with other states in securing good jobs for our citizens while giving local governments a voice in their taxation. These rules are to be interpreted in a manner so as to promote these goals.

B. Applicability of Prior Rules. Just as the board is promoting job growth and economic development and extending fairness to communities, the board is promoting fairness to manufacturers who have acted in accordance with prior rules. Contracts for the industrial property tax exemption and the renewal of the exemption and projects found to be pending as defined by Executive Order JBE 16-26 are to be treated fairly under the rules that were in place at the time of the contracts and prior to the new rules. Louisiana honors its commitments and the rules governing existing contracts and applications not subject to the new rules are to be interpreted in order to promote fairness and commitment.

C. Going Forward

1. Louisiana values its manufacturers and their contributions to its economy. The board's policies going forward are to provide all a seat at the table to determine the best investment outcome for our industries and our communities.

2. All rules in this chapter are intended to align with the above purpose while providing a process that balances accountability with reasonable administrative burden for state and local government and applicants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 47:4351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 42:

§502. Definitions

Addition to a Manufacturing Establishment—

1.a. a capital expenditure for property that would meet the standard of a new manufacturing establishment if the addition were treated as a stand-alone establishment;

b. a capital expenditure for property that is directly related to the manufacturing operations of an existing manufacturing establishment; or

c. an installation or physical change made to a manufacturing establishment that increases its value, utility or competitiveness;

2. maintenance capital, environmentally required capital upgrades, and replacement parts, except those replacements required in the rehabilitation or restoration of an establishment, to conserve as nearly, and as long as possible, original condition, shall not qualify as an addition to a manufacturing establishment;

3. expenses associated with the rehabilitation or restoration of an establishment as provided for in Section 511 shall be included as an addition to a manufacturing establishment

Beginning of Construction—the first day on which foundations are started or, where foundations are unnecessary, the first day on which installations of the manufacturing establishment begins

Board—Board of Commerce and Industry

Capital Expenditure—the cost associated with a new manufacturing establishment or an addition to an existing manufacturing establishment, including the purchasing or improving real property and tangible personal property, whose useful life exceeds one year and which is used in the conduct of business

Environmentally Required Capital Upgrades—upgrades required by any state or federal governmental agency in order to avoid fines, closures or other penalty

Establishment—an economic unit at a single physical location

Integral—required to make whole the product being produced

Job—positions of employment that are:

1. new (not previously existing in the state) or retained;
2. permanent (without specific term);
3. full-time (working 30 or more hours per week);
4. employed directly, by an affiliate or through contract labor;
5. based at the manufacturing establishment;
6. filled by a United States citizen who is domiciled in Louisiana or who becomes domiciled in Louisiana within 60 days of employment; and
7. any others terms of employment as negotiated in the Exhibit A or Exhibit B.

LED—Louisiana Economic Development

Local Governmental Entity—parish governing authority, school board, Sheriff, and any municipality in which the manufacturing establishment is or will be located

Maintenance Capital—costs incurred to conserve as nearly as possible the original condition

Manufacturer—a person or business who engages in manufacturing at a manufacturing establishment

Manufacturing—working raw materials by means of mass production or custom fabrication and machinery into wares suitable for use or which gives new shapes, qualities or combinations to matter which already has gone through some artificial process. The resulting products must be "suitable for use" as manufactured products that are placed into commerce for sale or sold for use as a component of another product to be placed, and placed into commerce for sale.

Obsolescence—the inadequacy, disuse, outdated or non-functionality of facilities, infrastructure, equipment or product technologies due to the effects of time, decay, changing market conditions, invention and adoption of new product technologies or changing consumer demands.

Qualified Disaster—

1. a disaster which results from:
   a. an act of terror directed against the United States of any of its allies; or
   b. any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof), but not including training exercises;
2. any disaster which, with respect to the area in which the property is located, resulted in a subsequent determination by the President of the United States that such area warrants assistance by the federal government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act;
3. a disaster which is determined by an applicable federal, state, or local authority (as determined by the Secretary) to warrant assistance from the federal state or local government or agency of instrumentality thereof; or
4. any other extraordinary event that destroys or renders all or a portion of the manufacturing establishment inoperable

Rehabilitation—the extensive renovation of a building or project that is intended to cure obsolescence or to repurpose a facility

Restoration—repairs to bring a building or structure to at least its original form or an improved condition

Secretary—Secretary of Louisiana Economic Development

Site—One or more contiguous parcels of land which are under the control of the manufacturing establishment or which contains certain assets of the manufacturing establishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 47:4351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 42:

§503. Advance Notification; Application

A. An advance notification of intent to apply for tax exemption shall be filed with the LED Office of Business Development (OBD) on the prescribed form prior to the beginning of construction or installation of facilities on all projects for tax exemption except as provided in §505.A and B of these rules. An advance notification fee of $250 shall be submitted with the form. The advance notification will expire and become void if no application is filed within 12 months of the estimated project ending date stated in the advance notification. The estimated project ending date as stated on the advance notification may be amended by the applicant if the amendment is made prior to the estimated project ending date.

B. All financial incentive programs for a given project shall be filed at the same time and on the same advance notification. The applicable advance notification fee for each program for which the applicant anticipates applying shall be submitted with the advance notification.

C. An application for tax exemption may be filed with OBD on the prescribed form:

1. either concurrent with or after filing the advance notification, but no later than 90 days after the beginning of operations or end of construction, whichever occurs first;
2. the deadline for filing the application may be extended pursuant to §523;
3. an applicant filing an application prior to the beginning of operations or end of construction of the project shall file an annual status report with OBD on the prescribed form by December 31, until the project completion report and affidavit of final cost are filed. If the applicant fails to timely file a status report the board may, after notice to the applicant, terminate the contract.

D. In order to receive the board's approval, applications with advance notifications filed after June 24, 2016, shall contain both of the following:

1. An exhibit "A" consisting of a fully executed cooperative endeavor agreement between the state, Louisiana Economic Development and the applicant specifying the terms and conditions of the granting of the exemption contract.
   a. The terms and conditions of the exhibit "A" shall include the following:
      i. either number of jobs and payroll to be created at the project site or the number of jobs and payroll to be retained at the project site where applicable;
      ii. the term of the exemption contract which shall be for up to, but no more than five years and may provide for an ad valorem exemption of up to 100 percent and terms

for renewal may be included provided that the renewal of the contract shall be for a period up to, but no more than three years and may provide for an ad valorem tax exemption of up to, but no more than 80 percent;

iii. the percentage of property eligible for the exemption;

iv. any penalty provisions for failure to create the requisite number of jobs or payroll at the project site, including but not limited to, a reduction in term, reduction in percentage of exemption, or termination of the exemption; and

v. a statement of return on investment (ROI) as determined by the secretary.

2. An exhibit "B" consisting of resolutions adopted by the parish governing authority, the school board, the Sheriff, and any municipality in which the manufacturing establishment is or will be located signifying whether each of these authorities is in favor of the project.

a. Exhibit "B" shall include provisions addressing the following:

i. the number of jobs and payroll to be created at the project site required by the local governmental entity for approval of the exemption;

ii. the term of the exemption contract approved by the local governmental entity; and

iii. the percentage of property eligible for the exemption approved by the local governmental entity.

b. LED will provide guidance to local governmental entities as to suggested alternatives as it relates parameters for job creation, payroll, percentage of exemption and length of contract.

3. The board shall consider the information collected and the provisions of exhibits "A" and "B" in determining whether to approve the contract for exemption and the renewal thereof.

4. If the terms of exhibit "A" and exhibit "B" as it relates to the term of the exemption, and the percentage of property tax eligible for exemption are not the same, the provisions of exhibit "B" shall prevail.

E.1. Applications which provide for a new manufacturing establishment or which provide for an addition to a manufacturing establishment with the creation of new jobs or a compelling reason for the retention of existing jobs shall be favored by the board.

2. In determining whether a company has presented a compelling reason for the retention of existing jobs, the following situations may be considered:

a. to prevent relocation to another state or country;

b. to provide an advantage for investment from a company with multi-state operations with an established competitive capital project program;

c. to employ best practice or innovative, state of the art technology for the establishment's industry;

d. to increase maximum capacity or efficiency; or

e. to provide the state a competitive advantage as determined by the secretary or by the board.

F. An application fee shall be submitted with the application in the amount equal to 0.5 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be smaller than $500 and in no case shall a fee exceed $15,000 per project.

G. OBD reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the form is incomplete or incorrect or the correct fee is not submitted. The document may be resubmitted with the correct information and fee.

H. If the application is submitted after the filing deadline, the term of exemption available under an initial contract and renewal thereof shall be reduced by one year for each year or portion thereof that the application is late, up to a maximum reduction up to the maximum remaining term. The board may impose any other penalty for late filing that it deems appropriate.

I. The department will provide a copy of the application and all relative information to the Louisiana Department of Revenue (LDR) for review. LDR may require additional information from the applicant. The department must receive a letter-of-no-objection or a letter-of-approval from the LDR, prior to submitting the application to the board for action.

J. Eligibility of the applicant and the property for the exemption, including whether the activities at the site meet the definition of manufacturing, will be reviewed by the board based upon the facts and circumstances existing at the time the application is considered by the Board of Commerce and Industry. The property exempted may be increased or decreased based upon review of the application, project completion report or affidavit of final cost. An application filed prior to completion of construction may be considered by the board and a contract may be executed based upon the best available estimates, subject to review and approval of the project completion report and affidavit of final cost. If the applicant fails to timely file the project completion report or affidavit of final cost the board may, after notice to the applicant, terminate the contract.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:864 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2376 (August 2011), LR 41:2318 (November 2015), LR 42:

§505. Miscellaneous Capital Additions

A. Miscellaneous capital additions which had pending contractual applications on June 24, 2016, and which provide for new jobs at the completed manufacturing establishment shall be considered by the board.

B. Miscellaneous capital additions which did not have a pending contractual application as of June 24, 2016 or those with pending applications as of June 24, 2016, but do not provide for new jobs, are not eligible for the property tax exemption.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), amended LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:865 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2377 (August 2011), LR 41:2318 (November 2015), LR 42:

§507. Eligible Property—Buildings and Facilities Used in Manufacturing; Leased Property; Capitalized Materials

A. The board shall consider for tax exemption buildings and facilities used in the operation of new manufacturing establishments located within the state of Louisiana (subject to the limitations stated in §§517 and 519) and additions to manufacturing establishments within the state of Louisiana. Exemptions are granted to the owners of buildings that house a manufacturing establishment and facilities that are operated specifically in the manufacturing of a product. The board recognizes two categories of ownership:

1. owners who engage in manufacturing at said facilities; and

2. owners who are not engaged in manufacturing at said manufacturing establishment, but who have provided either or both of the following for a predetermined manufacturing establishment:

a. buildings to house a manufacturing establishment;

b. facilities that consist of manufacturing equipment operated specifically in the manufacturing process;

3. owners who are not engaged in manufacturing at the manufacturing establishment are eligible for the exemption only if the manufacturer at the site is obligated to pay the property taxes if the exemption were not granted.

B. Leased property is eligible for the exemption, if the property is used in the manufacturing process, is and remains on the plant site, and the manufacturer is obligated under the lease agreement to pay the property taxes if the exemption were not granted.

C. Capitalized materials which are an essential and integral part of a manufacturing process, but do not form part of the finished product, may be exempted along with the manufacturing establishment. Some examples of these are:

1. ammonia in a freezing plant;
2. solvent in an extraction plant; and
3. catalyst in a manufacturing process.

D. To be eligible for exemption, a manufacturing establishment must be in an operational status and engaged in manufacturing. An owner of a new manufacturing establishment under construction may apply for an exemption with the expectation that the manufacturing establishment will become operational. If the manufacturing establishment fails to become operational or ceases operations without a reasonable expectation of recommencing operations, the facility shall no longer be eligible for exemption and its contract shall be subject to termination under §531.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Pan 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:865 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2377 (August 2011), LR 42:

§509. Integral Parts of the Manufacturing Operation

A. Property that is an integral part of the manufacturing operation is eligible for the tax exemption. .

B. The following activities are considered to be integral to the manufacturing process:

1. quality control/quality assurance;
2. packaging;
3. transportation of goods on the site during the manufacturing process;
4. other on site essential activities as approved by the secretary and the board.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 42:

§511. Rehabilitation and Restoration of Property

A. Capital expenditures for the rehabilitation or restoration of an existing establishment may be exempted if it is not maintenance. If replacements or upgrades are made as part of a rehabilitation or restoration to an establishment, only the capital expenditures in excess of original cost shall be eligible for tax exemption. A deduction for the original cost of property to be replaced shall not be made if the project will result in capital additions that exceed $50,000,000.

B. Exemption may be granted on the costs of rehabilitation or restoration of a partially or completely damaged facility, but only on the amount in excess of the original cost.

C. Original costs deducted from rehabilitation or restoration made or rebuilding shall be clearly documented.

D. A deduction for the original cost of property to be replaced as part of a rehabilitation or restoration, as provided by Subsections A or B, shall not be made if the project is related to the replacement or reconstruction of property after the destruction of or damage to such property, as a result of a qualified disaster.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 42:

§513. Relocations

A. A manufacturing establishment moved from one location in the state to another place within the state shall be eligible for the unexpired consecutive years, if any, of the tax exemption contract granted at the original location.

B. If a manufacturing establishment moves from one location in the state to another location within the state, the company shall be required to seek approval of the parish governing authority, the school board, the Sheriff, and any municipality in which the manufacturing establishment will be located if these local governing authorities are different than those that approved the exemption at the original site.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946. amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 29:2633 (December 2003), LR 37:2378 (August 2011), LR 42:

§515. Used Equipment

A. Used equipment is eligible for tax exemption provided no ad valorem property taxes have been paid in Louisiana on said property.

AUTHORITY NOTE: Promulgated in accordance with Article VD, Pan 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:886 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 42:

§517. Ineligible Property

A. Maintenance capital, environmentally required capital upgrades and new replacements to existing machinery and equipment, except those replacements required in the rehabilitation or restoration of a facility, are not eligible for the tax exemption.

B. If the establishment or addition is on the taxable rolls and property taxes have not been paid, the establishment or addition is not eligible for the exemption unless the assessor and local governmental entity agree in writing to remove the establishment or addition from the taxable rolls should the tax exemption be granted.

C. The board shall not consider for tax exemption any property listed on an application on which ad valorem property taxes have been paid.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Commerce, Office of Commerce and Industry, LR 11:97 (February 1985), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2378 (August 2011), LR 42:

§519. Land

A. The land on which a manufacturing establishment is located is not eligible for tax exemption.

AUTHORITY NOTE: Promulgated in accordance with Article VU, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 42:

§521. Inventories

A. The following are not eligible for tax exemption:

1. inventories of raw materials used in the course of manufacturing;

2. inventories of work-in-progress or finished products;

3. any other consumable items.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:866 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 42:

§523. Extension of Time

A. OBD may grant an extension of up to six months for the filing of an application (§503.B.), a project completion report (§525), or an affidavit of final cost (§527), provided the request for extension is received prior to the filing deadline.

B. Additional extensions of time may be granted for good cause.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 42:

§525. Effective Date of Contract; Project Completion Report

A. The owner of a new manufacturing establishment or addition shall document the beginning date of operations and the date that construction is substantially complete. The owner must file that information with OBD on the prescribed project completion report form not later than 90 days after the beginning of operations, completion of construction, or receipt of the fully executed contract, whichever occurs last. A project completion report fee of $250 shall be submitted with the form. The deadline for filing the project completion report may be extended pursuant to §523.

B. The effective date of tax exemption contracts for property located in parishes other than Orleans Parish shall be December 31 of the year in which effective operation began or construction was essentially completed, whichever occurs first. The effective date of tax exemption contracts for property located in Orleans Parish shall be July 31 of the applicable year.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development LR 37:2379 (August 2011), LR 41:2318 (November 2015), LR 42:

§527. Affidavit of Final Cost

A. Within six months of the beginning of operations, completion of construction, or receipt of the executed contract, whichever occurs last, the owner of a manufacturing establishment or addition shall file on the prescribed form an affidavit of final cost showing complete cost of the exempted project. A fee of $250 shall be filed with the affidavit of final cost or any amendment to the affidavit of final cost. Upon request by OBD, a map showing the location of all facilities exempted in the project shall be submitted in order that the exempted property may be clearly identifiable. The deadline for filing the affidavit of final cost may be extended pursuant to §523.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Commerce, Office of Commerce and Industry, LR 12:662 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 41:2319 (November 2015), LR 42:

§529. Renewal of Tax Exemption Contract

A. Application for renewal of the exemption must be filed with OBD on the prescribed form not more than six months before, and not later than ,the expiration of the initial contract. A fee of $250 shall be filed with the renewal application. The document shall not be considered officially received and accepted until the appropriate fee is submitted. Upon proper showing of full compliance with the initial contract of exemption, the contract may be approved by the board for an additional period of up to but not exceeding five years.

B. Eligibility of the applicant and the property for renewal of the exemption will be reviewed by the Board using the same criteria that was used for the initial contract, and based upon the facts and circumstances existing at the time the renewal application is considered. The property exempted for the renewal period may be increased or decreased based upon review of the renewal application. The term of the renewal contract shall be reduced by one year for each calendar month, or portion thereof, that the renewal application is filed late. The board may impose any other penalty for late renewal submission that it deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Pan 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2379 (August 2011), LR 41:2319 (November 2015), LR 42:

§531. Violation of Rules or Documents; Final Inspection

A. The board reserves the right, on its own initiative or upon written complaint of an alleged violation of terms of tax exemption rules or documents, to conduct a final inspection. During the final inspection OBD may cause to be made a full investigation on behalf of the board and shall have full authority for such investigation including authority to demand reports or pertinent records and information from the applicant and complainants. Results of the investigation will be presented to the board.

B. All contracts of exemption shall be subject to the final inspection. If a final inspection indicates that the applicant has violated any terms of the contract or rules, or that the exempt facility is not engaged in manufacturing, the board may conduct a hearing to reconsider the contract of exemption, after giving the applicant not less than 60 days notice.

C. If the board determines that there has been a violation of the terms of the contract or the rules, that the property exempted by the contract is not eligible because it is not used in a manufacturing process, or that the facility has not commenced or has ceased manufacturing operations, the board may terminate or otherwise modify the contract.

AUTHORITY NOTE: Promulgated in accordance with Article VU, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the State Board of Commerce and Industry, December 9, 1946, amended and promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 42:

§533. Reporting Requirements for Changes in Operations

A. OBD is to be notified immediately of any change which affects the tax exemption contract. This includes any changes in the ownership or operational name of a firm holding a tax exemption contract. A fee of $250 shall be filed with a request for any contract amendment, including but not limited to, a change of ownership, change in name, or change in location. The board may consider restrictions or cancellation of a contract for cessation of the manufacturing operation, or retirement of any portion of the exempted equipment. Failure to report any material changes constitutes a breach of contract and, with approval by the board, shall result in restriction or termination.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:867 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 41:2319 (November 2015), LR 42:

§535. Sale or Transfer of Exempted Manufacturing Establishment

A. In the event an applicant should sell or otherwise dispose of property covered by a contract of exemption, the purchaser of the said plant or property may, within three months of the date of such act of sale, apply to the board for a transfer of the contract. A fee of $250 shall be filed with a request to transfer the contract. The board shall consider all such applications for transfer of contracts of exemption strictly on the merits of the application for such transfer. No such transfer shall in any way impair or amend any of the provisions of the contract so transferred other than to change the name of the contracting applicant. Failure to request or apply for a transfer within the stipulated time period shall constitute a violation of the contract.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, LR 20:868 (August 1994), amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 41:2319 (November 2015), LR 42:

§537. Reporting to the Parish Assessor

A. The applicant shall file annually with the assessor of the parish in which the manufacturing establishment is located, a complete taxpayer's report on forms approved by the Louisiana Tax Commission, in order that the exempted property may be separately listed on the assessment rolls.

AUTHORITY NOTE: Promulgated in accordance with Article VII, Part 2, Section 21(F) of the Louisiana Constitution of 1974.

HISTORICAL NOTE: Adopted by the Department of Commerce, Office of Commerce and Industry, Division of Financial Programs Administration, September 1974, amended by the Department of Economic Development, Office of Business Development, LR 37:2380 (August 2011), LR 42:

Family Impact Statement

The proposed Rule changes have no impact on family formation, stability or autonomy, as described in R.S. 49.972.

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed rulemaking should have no provider impact as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments to Danielle Clapinski, Louisiana Department of Economic Development, P.O. Box 94185, Baton Rouge, LA 70804-9185; or physically delivered to Capitol Annex Building, Office of the Secretary, Second Floor, 1051 North Third Street, Baton Rouge, LA 70802. Comments may also be sent by email to danielle.clapinski@la.gov. All comments must be received no later than 5 p.m., on December 28, 2016.

Public Hearing

A public hearing to receive comments on the Notice of Intent will be held on December 29, 2016 at 10 a.m. at the Department of Economic Development, 617 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa
UnderSecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Industrial Ad Valorem Tax Exemption Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no significant costs or savings to state or local governmental units as a result of the proposed rule changes. The Department of Economic Development (DED) intends to administer the program with existing resources and personnel. However, the DED, as well as the LA Department of Revenue may incur marginal administrative costs associated with implementing the proposed rule changes

Executive orders JBE 16-26 and 16-73 made significant changes to the Industrial Tax Exemption Program (ITEP) and the Board of Commerce and Industry is codifying those changes in the rules for the program. These changes include requiring all projects to file an advance notification, eliminating the miscellaneous capital addition process, and eliminating maintenance, repairs and environmentally required upgrades from eligibility for the tax exemption.

Additionally, the rule changes require that companies who want to participate in the program seek and receive approval from both local and state governments. Firms wishing to participate must file two exhibits, Exhibit "A" and Exhibit "B," which have separate requirements regarding state and local requirements to be eligible for the exemption, respectively. If the terms of Exhibits "A" and "B" differ on the term of the exemption and/for the percentage of property tax eligible for the exemption, the provisions of Exhibit "B" will take precedent.

Furthermore, the term of the renewal contracts is now limited to 3 years and the percentage of exemption for renewed contracts is now 80%. This is a change from the previous practice of renewing contracts for up to 5 years at a 100% exemption percentage. However, advances filed and miscellaneous capital additions approved prior to June 24, 2016 are grandfathered in to the past practice of being renewed for up to 5 years at a 100% exemption percentage. Lastly, the rules establish a definitions section to further clarify and explain portions of the rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes may increase revenues for local governments by an indeterminable amount for a number of reasons. First, some projects that previously filed miscellaneous capital additions, the process for which is being eliminated by the proposed rule changes, could previously file advances. Second, the DED has not previously captured how many ITEP program contracts are for maintenance, repairs, etc., that are no longer eligible for the exemption. As a result the corresponding aggregate value of the aforementioned contract types cannot be determined. Lastly, the DED does not know how many years or percentage of exemption local governing entities will grant, as local governing authorities have the ability to set contract terms and exemption percentages and supersede state terms and percentages under the authority of the proposed rule changes.

The proposed rule changes will not affect revenue collections for state governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The incomes of companies that are no longer eligible to participate in the program will decrease in the same amount as any increases in local revenues, as fewer exemptions will likely be granted due to the Executive Orders and the rule changes. The proposed rule changes narrow the scope of ITEP, eliminating the miscellaneous capital additions process and the eligibility of maintenance, repairs, and environmentally required upgrades from eligibility. Additionally, firms must file advance notices with the state if they seek approval to participate in ITEP. Furthermore, contract renewals for firms participating in the program will only have terms of three years at an exemption percentage of 80%, a reduction from the previous five-year terms at a 100% exemption percentage, though there is an exception for firms who filed advances or had miscellaneous capital additions approved prior to June 24, 2016. As a result of the narrowed scope of ITEP, the economic benefits available to firms who wish to participate in the program are similarly reduced.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will gain competitively over companies that do not receive the program's benefits. While employment may increase in participating businesses, employment may be lessened in other competing businesses that do not participate in the program.

Anne G. Villa	Gregory V. Albrecht
Undersecretary	Chief Economist
1611#043	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.603)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District, and State Accountability System:* §603. Determining a Cohort for a Graduation. These proposed changes update the manner in which student dropouts are

assigned regarding students who transfer to another school when a request for records is received by a sending school.

Title 28
EDUCATION
Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System
Chapter 6. Graduation Cohort, Index, and Rate
§603. Determining a Cohort for a Graduation

A. - H. …

I. Beginning with the 2016-2017 academic year, for students who exit and have no subsequent enrollment in a school, the school of last record will be considered the school that sent a valid request for student records to the school that applied the exit code.

1. if the last exit from enrollment is for expulsion (exit code 01), then the request for records will not be used to determine last school of record. The last school of enrollment shall be used.

2. this policy shall apply to dropout assignment for any cohort graduation period or DCAI year that includes 2016-2017 and beyond. Years prior to 2016-2017 that are included in a cohort graduation period or DCAI year will continue to use the historical rule, established by the Student Information System (SIS), of assigning the dropout to the school of last enrollment record in SIS.

J. All students (excluding those defined in C), regardless of entry or exit dates, are included in the state-level cohort.

K. Students who exit K-12 education and enroll in adult education shall earn points for their school and LEA only if a GED is awarded by October 1 of the following academic year. Otherwise, the student shall be considered a dropout.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 33:424 (March 2007), LR 33:2031 (October 2007), LR 35:2312 (November 2009), LR 36:2242 (October 2010), LR 36:2840 (December 2010), LR 38:3108 (December 2012), LR 40:1316 (July 2014), LR 43:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., December 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions will have no anticipated effect on costs or savings to state or local governmental units.

The current high school dropout assignment policy assigns the student dropout to the last school of record. The proposed revision, as recommended by district and school leadership,

will change the manner in which these dropouts are assigned. Beginning with the 2016-2017 school year, unless the dropout student is expelled, the dropout will be assigned to the receiving school, which is the school that sends a records request.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There could be an impact on a school or district's performance scores. Cohort graduation rates are used in part to determine a school's performance score (SPS) and subsequently a district's performance score. This revision properly aligns a student's exit from a school to the responsible school. While this change may not significantly impact the SPS for a large school or school district, it could significantly impact an SPS for smaller schools and/or a small school district. This could have implications for a school's eligibility for funding, supports, recognitions, and interventions, as well as students' eligibility for school choice.

Furthermore, charter schools under long-term renewal (five or more years), whose academic performance declines for three consecutive years, will be subject to a formal evaluation and contract review by LDOE. Based on the results of its evaluation, the department may make recommendations for improving performance or revoke the charter.

Beth Scioneaux	John D. Carpenter
Deputy Superintendent	Legislative Fiscal Officer
1611#046	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 113—Louisiana's Reading and Language Competencies for New Teachers
(LAC 28:XCV.Chapters 1-17)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education (BESE) approved for advertisement the repeal of *Bulletin 113—Louisiana's Reading and Language Competencies for New Teachers*. This action is required because the teacher competencies outlined in Bulletin 113 are outdated and obsolete.

Title 28
EDUCATION
Part XCV. Bulletin 113—Louisiana's Reading and Language Competencies for New Teachers

Chapter 1. Introduction

§111. Reading and Language Competencies

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3065 (December 2005), repealed LR 43:

Chapter 2. Foundational Concepts—Strand A

§201. BESE Reading Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1449 (July 2004), repealed LR 43:

§203. BESE/LDE Reading Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1450 (July 2004), repealed LR 43:

§205. Reading and Language Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1450 (July 2004), repealed LR 43:

§207. Reading and Language Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1450 (July 2004), repealed LR 43:

§209. Additional Reading and Language Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1450 (July 2004), repealed LR 43:

§211. Additional Reading and Language Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004), repealed LR 43:

Chapter 3. Assessment—Strand B

§301. BESE/LDE Reading Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004), repealed LR 43:

§303. BESE/LDE Reading Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004), repealed LR 43:

§305. NCATE Reading and Language Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004), repealed LR 43:

§307. NCATE Reading and Language Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004), repealed LR 43:

§309. Additional Reading and Language Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004), repealed LR 43:

§311. Additional Reading and Language Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1541 (July 2004), repealed LR 43:

§313. Additional Reading and Language Competencies—Dispositions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004), repealed LR 43:

§315. Additional Reading and Language Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1451 (July 2004), repealed LR 43:

Chapter 5. Phonemic Awareness and Letter Knowledge—Strand C

§501. BESE/LDE Reading Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:

§503. BESE/LDE Reading Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:

§505. NCATE Reading and Language Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:

§507. NCATE Reading and Language Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:

§509. Additional Reading and Language Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:

§511. Additional Reading and Language Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:

Chapter 7. Phonics and Word Recognition—Strand 7

§701. BESE/LDE Reading Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:

§703. BESE/LDE Reading Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:

§705. NCATE Reading and Language Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:

§707. NCATE Reading And Language Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1452 (July 2004), repealed LR 43:

§709. Additional Reading and Language Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004), repealed LR 43:

§711. Additional Reading and Language Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004), repealed LR 43:

Chapter 9. Fluent, Automatic Reading of Text—Strand E

§901. BESE/LDE Reading Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004), repealed LR 43:

§903. BESE/LDE Reading Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004), repealed LR 43:

§905. NCATE Reading and Language Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3065 (December 2005), repealed LR 43:

§907. NCATE Reading and Language Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3065 (December 2005), repealed LR 43:

§909. Additional Reading and Language Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004), repealed LR 43:

§911. Additional Reading and Language Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004), repealed LR 43:

Chapter 11. Vocabulary

§1101. BESE/LDE Reading Competencies—Knowledge (Strand F)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004), repealed LR 43:

§1103. BESE/LDE Reading Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:

§1105. NCATE Reading and Language Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004), repealed LR 43:

§1107. NCATE Reading And Language Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1453 (July 2004), repealed LR 43:

§1109. Additional Reading and Language Competencies—Knowledge (Strand F)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:

§1111. Additional Reading and Language Competencies—Skills (Strand F)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:

Chapter 13. Text Comprehension—Strand G

§1301. BESE/LDE Reading Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:

§1303. BESE/LDE Reading Competencies—Skills (Strand G)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:

§1305. NCATE Reading and Language Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:

§1307. NCATE Reading And Language Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:

§1309. Additional Reading and Language Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:

§1311. Additional Reading and Language Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:

Chapter 15. Spelling and Writing

§1501. BESE/LDE Reading Competencies—Knowledge (Strand H)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004), repealed LR 43:

§1503. BESE/LDE Reading Competencies—Skills (Strand H)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004), repealed LR 43:

§1505. NCATE Reading and Language Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:

§1507. NCATE Reading and Language Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:

§1509. Additional Reading and Language Competencies—Knowledge (Strand H)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004), repealed LR 43:

§1511. Additional Reading and Language Competencies—Skills (Strand H)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004), repealed LR 43:

Chapter 17. Professional Development—Strand I

§1701. BESE/LDE Reading Competencies—Knowledge

Repealed.

§1703. BESE/LDE Reading Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:

§1705. NCATE Reading and Language Competencies—Knowledge

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:

§1707. NCATE Reading and Language Competencies—Skills

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1454 (July 2004), repealed LR 43:

§1709. Additional Reading and Language Competencies—Knowledge (Strand I)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004), repealed LR 43:

§1711. Additional Reading and Language Competencies—Skills (Strand I)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004), repealed LR 43:

§1713. Additional Reading and Language Competencies—Dispositions (Strand I)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1456 (July 2004), repealed LR 43:

§1715. Additional Reading and Language Competencies—Skills (Strand I)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1455 (July 2004), repealed LR 43:

§1717. Appendix—Development of Reading and Language Rubrics

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1456 (July 2004), repealed LR 43:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., December 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 113—Louisiana's Reading and Language Competencies for New Teachers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revision will have no effect on costs or savings to state or local governmental units.

This action is required because these competencies are outdated and obsolete. Proposed rule changes to Bulletin 746 contain new teacher preparation competencies.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1611#047

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools (LAC 28:CXXXIX.107, 301, 307, 309, 401-411, 417-423, 521, 523, 707, 2301, 2303, 2701, 2703, 2707, 2709, and 2713)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 126—Charter Schools:* §107. Types of Charter Schools; §301. Charter School Authorizers; §307. Local School Board Duties; §309. Charter Authorizer Reporting Requirements; §401. Local Charter Authorizers; §403. Certification of Local Charter Authorizers; §405. Open Meetings Laws; §407. Independent Financial Audit; §409. Local Charter Authorizers; Initial Certification Period and Initial Review; §411. Renewal of Certification for Local Charter Authorizers; §417. Oversight of Charter Schools Authorized by Local Charter Authorizers; §419. Authorizer Fee; §421. Annual Report; §423. Closure of Local Charter Authorizers; §521. Authorization of Schools by Local Charter Authorizers; §523. Charter School Replication; §707. Contracts between Local Charter Authorizers and Charter Operators; §2301. State Funding; §2303. Federal Funding; §2701. Students Eligible to Attend; §2703. Enrollment Capacity; §2707. Application Period; §2709. Enrollment of Students, Lottery, and Waitlist; and §2713. At-Risk Students. Act 497 of the 2016 Regular Legislative Session eliminated Local Charter Authorizers from the definition of "chartering authority" and removed the authority of Local Charter Authorizers to enter into charter agreements, thus providing that only local school boards and BESE have this authority. The passage of Act 497 necessitates the removal of all references to Local Charter Authorizers and Type 1B Charter Schools in *Bulletin 126—Charter Schools*. Further, the revisions address issues resulting from federally declared disasters in Louisiana or surrounding states.

Title 28
EDUCATION
Part CXXXIX. Bulletin 126--Charter Schools

Chapter 1. General Provisions

§107. Types of Charter Schools

A. A type 1 charter school is a new school operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and a local school board.

B. A type 2 charter school is a new school or a preexisting public school converted and operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and the state Board of Elementary and Secondary Education.

C. A type 3 charter school is a preexisting public school converted and operated as the result of and pursuant to a charter between a nonprofit corporation and the local school board.

D. A type 3B charter school is a former type 5 charter school transferred from the Recovery School District to the administration and management of the transferring local school system pursuant to R.S. 17:10.5, R.S. 17:10.7 and Bulletin 129, §505.

E. A type 4 charter school is a preexisting public school converted and operated or a new school operated as the result of and pursuant to a charter between a local school board and the state Board of Elementary and Secondary Education.

F. A type 5 charter school is a preexisting public school transferred to the recovery school district as a school determined to be failing pursuant to R.S. 17:10.5 or R.S. 17:10.7 and operated as the result of and pursuant to a charter between a nonprofit corporation and the state Board of Elementary and Secondary Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3973.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1358 (July 2008), amended LR 39:3249 (December 2013), LR 42:

Chapter 3. Charter School Authorizers

§301. Charter School Authorizers

A. The state Board of Elementary and Secondary Education authorizes the operation of type 2, type 4, and type 5 charter schools.

B. Local school boards authorize the operation of type 1, type 3, and type 3B charter schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3982.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1359 (July 2008), amended LR 39:473 (March 2013), LR 39:3249 (December 2013), LR 42:

§307. Local School Board Duties

A. Local school boards have the following duties relating to charter schools:

1. to report any charter entered into to; and to report the number of schools chartered, the status of those schools, and any recommendations relating to the charter school program to BESE no later than July 1 of each year;

2. provide each charter school with the criteria and procedures that will be used when considering whether to renew a school's charter;

3. to notify the chartering group in writing of any decisions made relative to the renewal or nonrenewal of a school's charter not later than January 31 of the year in which the charter would expire. A notification that a charter will not be renewed shall include written explanation of the reasons for such non-renewal;

4. to make available to chartering groups any vacant school facilities or any facility slated to be vacant for lease or purchase at up to fair market value. In the case of a type 2 charter school created as a result of a conversion, the facility and all property within the existing school shall also be made available to the chartering group. In return for the use of the facility and its contents, the chartering group shall pay a proportionate share of the local school board's bonded indebtedness to be calculated in the same manner as set for in R.S. 17:1990(C)(2)(a)(i). If such facilities were constructed at no cost to the local school board, then such facilities, including all equipment, books, instructional materials, and furniture within such facilities, shall be provided to the charter school at no cost.

5. if requested by a charter school, provide transportation services to a charter school student pursuant to R.S. 17:158.

a. The charter school shall reimburse the local school board for the actual cost of providing such transportation unless an amount less than the actual cost is agreed upon by both parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3982, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1359 (July 2008), amended LR 37:868 (March 2011), LR 38:3117 (December 2012), LR 39:3064 (November 2013), LR 42:

§309. Charter Authorizer Reporting Requirements

A. All charter authorizers including BESE and local school boards shall notify state legislators regarding initial charter school proposals and applications according to the following requirements.

1. At the time a chartering group submits its initial proposal or application to operate a charter school, the chartering authority shall notify each state senator and state representative in whose district the charter school is to be located that such proposal or application has been submitted.

2. Such notification shall be limited to the date the proposal or application was submitted, the charter authorizer to which the proposal or application was submitted, the type of charter school the chartering group seeks to operate, and the location of the proposed school.

3. The charter authorizer shall also notify each state senator and state representative in whose district the charter school is to be located whether the proposal or application to operate a charter school was approved or denied.

4. The notifications shall be sent by both postal mail and electronic mail to each legislator's district office.

5. This Section shall not apply to renewals of the charter of an existing charter school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3982, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 40:2517 (December 2014), amended LR 42:

Chapter 4. Local Charter Authorizers

§401. Local Charter Authorizers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3973.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:473 (March 2013), repealed LR 42:

§403. Certification of Local Charter Authorizers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3981, R.S. 17:3981.1, R.S. 17:3982, and R.S. 17: 3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:473 (March 2013), repealed LR 42:

§405. Open Meetings Laws

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3982.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:474 (March 2013), repealed LR 42:

§407. Independent Financial Audit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3981.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:474 (March 2013), repealed LR 42:

§409. Local Charter Authorizers; Initial Certification Period and Initial Review

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3981.1 and R.S. 17:3981.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:474 (March 2013), repealed LR 42:

§411. Renewal of Certification for Local Charter Authorizers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 17:3981, R.S. 17:3981.1, R.S. 17:3982, and R.S. 17: 3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:474 (March 2013), repealed LR 42:

§417. Oversight of Charter Schools Authorized by Local Charter Authorizers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3973, R.S. 17:3974, R.S. 17:3981, R.S. 17:3981.1, R.S. 17:3891.2, R.S. 17:3982, and R.S. 17: 3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:474 (March 2013), repealed LR 42:

§419. Authorizer Fee

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17: 3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:474 (March 2013), repealed LR 42:

§421. Annual Report

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1 and R.S. 17:3998.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:475 (March 2013), repealed LR 42:

§423. Closure of Local Charter Authorizers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3981.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:475 (March 2013), repealed LR 42:

Chapter 5. Charter School Application and Approval Process

§521. Authorization of Schools by Local Charter Authorizers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3973, R.S. 17:3974, R.S. 17:3981, R.S. 17:3981.1, R.S. 17:3981.2, R.S. 17:3982, and R.S. 17: 3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:475 (March 2013), repealed LR 42:

§523. Charter School Replication

A. - A.4. …

5. the type of charter schools the charter operator may open shall be determined as follows;

Charter School Meeting Eligibility Requirements	Permitted New Types of Charter Schools
Type 1	• Type 1; • May be a Type 3 subject to the permission of the school board
Type 2	• New Type 2; • May be a Type 2 conversion charter school upon receiving approval from the professional faculty, staff, and parents or guardians of the pre-existing school, as required in §507; • May be a Type 5 subject to siting by the RSD to transform a current RSD direct-run or Type 5 charter school
Type 3	• Type 1; • May be a Type 3 subject to the permission of the school board
Type 3B	• Type 3B, subject to the charter operator's ability to provide a facility or enter into an agreement with the local school board for use of a school board facility
Type 4	• Type 4
Type 5	• Type 2; • May be a Type 2 conversion charter school upon receiving approval from the professional faculty, staff, and parents or guardians of the pre-existing school, as required in §507; • May be a Type 5 subject to siting by the RSD to transform a current RSD direct-run or Type 5 charter school

6. the chartering group shall notify its chartering authority of its intent to open one or two additional charter schools pursuant to this section at least 120 calendar days prior to the day on which each additional school shall enroll students;

7. at least 90 calendar days prior to the day on which each additional school shall enroll students, the chartering authority shall enter into a charter agreement with the chartering group for each additional school and shall notify BESE of its action;

8. the charter operator must complete all processes and required by law and BESE policy to open a school, including, but not limited to the procurement of all required permits, inspections and approvals necessary to safeguard student safety and welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 39:1432 (June 2013), amended LR 39:3250 (December 2013), amended LR 42:

Chapter 7. Charter School Performance Contract

§707. Contracts between Local Charter Authorizers and Charter Operators

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3973, R.S. 17:3974, R.S. 17:3981, R.S. 17:3981.1, R.S. 17:3982, and R.S. 17: 3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:476 (March 2013), repealed LR 42:

Chapter 23. Charter School Funding

§2301. State Funding

A. Unless otherwise provided by law, the per pupil amount provided to a type 1, 2, 3, 3B, or 4 charter school shall be computed at least annually and shall be equal to the per pupil amount provided through the Minimum Foundation Program formula, determined by the allocation weights in the formula based upon student characteristics or needs, received by the school district in which the student resides, as determined by the weighted differentiated funding formula based upon individual student characteristics or needs that is provided through the Minimum Foundation Program, except as provided in Subsection E of this Section.

1. The state-funded per pupil allocation shall be based upon the weighted student membership count received by the district pursuant to the most recent legislatively approved Minimum Foundation Program formula, and include all levels and allocation weights based upon student characteristics or needs as provided in the formula except any supplementary allocations for specific purposes. Supplementary allocations for specific purposes shall be provided to charter schools based solely on the funds generated by the charter school within each specific allocation.

B. Initial allocation of the per pupil amount each year shall be based on estimates provided by the Louisiana Department of Education using the most recent local revenue data and projected pupil counts available. Allocations may be adjusted during the year to reflect actual pupil counts.

C. For the purposes of funding, each type 1, type 3, and type 4 charter school shall be considered an approved public school of the local school board entering into the charter agreement.

D. Type 5 charter schools shall receive a per pupil amount each year pursuant to formulas developed by the RSD which may include differentiated funding for certain students, including students identified as being eligible for special education services, and based on the October 1 membership count of the charter school and any other membership count authorized pursuant to the Minimum Foundation Program formula adopted each year.

E. Beginning on July 1, 2016, for allocations in a school district with one or more Type 3B charter schools in a parish that contains a municipality with a population of 300,000 or more persons according to the latest federal decennial census, refer to *Bulletin 129—Recovery School District*, §1111.

F. Type 2 charter schools approved prior to July 1, 2008 shall receive a per pupil amount from the Louisiana Department of Education each year based on the October 1 membership count of the charter school and using state funds specifically provided for this purpose. In order to provide for adjustments in allocations made to type 2 charter schools as a result of changes in enrollment, BESE may provide annually for a February pupil membership count to reflect any changes in pupil enrollment that may occur after October 1 of each year. Type 2 charter schools authorized by the state Board of Elementary and Secondary Education after July 1, 2008, shall receive a per pupil amount each year as provided in the Minimum Foundation Program approved formula.

1. Any allocation adjustment made pursuant to this Paragraph shall not be retroactive and shall be applicable for the period from March 1 through the end of the school year. The provisions of this Paragraph relative to an allocation adjustment shall not be applicable to any type 2 charter school that has had an increase or decrease in student

enrollment of 5 percent or less in any school year for which the February membership count occurs.

G. A charter authority may annually charge each charter school it authorizes a fee in an amount equal to two percent of the per pupil allocation that is received by a charter school for administrative overhead costs incurred by the chartering authority for considering the charter application and any amendment thereto, providing monitoring and oversight of the school, collecting and analyzing data of the school, and for reporting on school performance. Such fee amount shall be withheld from the per pupil amount in monthly increments and shall not be applicable to any federal money or grants received by the school. Administrative overhead costs shall not include any cost incurred by the charter authority to provide purchased services to the charter school.

1. At least 30 days prior to the beginning of each fiscal year, each charter school shall be provided by its chartering authority with a projected budget detailing anticipated administrative overhead costs and planned uses for fees charged for such costs.

2. By no later than 90 days following the end of each fiscal year, each charter school shall be provided by its chartering authority or the Recovery School District, if applicable, an itemized accounting of the actual cost of each purchased service provided to the charter school.

3. The LDE may withhold and retain from state funds otherwise allocated to a local public school system through the Minimum Foundation Program an amount equal to 1 quarter of 1 percent of the fee amount charged to a type 3B charter school for administrative costs incurred by the LDE for providing financial oversight and monitoring of a type 3B charter school acting as its own LEA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3995, and R.S. 17:3981.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1371 (July 2008), amended LR 37:874 (March 2011), LR 39:3250 (December 2013), LR 40:1324 (July 2014), LR 42:549 (April 2016), LR 42:

§2303. Federal Funding

A. Any type 2 or type 5 charter school shall be considered the local education agency for funding purposes and statutory definitions and, as a local education agency, shall receive allocations for all available funding.

B. A type 3B charter school shall have the option to remain its own local education agency or have the local school board serve as the charter school's local education agency, pursuant to §519 of this bulletin.

C. For each pupil enrolled in a charter school who is entitled to special education services, any state special education funding beyond that provided in the Minimum Foundation Program and any federal funds for special education for that pupil that would have been allocated for that pupil shall be allocated to the charter school which the pupil attends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008), amended LR 39:3251 (December 2013), LR 40:1324 (July 2014), LR 42:

Chapter 27. Charter School Recruitment and Enrollment

§2701. Students Eligible to Attend

A. - E. …

F. Nothwithstanding the residency eligibility and verification requirements above, upon approval of the state superintendent, a charter school may enroll a student without such documentation who has been displaced due to a federally declared disaster in Louisiana or surrounding states. As a condition of enrollment, the parent or legal custodian must provide a form signed by the parent or legal custodian of the student that must attest to the following:

1. student's name;
2. name of parent or legal custodian;
3. current address of parent or legal custodian;
4. statement indicating that the student is displaced from another school due to a federally declared disaster; and
5. name of the school in which the student was previously enrolled prior to the federally declared disaster.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:10.5, R.S. 17:10.7, and R.S. 17:1990.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008), amended LR 37:875 (March 2011), LR 37:2390 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 42:1018 (July 2016), LR 42:

§2703. Enrollment Capacity

A. - B. …

C. In the event of a federally declared disaster in Louisiana or surrounding states, the state superintendent may approve a charter school to exceed 120 percent of the total number of students that it is authorized to enroll pursuant to its approved charter solely for the purpose of enrolling students who have been displaced from their homes or are unable to attend the school in which they were previously enrolled or zoned to attend. The state superintendent shall provide a report to the state board at its next regularly scheduled meeting outlining each charter school granted an increase in its enrollment capacity pursuant to this paragraph. Students enrolled pursuant to this paragraph shall be permitted to remain enrolled in the charter school for the remainder of the school year. Parents or legal custodians found to have misrepresented their displacement status shall be required to return to the school in which the student was previously enrolled or zoned to attend.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 42:

§2707. Application Period

A. - D. …

E. In the event of a federally declared disaster, a charter school may accept applications for students displaced due to the disaster outside of the designated student application period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 42:

§2709. Enrollment of Students, Lottery, and Waitlist

A. Each student submitting a timely application and meeting all residency requirements and admission requirements, as applicable, shall be considered eligible to enroll in a charter school. Additionally, students displaced as a result of a federally declared disaster who submit an application and the form specified in §2701.F of this Bulletin shall be considered eligible to enroll in a charter school.

B. - D.2.a. …

b. If a charter school's enrollment capacity is increased for the purpose of enrolling students displaced due to a federally declared disaster and the charter school's designated application period has passed, the charter school may enroll students displaced due to a federally declared disaster on a first come, first served basis until the enrollment capacity is reached.

E. - K. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:753 (March 2012), repromulgated LR 38:1395 (June 2012), amended LR 38:3120 (December 2012), LR 39:1021 (April 2013), LR 39:1437 (June 2013), LR 39:3252 (December 2013), LR 41:1265 (July 2015), LR 42:

§2713. At-Risk Students

A. Charter schools shall maintain required student enrollment percentages as provided in this Section, based on the demographic information collected in the February 1 pupil membership count for students who were enrolled at the school the previous October 1 according to the October 1 pupil membership count.

B. The following definitions shall apply in this Section.

Students from Local Public School Districts—public school students who reside within the geographic boundaries of the local city or parish school board's district where a particular charter school is located.

Students with Exceptionalities—students identified as having one or more exceptionalities, as defined in R.S. 17:1942, not including gifted and talented.

C. Unless otherwise explicitly stated in the charter school's contract, or otherwise provided by charter law, each type 2 charter school created as the result of a conversion, type 3 charter school, and type 4 charter school shall maintain the following student enrollment percentages:

1. the charter school's percentage of free- or reduced-price lunch eligible students shall be greater than or equal to the percentage of free- or reduced-price lunch eligible students enrolled at the school in the school year prior to the establishment of the charter school; and

2. the charter school's percentage of students with exceptionalities shall be greater than or equal to the percentage of students with exceptionalities enrolled at the school in the school year prior to the establishment of the charter school.

D. Except as otherwise provided by charter law, each type 1or type 2 charter school created as a new school shall maintain the following student enrollment percentages:

1. the charter school's percentage of free- or reduced-price lunch eligible students shall be greater than or equal to 85 percent of the percentage of free- or reduced-price lunch eligible students from local public school districts. The remaining number of students enrolled in the charter school which would be required to have the same percentage of free- or reduced-price lunch eligible students from local public school districts shall be comprised of students who are otherwise at-risk as defined in §103 of this bulletin; and

2. the charter school's percentage of students with exceptionalities shall be greater than or equal to 85 percent of the percentage of students with exceptionalities from the local public school districts. The remaining number of students enrolled in the charter school which would be required to have the same percentage of students with exceptionalities from the local public school districts shall be comprised of students who are otherwise at-risk as defined in §103 of this bulletin.

E. For the purpose of Subsection D of this Section, the LDE shall determine the percentages of free or reduced-price lunch eligible students and students with exceptionalities from local public school districts as follows.

1. For charter schools in operation prior to July 1, 2016, the student enrollment percentages shall be based on the February 1, 2015 pupil membership count and shall remain fixed until the charter school's contract is renewed, unless otherwise provided for in existing charter contracts.

2. For charter schools beginning an initial or renewal charter contract term on or after July 1, 2016, the student enrollment percentages shall be based on the pupil membership counts from the school year immediately preceding the beginning of the charter contract term and shall remain fixed during the charter contract term, unless the charter contract specifies that the percentages shall be required to reflect the current year's percentages.

F. The LDE shall perform all calculations necessary to implement this Section.

G. Annually, the LDE shall make a report to BESE on the student enrollment percentages detailed in this Section for all public schools and local education agencies.

H. Each charter authorizer shall hold its authorized charter schools accountable for meeting the required student enrollment percentages in this Section in accordance with state law by taking the following actions for each charter school that fails to meet required enrollment percentages:

1. conducting an inquiry to determine all actions taken by the charter school to attempt to meet the requirements and the reasons for such failure; and

2. providing a written notice to the charter school that provides specific annual enrollment percentage targets the charter school must meet to demonstrate progress toward meeting the required enrollment percentages, and details how the charter authorizer will hold the charter school accountable, including any potential consequences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) R.S. 17:3973, R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008), amended LR 37:875 (March 2011). LR 40:1325 (July 2014), LR 42:550 (April 2016), LR 42:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., December 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 126—Charter Schools

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions on the elimination of Local Charter Authorizers will have no effect on costs or savings to state or local governmental units, as none have ever been approved.

Act 497 of the 2016 Regular Legislative Session eliminated Local Charter Authorizers from the definition of "chartering authority" and removed the authority of Local Charter Authorizers to enter into charter agreements, thus providing that only local school boards and BESE have this authority. The passage of Act 497 necessitates the removal of all references to Local Charter Authorizers and Type 1B Charter Schools in Bulletin 126, *Charter Schools*.

Further, the revisions address issues resulting from federally declared disasters in Louisiana or surrounding states, by allowing a charter school to exceed 120 percent of the total number of students it is authorized to enroll for students who have been displaced and are unable to attend the school in which they were previously enrolled or zoned to attend.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There could be a reduction in state and local revenues as calculated in the Minimum Foundation Program (MFP) funding formula for a traditional public school as a result of students transferring to a charter public school due to their displacement or inability to attend the school in which they were previously enrolled or zoned to attend. These students shall be permitted to remain enrolled in the charter school for the remainder of the school year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Charter schools will be allowed to enroll students in excess of their approved caps, which will result in an increase in enrollment and associated funding.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Secretary
1611#048

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1922—Compliance Monitoring Procedures
(LAC 28:XCI.101, 105, 107, 109,
301, 303, 305, 307, 311, and 313)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1922—Compliance Monitoring Procedures:* §101. Monitoring, §105. Local Educational Agencies (LEAs), §107. Corrective Action and Sanctions, §109. Components of the Continuous Improvement Monitoring Process, §301. Categories of Monitoring, §303 Timelines, §305. On-Site Visits, §307. Regulatory Issues Reviewed On-Site, §311. Activities Conducted During the On-Site Visit, and §313. Activities/Procedures at the Completion of the On-Site Visit. Bulletin 1922 outlines the processes for special education monitoring in Louisiana. The proposed revisions align state policy with data privacy statutes, place local education agencies (LEAs) in tiered categories for monitoring selection - low, moderate, and high risk; add Types 1B and 3B charter schools to list of LEAs subject to monitoring; add LEA determinations to list strategies and components that may be utilized during the monitoring process; and allow on-site visits to be conducted by state-authorized individuals with training and experience in the program areas that are being monitored.

Title 28
EDUCATION
Part XCI. Bulletin 1922—Compliance Monitoring Procedures

Chapter 1. Overview

§101. Monitoring

A. - B. …

C. The quantitative data will be used to determine specific performance profiles for local educational agencies (LEAs) using data relative to a set of variables referenced in 101B. Performance profiles will be issued annually. The quantitative data will be collected in relation to a set of variables selected by a statewide group of stakeholders from various agencies and entities. This group will meet at least annually with the Louisiana Department of Education (LDE) to select only specific indicators that will be used to determine a LEA's performance status. Any changes to the process shall be presented to the Special Education Advisory Panel.

D. LEAs will be placed in tiered categories for monitoring selection. The three tiers of monitoring are low, moderate, and high risk. Upon validation of quantitative data, LEAs will be notified of their performance status and monitoring event.

1. LEAs designated as high-risk will receive an on-site compliance monitoring visit in order to review qualitative data specific to selected qualitative indicators that focus on the LEA's lowest performing indicator areas. Additional data may be reviewed prior to and during the on-site visit.

2. The LEAs designated as continuous improvement or have a ranking of low or moderate risk will not be targeted to receive an on-site compliance visit. Some districts may be required to develop a corrective action plan because of triggers within the data that signify concerns such as when the performance of students with disabilities is disproportionately below the state average in any of the required performance indicators. These performance indicators include, but are not limited to suspension, diploma, dropout, and state-wide assessment rates.

D.3. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30.414 (March 2004), amended LR 31:3104 (December 2005), LR 37:3216 (November 2011), LR 42:

§105. Local Educational Agencies (LEAs)

A. Local Educational Agencies (LEAs) to be monitored are:

1. city or parish school systems;
2. special school district;
3. State Board of Elementary and Secondary Education special schools;
4. type 1B, 2, 3B (if acting as their own LEA) and 5 charter schools; and
5. university laboratory schools not under the administration of a school district.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:415 (March 2004), amended LR 31:3105 (December 2005), LR 42:

§107. Corrective Action and Sanctions

A. …

B. The LDE is authorized to take actions, consistent with applicable law, necessary to ensure compliance. Failure on the part of a participating agency to comply may result in the LDE, with the approval of its governing authority, the Board of Elementary and Secondary Education (BESE), withholding funds from the said agency. Prior to withholding any funds under this Section, the LDE shall provide reasonable notice and an opportunity for a hearing conducted by the BESE to the LEA involved.

C. LDE determines the need for a corrective action plan (CAP) to address findings of non-compliance on an individual LEA case-by-case basis. If the LDE requires a CAP, it will be developed in collaboration with the LDE following the LEA's receipt of the LDE's monitoring report. The CAP shall be submitted for approval to the LDE within 35 business days of receipt of the monitoring report. However, upon receipt of the report, the LEA shall immediately begin correcting the findings of non-compliance documented in the report. The plan will address the activities the LEA will implement to correct the areas of non-compliance identified during the on-site visit as soon as possible, but in no case more than one year from the date of the notification report from the LDE.

D. - E. …

F. When continuing non-compliance is identified, the LDE will require that an Intensive Corrective Action Plan (ICAP) be developed by the LEA in collaboration with the

LDE, to address the continuing noncompliance. In conjunction with the implementation of the approved plan, the LDE will impose one or more of the following sanctions described below.

1. - 2. …

3. Direct the LEA to use IDEA Part B flow-through funds on the area or areas that the LEA is non-compliant. The LEA will submit evidence to the LDE of the specific funds targeted for areas of non-compliance. The LDE will monitor the expenditure of such funds on a consistent basis.

4. …

5. Identify the LEA as a high-risk grantee and impose special conditions on the LEA's IDEA Part B grant. The LDE will impose one or more of the following special conditions.

a. For each year of continuing non-compliance, withhold not less than 20 percent and not more than 50 percent of the LEA's IDEA Part B grant until the LDE determines the LEA has sufficiently addressed the areas in which the LEA needs intervention.

b. - d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:415 (March 2004), amended LR 31:3105 (December 2005), LR 32:1839 (October 2006), LR 37:3216 (November 2011), LR 42:

§109. Components of the Continuous Improvement Monitoring Process

A. - B.5. …

6. Analyze FAPE tables and other mandated federal data reporting (i.e., e.g. personnel tables, child count data, LEA Determinations).

7. - 9. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:3107 (December 2005), LR 32:1840 (October 2006), LR 37:3217 (November 2011), LR 42:

Chapter 3. Operational Procedures for Compliance Monitoring

§301. Categories of Monitoring

A. All LEAs are placed in performance profile categories on an annual basis. The performance profile is based upon an analysis of quantitative data collected by the LDE.

B. Monitoring will focus on the variables selected annually as risk indicators. LEAs will be ranked into tiered categories for purposes of monitoring selection. On-site visits will be determined based on a variety of compliance and performance measures. LEAs designated as high-risk will be subject to on-site compliance visits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3106 (December 2005), LR 37:3217 (November 2011), LR 42:

§303. Timelines

A. A schedule of LEAs selected for monitoring will be issued to LEAs by September of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3106 (December 2005), LR 37:3217 (November 2011), LR 42:

§305. On-Site Visits

A. On-site visits will be conducted by individuals authorized by the state with training and experience in the program areas that they will be monitoring.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3106 (December 2005), LR 37:3218 (November 2011), LR 42:

§307. Regulatory Issues Reviewed On-Site

A. For high-risk LEAs, the regulatory issues, qualitative and quantitative indicators reviewed will be specific to the variables targeted in the LEA's performance profile. These visits will focus on selected issues. In the event that other critical issues or triggers are identified by means other than the performance profiles, the LDE will direct the team to monitor those issues for non-compliance. These other means may include, but are not limited to, complaint logs, evaluation extension requests, and financial risk assessments.

B. - C.13. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3107 (December 2005), LR 37:3218 (November 2011), LR 42:

§311. Activities Conducted During the On-Site Visit

A. …

B. Individuals authorized by the LDE will conduct a parent focus group meeting and interview parents to collect data/information on their satisfaction of the services provided to their children and their involvement in their children's program. At the discretion of the parent, interviews may be conducted at the school site or via teleconference.

C. During the on-site monitoring of the LEA, the monitoring team will schedule an evening town hall meeting to provide a forum for parents to engage with team members and other parents. Facilitators will be available to answer questions if parents should want to discuss a matter privately outside the group setting.

D. LDE team members will visit sites, make observations, review records, and interview personnel.

E. The team leader will meet with the LEA special education director to review administrative issues. Additional data/information may be requested if further analysis is required for determining compliance status for specific regulatory issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30.418 (March 2004), amended LR 31:3107 (December 2005), LR 37:3218 (November 2011), LR 42:

§313. Activities/Procedures at the Completion of the On-Site Visit

A. At the completion of the on-site visit, the team will meet to discuss, review, and analyze the team findings and to summarize their findings on LDE-issued forms. An LDE team member will meet with representatives of the LEA at the conclusion of the on-site visit.

B. - D. …

E. The LEA, in collaboration with the LDE, will be required to design a corrective action plan that defines specific supports and resources that the LEA must have in order to implement the corrective action plan. The CAP must demonstrate how the LEA will:

1. correct each individual case of noncompliance; and

2. correctly implement the specific regulatory requirement.

F. - G. …

H. If there is no responses from the LEA within the established timelines, the LDE may implement any of the corrective actions or sanctions as described in Section 107.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:3107 (December 2005), LR 37:3218 (November 2011), LR 42:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

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

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., December 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1922—Compliance Monitoring Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions will have no effect on costs or savings to state or local governmental units.

Bulletin 1922 outlines the processes for special education monitoring in Louisiana. The proposed revisions align state policy with data privacy statutes, place local education agencies (LEAs) in tiered categories for monitoring selection - low, moderate, and high risk; add Types 1B and 3B charter schools to list of LEAs subject to monitoring; add LEA determinations to list strategies and components that may be utilized during the monitoring process; and allow on-site visits to be conducted by state-authorized individuals with training and experience in the program areas that are being monitored.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux	John D. Carpenter
Deputy Superintendent	Legislative Fiscal Officer
1611#049	Legislative Fiscal Office

NOTICE OF INTENT

Tuition Trust Authority
Office of Student Finanical Assistance

Achieving a Better Life Experience (ABLE) Program
(LAC 28:VI.Chapter 5)

The Louisiana Tuition Trust Authority announces its intention to amend its administrative rules (LSA-R.S. 17:3091 et seq.).

This rulemaking will add Chapter 5 to LATTA's administrative rules to implement the Louisiana ABLE Act, established in Louisiana through Act 93 of 2014, to provide for a savings program for persons with disabilities as established in Internal Revenue Code (IRC) section 529A. (ST17174NI)

Title 28
EDUCATION
Part VI. Student Financial Assistance — Higher Education Savings
Subchapter A. Tuition Trust Authority
Chapter 5. Achieving a Better Life Experience (ABLE)

§501. General Provisions

A. The Louisiana Achieving a Better Life Experience (ABLE) Account Program was enacted in 2014 to provide a program of savings to encourage and assist individuals and families in saving private funds for the purpose of supporting persons with disabilities in endeavors to maintain health, independence, and quality of life. The purposes of the Program include all of the following:

1. To pay qualified disability expenses so that persons with disabilities may maintain health, independence, and quality of life.

2. To provide secure funding for disability-related expenses on behalf of designated beneficiaries that will supplement, but not supplant, benefits provided through private insurance, the medical assistance program administered by this state in accordance with Title XIX of the Social Security Act, the supplemental security income program under Title XVI of such Act, the beneficiary's employment, and other sources.

3. To comply fully with all provisions of the Stephen Beck, Jr., ABLE Act of 2014 (Public Law 113-295, Division B), and all regulations issued pursuant thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081 - 3089.

HISTORICAL NOTE: Promulgated by the Board of Regents, Tuition Trust Authority, Office of Student Financial Assistance, LR 42:

§503. Legislative Authority

A. The Louisiana ABLE Act is established by Act 604 of the 2016 Regular Session of the Louisiana Legislature. 22-A, Title 17 of the Louisiana Revised Statutes (R.S. 17:3081-3089).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081 - 3089.

HISTORICAL NOTE:

§505. Program Administration

A. The Louisiana Tuition Trust Authority (LATTA) is a statutory authority whose membership consists of the Louisiana Board of Regents, plus one member from the Louisiana Bankers Association, the state treasurer, and one member each from the House of Representatives and Senate.

B. The LATTA administers the ABLE Account Program through the Louisiana Board of Regents, Office of Student Financial Assistance (LOSFA).

C. LOSFA, a program under the Board of Regents, performs the functions of the state relating to programs of financial assistance and certain scholarship programs for higher education in accordance with directives of its governing bodies and applicable law, and as such is responsible for administering the ABLE account program under the direction of the LATTA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081 - 3089.

HISTORICAL NOTE: Promulgated by the Board of Regents, Tuition Trust Authority, Office of Student Financial Assistance, LR 42:

§507. Applicable Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Account Owner—the eligible individual who opened the account and who is also the beneficiary.

Administrator—the individual who has the authority to direct the activities of the account. The administrator of the account may be the account owner or a person authorized by law or by authentic act to administer the account on behalf of the beneficiary. For purposes of these rules, the term Administrator shall mean the account owner or a person who is legally authorized to act on his behalf.

Beneficiary—the eligible individual who established ABLE account, or for whom an ABLE account was established, and who is the owner of such account.

Current Value—the value of an ABLE account at a given point in time.

a. The current value of fixed earnings investment options includes the accumulated value of the principal deposited and earnings on deposits.

b. The current value of variable earnings investment options includes the number of units in the investment option purchased multiplied by the current value of each unit. This value may be more or less than the amount originally deposited.

Deposits—the actual amount of money received for deposit for investment in an ABLE account. Deposits do not include earnings on deposits.

Eligible Individual—An individual is an eligible individual for a given tax year if one of the following is met:

a. the individual is entitled to benefits based on blindness or disability under Title II or XVI of the Social Security Act, and such blindness or disability occurred before the date on which the individual attained age 26; or

b. a disability certification with respect to such individual is filed with the Secretary for such taxable year.

False or Misleading Information—a statement or response made by a person which is knowingly false or misleading, and made for the purpose of establishing a program account and/or receiving benefits to which the person would not otherwise be entitled.

Fixed Earnings—the placement of all deposits in an ABLE Account, including the interest earned thereon, in investments that normally provide a fixed rate of return for a specific period of time.

Louisiana Board of Regents—the agency of state government responsible for administering the ABLE account program under the direction of the Louisiana Tuition Trust Authority.

Office of Student Financial Assistance (*LOSFA*)—a program under the Board of Regents, performs the functions of the state relating to programs of financial assistance and certain scholarship programs for higher education in accordance with directives of its governing bodies and applicable law, and as such is responsible for administering the ABLE account program as directed by LATTA and the Louisiana Board of Regents.

Louisiana Resident—

a. any person who resided in the state of Louisiana on the date of the application and who has manifested intent to remain in the state by establishing Louisiana as legal domicile, as demonstrated by compliance with all of the following:

i. if registered to vote, is registered to vote in Louisiana;

ii. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;

iii. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle;

iv. if earning an income, has complied with state income tax laws and regulations;

b. a member of the Armed Forces stationed outside of Louisiana who claims Louisiana on his/her official DD Form 2058 as his/her legal residence for tax purposes, and is in compliance with state income tax laws and regulations, shall be considered eligible for program participation;

c. a member of the Armed Forces stationed in Louisiana under permanent change of station orders shall be considered eligible for program participation;

d. persons less than 21 years of age are considered Louisiana residents if they reside with and are dependent upon one or more persons who meet the above requirements.

Louisiana Tuition Trust Authority (LATTA)—the statutory body responsible for the administration of the ABLE Account Program.

Maximum Allowable Account Balance—$500,000.

Member of Family—an individual who is the brother, sister, stepbrother, stepsister, half-brother, or half-sister to the beneficiary, including an adopted brother, sister, stepbrother, stepsister, half-brother, or half-sister.

Natural Person—a human being.

Other Person, with respect to any designated *beneficiary*—any person, other than the beneficiary, whether natural or juridical, who is not a member of the family, including but not limited to individuals, groups, trusts, estates, associations, organizations, partnerships, corporations, and custodians under the Uniform Transfer to Minors Act (UTMA).

Owner's Agreement—the agreement for program participation that the account owner or administrator completes and signs. It incorporates, by reference, R.S. 17:3081 et seq., and the rules promulgated by the LATTA to implement this statutory provision and any other state or federal laws applicable to the agreement and the terms and conditions as set forth therein.

Person—a human being or a juridical entity.

Qualified Disability Expenses (QDEs)—expenses that relate to the blindness or disability of the designated beneficiary in maintaining or improving his or her health, independence, or quality of life. QDEs may, but need not, benefit only the disabled individual. QDEs include, but are not limited to, expenses related to the beneficiary's:

a. education;

b. housing;

c. transportation;

d. employment training and support;

e. assistive technology and related services;

f. personal support services;

g. health, prevention, and wellness;

h. financial management and administrative services;

i. legal fees;

j. expenses for oversight and monitoring;

k. funeral and burial expenses; and

l. other expenses which may be identified by the Internal Revenue Service.

Redemption Value—the cash value of the money in an ABLE Account invested in a fixed earnings option that are attributable to the sum of the principal deposited and the earnings on principal authorized to be credited to the account by the LATTA, less any disbursements and refunds. Redemption value is not applicable to an ESA invested in variable earnings.

Refund Recipient—the person designated in the ABLE account program owner's agreement or by operation of law to receive refunds from the account. The refund recipient can only be the account owner, his heirs, or his estate.

Trade Date—the date that a deposit to an investment option that includes variable earnings is assigned a value in units, the date a disbursement or refund from an investment option that includes variable earnings is assigned a value, or the date of a change in investment options that includes variable earnings is assigned a value, whichever is applicable.

Variable Earnings—refers to that portion of funds in an ABLE account invested in equities, bonds, short-term fixed income investments or a combination of any of the three.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Board of Regents, Tuition Trust Authority, Office of Student Financial Assistance, LR 42:

§509. Establishment of an ABLE Account

A. An ABLE account is established by or on behalf of an eligible individual to provide the funding necessary for qualified disability expenses (QDEs).

B. Only one ABLE account may be established for an eligible individual, whether the account is established in Louisiana or with another ABLE program.

C. The eligible individual must be a Louisiana resident as defined in §507 and must meet the following citizenship requirements:

1. be a United States citizen; or

2. be a permanent resident of the United States as defined by the U.S. Citizenship and Immigration Services (USCIS) or its successor and provide copies of USCIS documentation with the submission of the owner's agreement; or

3. be lawfully residing in the United States and have a valid Social Security number.

D. An ABLE account may be established by the account owner or an administrator who is authorized by law or by authentic act to administer the account on behalf of the account owner.

1. An administrator who is not the account owner may establish an account on behalf of an eligible individual upon provision of documentation to LOSFA evidencing that person has the legal right to act on behalf of the eligible individual.

2. Documentation required to establish an account on behalf of an eligible individual includes:

a. if a parent, a copy of the eligible individual's birth certificate;

b. if an adoptive parent, documentation evidencing the adoption of the eligible individual;

c. if a custodian, court documents evidencing the appointment of the custodian by a court of law;

d. if designated by the eligible individual to administer his affairs, documentation evidencing such designation.

E. Program Enrollment Period. An account may be established at any time during the calendar year.

F. Completing the Owner's Agreement

1. This agreement must be completed and signed by the administrator.

2. The administrator who is also the account owner may designate a limited power of attorney to an administrator who would be authorized to act on his behalf in the event the account owner becomes incapacitated.

3. The administrator must certify:

a. that the person for whom the account is being established is an eligible individual as defined in §507;

b. that the eligible individual is a Louisiana resident;

c. that the eligible individual meets the citizenship requirements set forth in §509.B;

d. that if he is not the eligible individual, that he is authorized by law or by authentic act to open and administer the ABLE account on behalf of the eligible individual;

e. that he will provide the documentation necessary to establish the certifications made for Subsections D.2.a-d upon request by LOSFA or the Internal Revenue Service; and

f. that he has read and understands the owner's agreement and participation materials.

4. The administrator agrees to the following terms when completing the account owner's agreement.

a. All transactions involving the ABLE account will be reported to the Social Security Administration on a monthly basis.

b. Fees

i. Except for penalties which may be imposed on refunds, the LATTA shall not charge fees for the opening or the maintenance of a fixed earnings account.

ii. Fees imposed by investment institutions for opening or maintenance of variable earnings accounts may be charged to the account owner.

c. Financial and investment institutions may be authorized by the LATTA to offer prospective owners information and assistance in opening a START Program account.

d. Only the account owner, his heirs, or his estate may be designated to receive refunds from the ABLE account. In the event of the death of the account owner when the account owner is designated to receive the refund, the refund shall be made to the account owner's estate.

G. Acceptance of the Owner's Agreement

1. A properly completed and submitted owner's agreement will be reviewed within 48 hours of receipt for completeness. If additional information is required to accept the owner's agreement, the Administrator will be contacted to provide that information.

2. Upon acceptance of the owner's agreement, the LATTA will establish the ABLE account.

H. Providing Personal Information

1. The administrator is required to disclose personal information regarding the eligible individual, including:

a. his Social Security number;

b. his date of birth; and

c. his relationship to the administrator.,

2. If not the eligible individual, the administrator will be required to disclose the following information:

a. his relationship to the eligible individual;

b. if a parent of the eligible individual, his Social Security number;

3. The eligible individual's Social Security number and federal and state employer identification numbers will be used for purposes of federal and state income tax reporting to access individual account information for administrative purposes, and to provide necessary reports to the Social Security Administration.

4. The following protected health information is collected only for IRS reporting purposes.

a. Basis for the Eligible Individual's Eligibility

i. Code A—Social Security disability Income—Title II SSA.

ii. Code B—Social Security income—Title XVI SSA.

iii. Code C—eligible individual is the subject of a disability certification filed with the IRS for 2016.

b. Type of Disability

i. Code 1—developmental disorders, including autistic spectrum disorder, Asperger's disorder, development delays, learning disabilities.

ii. Code 2—intellectual disability. May be reported as mild, moderate or severe intellectual disability.

iii. Code 3—psychiatric disorders, including schizophrenia, major depressive disorder, post-traumatic stress disorder (PTSD), anorexia nervosa; attention deficit/hyperactivity disorder (AD/HD), bipolar disorder.

iv. Code 4—nervous disorders, including blindness, deafness, cerebral palsy, muscular dystrophy, spina bifida, juvenile-onset Huntington's disease, multiple sclerosis, severe sensorineural hearing loss, congenital cataracts.

v. Code 5—congenital anomalies: chromosomal abnormalities, including down syndrome, osteogenesis imperfecta, xeroderma pigmentosum, Spinal muscular atrophy, Fragile X syndrome, Edwards syndrome.

vi. Code 6—respiratory disorders: cystic fibrosis.

vii. Code 7—other: includes tetrology of fallot, hypoplastic left heart syndrome, end-stage liver disease, juvenile-onset rheumatoid arthritis, sickle cell disease, hemophilia; and any other disability not listed under codes 1-6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Board of Regents, Tuition Trust Authority, Office of Student Financial Assistance, LR 42:

§511. Deposits to ABLE Accounts

A. Application Fee and Initial Deposit Amount

1. No application fee will be charged to those applying for an ABLE account on behalf of an eligible individual.

2. Financial and investment institutions may be authorized by the LATTA to offer assistance in establishing a START Program account. (See fees in §509.F.4)

3. An initial deposit is not required to open an ABLE account; however, a deposit of at least $10 must be made within 180 days from the date on the letter of notification of approval of the account.

4. A lump sum deposit may not exceed the maximum allowable account balance ($500,000).

B. Deposit Options

1. The administrator shall select one of the following deposit options during the completion of the owner's agreement; however, the administrator may change the monthly deposit amount at any time and the payment method by notifying the LATTA:

a. occasional lump sum payment(s) made directly to the LATTA or to a LATTA approved investment institution;

b. monthly payments made directly to the LATTA or to a LATTA-approved financial or investment institution;

c. automatic account debit, direct monthly transfer from the Administrator's checking or savings account to the LATTA or a LATTA approved investment institution;

d. payroll deduction, if available through the Administrator's employer.

C. Limitations on Deposits

1. All deposits must be rendered in amounts of at least $10 and must be made in cash, check, money order, automatic account debit or payroll deduction, defined as any of the deposit options listed in §511.B.1.

2. Once the cumulative contributions and earnings on contributions have reached or exceeded the maximum allowable account balance, principal deposits will no longer be accepted to the account until a distribution is made which reduces the account balance below the maximum allowable account balance.

3. ABLE Account balances of up to $100,000 will not affect Social Security Income (SSI) benefits. However, once an account exceeds $100,000, SSI benefits will be suspended until such time as the balance is reduced below $100,000.

D. Investment Options

1. The state treasurer shall select fixed earnings and variable earnings investment options.

2. The authority shall furnish each account owner with information that discloses each of the investment options offered by the program.

3. The administrator shall select the investment option for the ABLE Account at the time the account is opened. The administrator may select the same or a different investment option at the time of each deposit.

4. Changing the Investment Option

a. The administrator may change the investment options no more than two times in a calendar.

b. If an ABLE account has funds in two or more investment options.

i. Each option in the account may be changed to one different option or allowed to remain the same.

ii. All funds in each option changed must be transferred.

iii. Funds in one option may not be moved to more than one option.

iv. All changes in investment options must take place in one transaction.

v. Whether the funds are moved from one option or all options, the change is considered one of the two allowed investment option changes per calendar year.

c. Once a selection is made, all deposits shall be directed to the last investment option selected.

E. Effective Date of Deposits

1. Deposits for investment options that are limited to fixed earnings will be considered to have been deposited on the date of receipt.

2. Deposits for investment options that include variable earnings will be assigned a trade date based on the method of deposit and the date of receipt.

a. Deposits by check will be assigned a trade date three business days after the business day during which they were received.

b. Deposits made by electronic funds transfer through the automated clearing house (ACH) network, or its successor, will be assigned a trade date of three business days after the business day during which they were received.

c. Deposits made by all other means of electronic funds transfer, including deposits made by transferring funds from a variable earnings option in which they are currently

deposited to another option, will be assigned a trade date of one business day after the business day during which they were received.

3. Deposits for investment options that include variable earnings which are received via check or electronic funds transfer through the automated clearing house network will be deposited into the fixed earnings option until the trade date. Earnings accrued on these deposits prior to the trade date shall be deposited in the variable earnings transaction fund.

4. Deposits received on weekends and holidays will be considered received on the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Board of Regents, Tuition Trust Authority, Office of Student Financial Assistance, LR 42:

§513. Disbursement of Account Funds for Payment of QDEs

A. Request for Disbursement

1. An ABLE account administrator may request a disbursement at any time, but no more than twice per month.

2. The request for disbursement must include:

a. the ABLE account number;

b. the eligible Individual's name, address, and Social Security number;

c. the administrator's signature (may be electronic); and

d. the amount to be disbursed.

3. Requests for disbursements must be in whole dollar increments, must be no less than $200 and may be no more than the account balance.

4. In the event funds are invested in more than one investment option, the disbursement shall be made proportionally from each investment option in the account.

5. Disbursements will be made only to the administrator of the account.

6. Disbursements from investment options with variable earnings shall be assigned a trade date of one business day after the business day of receipt of the transfer request.

B. Rate of Expenditure

1. The amount to be disbursed from an account shall be drawn from deposits and interest in the same ratio as these funds bear to the total value of the account as of the date of the disbursement.

2. The administrator may not withdraw an amount in excess of the QDEs of the eligible individual or the value of the account, whichever is less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Board of Regents, Tuition Trust Authority, Office of Student Financial Assistance, LR 42:

§515. Effect on Federal and State Assistance Programs

A. For the purpose of determining eligibility to receive, or the amount of, any assistance or benefit which may be received by the ABLE account owner by a means-tested federal assistance program, the following amounts shall be disregarded with respect to any period during which the beneficiary maintains his status as an eligible individual:

1. any amount, including earnings thereon, up to $100,000;

2. any contributions to the ABLE account of the Eligible Individual;

3. any distributions from the account of the eligible individual, provided that such distributions are made for the purchase or payment of QDEs, subject to determination by the Social Security Administration that such distributions do not exceed allowable assets/income for a given period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Board of Regents, Tuition Trust Authority, Office of Student Financial Assistance, LR 42:

§517. Termination, Refund, and Rollovers of an Education Savings Account

A. Account Termination

1. The administrator may terminate an ABLE account at any time.

2. In the event the person for whose benefit the account was opened is no longer an eligible individual as defined in §507, the administrator shall

a. terminate the account; or

b. transfer the account to another eligible individual who is also a member of the family of the original eligible Individual within 60 days of the determination that the original eligible individual is no longer qualified.

3. The LATTA may terminate an account as follows.

a. If LATTA determines that funds have been disbursed for expenses other than QDEs, LATTA may require the return of the funds to the ABLE Account. If funds are not returned to the account within 60 days of a request to do so, LATTA, in its sole discretion, may refund any balance remaining and close the account.

b. The LATTA may terminate an account if no deposit of at least $10 has been made within 180 days from the date of notification of approval of the account.

c. The LATTA may terminate an account if the eligible individual for whom the account was opened no longer meets the criteria to be an Eligible Individual and a new eligible individual is not named within 60 days.

d. The LATTA may terminate an owner's agreement if it finds that the account owner or beneficiary provided false or misleading information (see §507).

i. If the LATTA terminates an owner's agreement under this Subsection, all interest earnings on principal deposits may be withheld and forfeited, with only principal being refunded.

ii. An individual who obtains program benefits by providing false or misleading information will be prosecuted to the full extent of the law.

B. Refunds

1. Requests for refund may result in the termination of the account and in the refund of:

a. the deposits invested in fixed earnings, if the account has been open for less than 12 months;

b. the redemption value, if the account has been open for 12 or more months;

c. the deposits to or the current value of an account invested in a variable earnings option, whichever is less, if the account has been open for less than 12 months;

d. the current value of an account invested in variable earnings, if the account has been open for 12 or more months.

2. Refunds from investment options with variable earnings shall be assigned a trade date of one business day after the business day of receipt of the request.

C. Designation of a Refund Recipient. The refund recipient can only be the account owner, his heirs, or his estate, and the administrator shall designate the refund recipient when completing the owner's agreement.

D. Voluntary Termination of an Account

1. Refunds shall be equal to the redemption value of the ESA at the time of the refund, and shall be made to the person designated in the owner's agreement or by rule.

2. The person receiving the refund shall be responsible for any state or federal income tax that may be payable due to the refund.

E. Effective Date of Account Termination. Account termination shall be effective at midnight on the business day on which the request for account termination and all supporting documents are received. Accounts will be credited with interest earned on principal deposits through the effective date of the closure of the account.

F. Refund Payments. Payment of refunds for voluntary termination under §515.D shall be made within 30 days of the date on which the account was terminated. The termination refund shall consist of the principal remaining in the account and interest remaining in the account accrued on the principal through the end of the calendar year preceding the year in which the request to terminate an account is made. Interest earned in excess of $10 during the calendar year of termination will be refunded within 45 days of the date the state treasurer announces the interest rate for the preceding calendar year. Interest earned of $10 or less during the calendar year of termination will be forfeited.

H. Rollovers

1. Rollovers to another ABLE account administered by LOSFA.

a. An administrator may rollover any part of an ABLE account to ABLE account if the beneficiary of the account receiving the funds is a member of the family of the beneficiary of the original account.

b. The current value of the account from which the rollover is made will be transferred to the new account.

2. Rollover to another ABLE program.

a. An administrator may request a rollover of the current value of the account to another qualified tuition program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Board of Regents, Tuition Trust Authority, Office of Student Financial Assistance, LR 42:

§519. Substitution, Assignment, and Transfer

A. Substitute Beneficiary. The beneficiary of an ESA may be changed to a substitute beneficiary provided the account owner completes a beneficiary substitution form and the following requirements are met:

1. the substitute beneficiary is a member of the family as defined under §107;

2. the substitute beneficiary meets the citizen/resident alien requirements of §301.F, and, if the account owner is a nonresident of the state of Louisiana, the substitute beneficiary meets the applicable residency requirements (see §301.G).

B. Substitution/Transfer of Account Ownership. The administrator may transfer ownership of an ABLE account only with the written approval of the LATTA and only to a member of the family of the eligible individual for whom the account was opened.

C. Assignment of Account Ownership. Ownership of an ESA cannot be assigned.

D. Changes to the Owner's Agreement

1. The administrator may request changes to the owner's agreement.

2. Changes must be requested in writing and be signed by the administrator.

3. Changes, if accepted, will take effect as of the date the notice is received by the LATTA.

4. The LATTA shall not be liable for acting upon inaccurate or invalid data which was submitted by the administrator.

5. The administrator will be notified by the LATTA of any changes affecting the owner's agreement which result from changes in applicable federal and state statutes and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Board of Regents, Tuition Trust Authority, Office of Student Financial Assistance, LR 42:

§521. Miscellaneous Provisions

A. Account Statements and Reports

1. The LATTA will forward to each administrator an annual statement of account which itemizes the:

a. date and amount of deposits and interest earned during the prior year; and

b. total principal and interest accrued to the statement date.

2. The administrator must report errors on the annual statement of account to the LATTA within 60 days from the date on the account statement or the statement will be deemed correct.

B. Earned Interest

1. Interest earned on principal deposits during a calendar year will be credited to accounts and reported to administrators after the conclusion of the calendar year in which the interest was earned.

2. The rate of interest earned shall be the rate of return earned on the fund as reported by the state treasurer and approved by the LATTA.

C. Refunded Amounts

1. Interest earned on an ABLE account which is refunded to the account owner or beneficiary will be taxable for state and federal income tax purposes.

2. No later than January 31 of the year following the year of the refund, the LATTA will furnish the state Department of Revenue, the Social Security Administration, the Internal Revenue Service, and the recipient of the refund an Internal Revenue Service Form 1099, or whatever form and/or manner of reporting is appropriate according to the applicable entity.

D. Rule Changes. The LATTA reserves the right to amend the rules regulating the Louisiana ABLE Account Program policies and procedures; however, any amendments to rules affecting participants will be published in accordance with the Administrative Procedure Act.

E. Determination of Facts. The LATTA shall have sole discretion in making a determination of fact regarding the application of these rules.

F. Individual Accounts. The LATTA will maintain an individual account for each beneficiary showing the redemption value of the account.

G. Confidentiality of Records. All records of the LATTA identifying Administrators and/or account owners of ABLE accounts, amounts deposited, expended or refunded, are confidential and are not public records.

H. No Investment Direction. No administrator may direct the investment of funds credited to an account, except to select investment options no more than twice per year. Deposits will be invested on behalf of the Louisiana ABLE Account Program by the state treasurer.

I. No Pledging of Interest as Security. No interest in an ABLE account may be pledged as security for a loan.

J. Excess Funds

1. Principal deposits will no longer be accepted once the account total reaches the maximum allowable account balance (see §507); however, the account will continue to earn interest.

2. Funds in excess of the maximum allowable account balance may remain in the account and continue to accrue interest and may be disbursed in accordance with §309, or will be refunded in accordance with §311 upon termination of the account.

K. Withdrawal of Funds. Funds may not be withdrawn from an ESA except as set forth in §513 and §515.

L. NSF Procedure

1. A check received for deposit to an ABLE account which is returned due to insufficient funds in the owner's account on which the check is drawn, will be redeposited and processed a second time by the Louisiana ABLE Account Program's financial institution.

2. If the check is returned due to insufficient funds a second time, the check will be returned to the depositor.

3. Earnings reported by the state treasurer on deposits made by check or an ACH transfer which is not honored by the financial institution on which it was drawn subsequent to the trade date shall be forfeited by the account owner.

M. Effect of a Change in Residency. On the date an account is opened, either the account owner must be a resident of the state of Louisiana; however, if the account owner temporarily or permanently moves to another state after the account is opened, he may continue participation in the program in accordance with the terms of the owner's agreement.

N. Abandoned Accounts. Abandoned accounts will be defined and treated in accordance with R.S. 9:151 et seq., as amended, the Louisiana Uniform Unclaimed Property Act.

O. Investment in Variable Earnings. When an account owner selects a variable earnings account, up to 100 percent of the deposits may be invested in equity securities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Board of Regents, Tuition Trust Authority, Office of Student Financial Assistance, LR 42:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in LSA-R.S. 49:973.

Business Impact Statement

The proposed Rule will have no adverse impact on small businesses as described in LSA-R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (ST17174NI) until 4:30 p.m., December 12, 2016, to Sujuan Williams Boutté, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Achieving a Better Life Experience (ABLE) Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in a cost to state governmental units of approximately $130,000 in FY 16 and approximately $67,500 in subsequent fiscal years. Act 604 of the 2016 Regular Legislative Session placed Louisiana's Achieving a Better Life Experience (ABLE) Program under the authority of the Louisiana Tuition Trust Authority (LATTA) to implement the program. Due to the similarities between the START Savings Program and the ABLE Program, LOSFA was able to absorb the initial administrative costs and will expend $130,000 in state general funds supplied by the Board of Regents on programming, software development, and other technology costs to modify and adapt the existing START Savings Program applications and processes to support the new ABLE Accounts. At a minimum, it is estimated that ongoing support costs (operating and technology maintenance expenses) of $67,548 for state fiscal years 2016-2017 and beyond will be required for ABLE Program operating expenses and professional services. Additional funding for personal services for the 2016-2017 state fiscal year and beyond may be required for additional staff if the number of ABLE Accounts and/or ABLE disbursements grow to a point where the additional workload cannot be accomplished with existing personnel resources. At this time, the number of accounts opened and the workload associated with new accounts cannot be determined.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will directly benefit individuals with disabilities and their families who depend on a wide variety of public benefits for income, health care and food and housing assistance. Eligibility for these public benefits (SSI, SNAP, Medicaid) require meeting a means or resource test that limits an individual's access to cash savings, retirement funds and other items of significant value, thus requiring an individual to remain poor in order to retain eligibility for these

public benefits. The ABLE Act recognizes the extra and significant costs of living with a disability and allows eligible individuals and their families to establish ABLE savings accounts that will not affect their eligibility for SSI, Medicaid and other public benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

Robyn Rhea Lively	Evan Brasseaux
Senior Attorney	Staff Director
1611#011	Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Recordkeeping for Sources Exempt from Air Permitting
(LAC 33:III.501)(AQ367)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.501.B.2.e (AQ367).

R.S. 30:2054(B)(2)(b)(ix) and LAC 33:III.501.B.2.d establish an exemption from the requirement to obtain an air permit for certain very small sources of air emissions. This Rule will require owners or operators of such sources to determine and maintain records of potential criteria and toxic air pollutant emissions.

In accordance with LAC 33:III.501.B.2.d, the requirement to obtain an air permit does not apply to any source that is not a part 70 source, as defined in LAC 33:III.502, and for which facility-wide potential emissions are less than:

- 5 tons per year for each criteria pollutant as defined by the Clean Air Act;
- 15 tons per year of all such defined pollutants combined; and
- the minimum emission rate (MER) for each toxic air pollutant established by Tables 51.1 and 51.3 of LAC 33:III.Chapter 51.

At present, LAC 33:III.501.B.2.d does not expressly require the owner or operator of such a source to determine and maintain records of potential criteria and toxic air pollutant emissions to verify eligibility. However, R.S. 30:2054(B)(2)(b)(ix) provides that:

The secretary may adopt, promulgate, and enforce standards, limitations, and other regulations applicable to sources which are not required to obtain a permit.

The standards or regulations may include the requirement to determine, document, and maintain records to demonstrate the potential or actual emissions of the facility.

This Rule will require owners or operators of sources exempt from the requirement to obtain an air permit per LAC 33:III.501.B.2.d to determine and maintain records of potential criteria and toxic air pollutant emissions consistent with the authority provided by the statute. This Rule will also require such owners or operators to reassess and document any change in potential emissions of the aforementioned pollutants prior to effecting a modification or otherwise increasing the production rate or hours of operation above the values previously used to determine potential emissions. The basis and rationale for this Rule are to require owners or operators of sources exempt from the requirement to obtain an air permit per LAC 33:III.501.B.2.d to determine and maintain records of potential criteria and toxic air pollutant emissions. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 5. Permit Procedures
§501. Scope and Applicability

A. - B.2.d.iii. …

e. Recordkeeping for Sources Exempt from Permitting Requirements

i. The owner or operator of a source which is not required to obtain a permit per LAC 33:III.501.B.2.d shall determine and maintain records of potential criteria and toxic air pollutant emissions from such source.

ii. The owner or operator shall reassess and document any change in potential criteria and toxic air pollutant emissions from the source prior to effecting a *modification* as defined in LAC 33:III.111 or otherwise increasing the production rate or hours of operation above the values previously used to determine potential emissions.

iii. For purposes of this exemption, potential emissions shall mean the emissions the source is capable of emitting considering all control measures in place, utilized, and properly maintained; historical practices, including hours of operation; and the number of employees at the source.

B.3. - C.14. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007), LR 35:461 (March 2009), LR 35:2351 (November 2009), LR 37:1145, 1148 (April 2011), LR 37:1391 (May 2011), LR 37:3221, 3233 (November 2011), repromulgated LR 37:3507 (December 2011), amended by the Office of the Secretary, Legal Division, LR 43:

Family Impact Statement

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

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ367. Such comments must be received no later than January 4, 2017, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, or to fax (225) 219-4068, or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ367. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on December 28, 2016, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Recordkeeping for Sources Exempt from Air Permitting

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule. The proposed rule change will require owners or operators of sources exempt from the requirement to obtain an air permit to determine and maintain records of potential criteria and toxic air pollutant emissions. However, since these owners and operators are currently exempt, they would have already calculated the potential emissions.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule. Owners or operators of sources exempt from the requirement to obtain an air permit per statute and rule will be affected by the proposed rule. However, there should be no compliance-related costs, workload adjustments, or additional administrative obligations required to comply with the proposed rule, as the owner or operator of an exempt source should have already calculated potential criteria and toxic air pollutant emissions in order to verify eligibility for the exemption.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule.

Herman Robinson	Evan Brasseaux
General Counsel	Staff Director
1611#031	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Board of Architectural Examiners

Professional Architectural Corporations, Architectural-Engineering Corporations, and Limited Liability Companies (LAC 46:I.Chapter 17)

Editor's Note: The following Notice of Intent is being repromulgated due to a procedural error. The original Notice can be viewed in the August 2016 edition of the *Louisiana Register* on pages 1339-1343.

Notice is hereby given in accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144(C), that the Board of Architectural Examiners proposes to amend LAC 46:I.Chapter 17 pertaining to its regulation of professional architectural corporations (LAC 46:I.1701), architectural-engineering corporations (LAC 46:I.1703), and limited liability companies (LAC 46:I.1705), and other architectural firms offering to practice or practicing architecture in Louisiana. The board presently regulates professional architectural corporations, architectural-engineering corporations, and limited liability companies only. During the 2012 legislative session, the legislature enacted Act 514 of 2012 (now R.S. 37:158). This Act authorizes the board to regulate all domestic and foreign firms practicing or offering to practice architecture in the state of Louisiana. Under the proposed Rule, a professional architectural corporation and an architectural-engineering corporation may continue to practice architecture in Louisiana as authorized by the Professional Architectural Corporations Law, R.S. 12:1086 et seq., and the Architectural-Engineering Corporations Law, R.S. 12:1171 et seq., as they have practiced in the past (see proposed §§1701 and 1703). In addition, such firms, limited liability companies, and other architectural firms may seek to obtain certificates of authority and to practice architecture in Louisiana as an architectural firm under the requirements of

proposed §1705. The intent of the proposed Rule is for the board to regulate all architectural firms offering to practice or practicing architecture in Louisiana and establish a level playing field for all such firms. The effective dates of the proposed Rule are contained in proposed §1707.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part I. Architects
Chapter 17. Professional Architectural Corporations, Architectural-Engineering Corporations, and Architectural Firms

§1701. Professional Architectural Corporations

A. The practice of architecture in Louisiana by a professional architectural corporation is permissible when such corporation is lawfully constituted under the Professional Architectural Corporations Law, R.S. 12:1086 et seq., and it obtains a certificate of authority from the board authorizing it to so practice.

B. A person seeking a certificate of authority for a professional architectural corporation to practice architecture in Louisiana shall obtain an application from the board website, www.lastbdarchs.com. The applicant is required to complete the application fully and file same with the board. Upon receipt of such application and the fee described below, the board shall either approve said application and issue a certificate of authority to the professional architectural corporation, or disapprove said application advising the applicant of the reason(s) therefor. The certificate of authority must be renewed on an annual basis.

C. The fee for obtaining an initial certificate of authority for a resident professional architectural is $75. The fee for obtaining an initial certificate of authority for a non-resident professional architectural corporation is $150.

D. Architectural services rendered on behalf of a professional architectural corporation must be performed by or under the responsible supervision of one or more natural person(s) duly licensed to practice architecture in Louisiana. Performing or directly supervising the performance of all architectural services shall mean unrestricted, unchecked, and unqualified command of, and legal accountability for, the architectural services performed. Specifications, drawings, or other related documents will be deemed to have been prepared by the architect or under the architect's direct supervision only when the requirements of §1313 of this Part are fully satisfied.

E. The architects licensed in this state who perform or directly supervise the performance of architectural services on behalf of a professional architectural corporation are responsible to the board for all of the acts and conduct of such corporation.

F. It shall be the responsibility of the directors of a professional architectural corporation to advise the board of any organizational change that would relate to the authority granted under this rule. Any failure to do so could result in imposition by the board of one or more of the disciplines set forth in R.S. 37:153 and/or R.S. 37:154 against the professional architectural corporation and the directors. Possible disciplines include, but are not limited to, the suspension, revocation, or rescission of:

1. the certificate of authority issued to the professional architectural corporation; and
2. the license of the directors.

G. A professional architectural corporation holding a certificate of authority and desiring to continue offering architectural services shall make application for renewal each year on or prior to June 30 by downloading a renewal form from the board website, www.lastbdarchs.com. Upon receipt of the completed application and the fee described below prior to June 30, a renewal certificate will be issued.

H. The fee for renewing a certificate of authority for a resident professional architectural corporation is $75. The fee for renewing a certificate of authority for a non-resident professional architectural corporation is $150.

I. The failure of a professional architectural corporation to renew its certificate of authority on or before June 30 shall not deprive such corporation of the right of renewal thereafter, provided it pays a delinquent fee to the board. The delinquent fee to be paid upon the renewal of a certificate of authority by a resident professional architectural corporation is $75. The delinquent fee to be paid upon the renewal of a certificate of authority by a non-resident professional architectural corporation is one $150. This delinquent fee shall be in addition to the renewal fee set forth in the preceding paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:571 (April 2003), amended LR 42:

§1703. Architectural-Engineering Corporations

A. The practice of architecture in Louisiana by an architectural-engineering corporation is permissible when such corporation is lawfully constituted under the Architectural-Engineering Corporations Law, R.S. 12:1171 et seq., and it obtains a certificate of authority from the board authorizing it to so practice.

B. A person seeking a certificate of authority for an architectural-engineering corporation to practice architecture in Louisiana shall obtain an application from the board website, www.lastbdarchs.com. The applicant is required to complete the application fully and file same with the board. Upon receipt of such application and the fee described below, the board shall either approve said application and issue a certificate of authority to the architectural-engineering corporation, or disapprove said application advising the applicant of the reason(s) therefor. The certificate of authority must be renewed on an annual basis.

C. The fee for obtaining an initial certificate of authority for a resident architectural-engineering corporation is $75. The fee for obtaining an initial certificate of authority for a non-resident architectural-engineering corporation is one $150.

D. Pursuant to R.S. 12:1173, the architectural-engineering corporation shall designate in its application for certificate of authority one or more supervising professional architect(s) who shall perform or directly supervise the performance of all architectural services by said corporation in Louisiana. Performing or directly supervising the performance of all architectural services shall mean unrestricted, unchecked, and unqualified command of, and legal accountability for, the architectural services performed. Specifications, drawings, or other related documents will be deemed to have been prepared by the architect or under the

architect's direct supervision only when the requirements of §1313 of this Part are fully satisfied. Only natural persons:

1. who are licensed by the board pursuant to the provisions of R.S. 37:141 through R.S. 37:158;

2. who are full-time active employees of the architectural-engineering corporation; and

3. whose primary occupation is with the architectural-engineering corporation may be designated as a supervising professional architect.

E. The architects licensed in this state who perform or directly supervise the performance of architectural services on behalf of an architectural-engineering corporation are responsible to the board for all of the acts and conduct of such corporation.

F. It shall be the responsibility of the designated supervising professional architect(s) of an architectural-engineering corporation to advise the board of any organizational change that would relate to the authority granted under this rule. Any failure to do so could result in imposition by the board of one or more of the disciplines set forth in R.S. 37:153 and/or R.S. 37:154 against the architectural-engineering corporation and the designated supervising professional architect(s). Possible disciplines include, but are not limited to, the suspension, revocation, or rescission of

1. the certificate of authority issued to the architectural-engineering corporation; and

2. the license of the designated supervising professional architect(s).

G. An architectural-engineering corporation holding a certificate of authority and desiring to continue offering architectural services shall make application for renewal each year on or prior to June 30 by downloading a renewal form from the board website, www.lastbdarchs.com. Upon receipt of the completed application and the fee described below on or prior to June 30, a renewal certificate will be issued.

H. The fee for renewing a certificate of authority for a resident architectural-engineering corporation is $75. The fee for renewing a certificate of authority for a non-resident architectural-engineering corporation is $150.

I. The failure of an architectural-engineering corporation to renew its certificate of authority on or before June 30 shall not deprive such corporation of the right of renewal thereafter, provided it pays a delinquent fee to the board. The delinquent fee to be paid upon the renewal of a certificate of authority by a resident professional architectural corporation is $75. The delinquent fee to be paid upon the renewal of a certificate of authority by a non-resident architectural-engineering corporation is $150. This delinquent fee shall be in addition to the renewal fee set forth in the preceding paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:571 (April 2003), amended LR 42:

§1705. Architectural Firms

A. For purposes of this rule, the term "architectural firm" shall mean a corporation, partnership, limited liability partnership, limited liability company, association, sole proprietorship, or other entity lawfully organized under the laws of Louisiana or other lawful jurisdiction for the purpose of practicing architecture.

B. The practice of architecture in Louisiana by an architectural firm is only permissible when such firm is lawfully constituted under the laws of Louisiana or under the laws of some other lawful jurisdiction for the purpose of practicing architecture, and it complies with all of the requirements of this rule.

C. Except as provided *infra* in this rule, no architectural firm shall solicit, offer, execute, or perform architectural services in Louisiana without first receiving a certificate of authority from the board authorizing it to do so.

D. An architectural firm soliciting, offering, contracting to perform, or performing the practice of architecture in Louisiana shall be subject to the discipline of the board and to its authority to adopt rules and regulations governing the practice of architecture.

E. A person seeking a certificate of authority for an architectural firm to practice architecture in Louisiana shall obtain an application from the board website, www.lastbdarchs.com. The applicant is required to complete the application fully and file same with the board. Upon receipt of such application and the fee described below, the board shall either approve said application and issue a certificate of authority to the architectural firm, or disapprove said application advising the applicant of the reason(s) therefor. The certificate of authority must be renewed on an annual basis.

F. The fee for obtaining an initial certificate of authority for a resident architectural firm is $75.00. The fee for obtaining an initial certificate of authority for a non-resident architectural firm is $150.

G. The architectural firm shall designate in its application for certificate of authority one or more supervising professional architects who shall perform or directly supervise the performance of all architectural services by said firm in Louisiana. Performing or directly supervising the performance of all architectural services shall mean unrestricted, unchecked, and unqualified command of, and legal accountability for, the architectural services performed. Specifications, drawings, or other related documents will be deemed to have been prepared by the architect or under the architect's direct supervision only when the requirements of §1313 of this Part are fully satisfied. Only natural persons:

1. who are licensed by the board pursuant to the provisions of R.S. 37:141 through R.S. 37:158;

2. who are full-time active employees of the architectural firm; and

3. whose primary occupation is with the architectural firm may be designated as a supervising professional architect.

H. When the architectural firm designates an architect as a supervising professional architect, the architectural firm authorizes that architect to appear for and act on behalf of the firm in connection with the execution and performance of contracts to provide architectural services.

I. An architectural firm may practice architecture in Louisiana only as long as it employs a designated supervising professional architect who complies with §1705.F above. If the architectural firm designates only one architect as the supervising professional architect and that

architect ceases being a full-time active employee of the architectural firm on a primary basis, the authority of such firm to practice architecture in Louisiana is suspended until such time as the firm designates another supervising professional architect pursuant to §1705.F above.

J. The architect(s) designated as the supervising professional architect(s) of the architectural firm is responsible to the board for all of the acts and conduct of the architectural firm.

K. The supervising professional architect(s) of the architectural firm shall advise the board of any organizational change that would relate to the authority granted under this rule. Any failure to do so could result in imposition by the board of one or more of the disciplines described in R.S. 37:153 and/or R.S. 37:154 against the architectural firm and the designated supervising professional architect(s). Possible disciplines include, but are not limited to, the suspension, revocation, or rescission of:

1. the certificate of authority issued to the architectural firm; and

2. the license of the designated supervising professional architect(s).

L. A corporation, partnership, limited liability partnership, limited liability company, association, sole proprietorship, or other entity lawfully organized under the laws of Louisiana or other lawful jurisdiction for the purpose of offering a combination of architectural services together with construction services (i.e., a design/build firm), must obtain a certificate of authority from the board as set forth in this rule and also comply with §1319 of this Part.

M. A joint venture practicing architecture in Louisiana shall not be required to obtain a certificate of authority from the board; however, all architectural firms practicing architecture in Louisiana as members of a joint venture are required to obtain a certificate of authority and otherwise comply with this rule.

N. A non-resident architectural firm associated within the meaning of §1317 of this Part with a resident architect or architectural firm for a specific and isolated project is not required to obtain a certificate of authority from the board, provided the resident architect is licensed in Louisiana or the resident architectural firm has obtained a certificate of authority from the board.

O. A sole proprietorship practicing architecture in Louisiana in the name of an individual registered with the board is not required to obtain a certificate of authority to practice architecture in Louisiana. A sole proprietorship practicing architecture in Louisiana under some name other than the name of an individual registered with the board is required to obtain a certificate of authority from the board.

P. A non-resident architectural firm retained by a Louisiana architect as a consultant only is not required to obtain a certificate of authority from the board.

Q. The architectural firm shall satisfy all of the requirements of the Louisiana secretary of state for doing business in this state.

R. An architectural firm holding a certificate of authority and desiring to continue offering architectural services in Louisiana shall make application for renewal each year on or prior to June 30 by downloading a renewal form from the board website, www.lastbdarchs.com. Upon receipt of the completed application and the renewal fee described below on or prior to June 30, a renewal certificate will be issued.

S. The fee for renewing a certificate of authority for a resident architectural firm is $75. The fee for renewing a certificate of authority for a non-resident architectural firm is $150.

T. The failure of an architectural firm to renew its certificate of authority on or before June 30 shall not deprive it of the right of renewal thereafter, provided it pays a delinquent fee to the board. The delinquent fee to be paid upon the renewal of a certificate of authority by a resident architectural firm is $75. The delinquent fee to be paid upon the renewal of a certificate of authority by a non-resident architectural firm is $150. This delinquent fee shall be in addition to the renewal fee set forth in the preceding paragraph.

U. Rules regulating the names of architectural firms are contained in Chapter 15 *supra*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:572 (April 2003), amended LR 42:

§1707. Effective Date

A. Any license or certificate of authority issued by the board to a professional architectural corporation, architectural-engineering corporation, or limited liability company for the period ending June 30, 2017, shall expire no later than such date, and the rules in existence at the time such license or certificate is issued shall apply to the practice of architecture by such firm.

B. These rules shall apply to any professional architectural corporation, architectural-engineering corporation, or architectural firm seeking to obtain an initial certificate of authority from the board to practice architecture in Louisiana, or to renew any such certificate, for the period after July 1, 2017.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 42:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, or autonomy as described in R.S. 40:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on child, individual, or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments on the proposed Rule amendments through December 30, 2016, to Ms. Kathy Hillegas, Executive Director, Board of

Architectural Examiners, 9625 Fenway Avenue, Suite B, Baton Rouge, LA 70809.

Kathy Hillegas
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Professional Architectural Corporations, Architectural-Engineering Corporations, and Limited Liability Companies

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs (savings) to state or local governmental units associated with the proposed rule changes. The proposed rule changes adjust fees for resident and non-resident corporations licensed by the Board and make other technical and non-technical changes to rules governing licensure oversight and requirements of licenses. Although there will be a relatively small increase in the number of firms which the board will annually register, the board believes that existing staff will be able to handle this increased volume of registration and its related workload.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Under the proposed rules, the board will receive increased revenues resulting from the increase in initial, renewal, and delinquency fees charged to in-state architectural firms from $50 to $75 annually, and the increase in such fees charged to out-of-state architectural firms from $50 to $150 annually. However, this increase in revenues from architectural firms will be largely offset by an expected decrease in revenues from out-of-state individual registered architects who have registered in Louisiana only because the Louisiana Professional Architectural Corporation Law requires that a majority of the outstanding shares of a professional architectural corporation be held by one or more natural persons duly licensed to practice architecture in Louisiana. After applying this offset, the board calculates that the proposed rules will result in an increase in revenues to the board during 2017-2018 of approximately $15,025, and similar increases in revenues in the years following.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules will result in a small economic cost to architectural firms practicing architecture in Louisiana. Under the proposed rules, the initial registration, renewal registration, and delinquency paid by in-state professional architectural corporations, architectural-engineering corporations, and limited liability companies will increase from $50 annually to $75 annually, and the initial registration, renewal registration, and delinquency paid by out-of-state professional architectural corporations, architectural-engineering corporations, and limited liability companies will increase from $50 annually to $150 annually. In addition, architectural firms practicing architecture in Louisiana who have not previously been registered with the board will be required to register for the first time. Under the proposed rules, professional architectural corporations may opt to practice as an architectural firm, rather than as a professional architectural corporation, and thereby receive an economic benefit (reduced cost) of registering only one architect with the board.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Although the proposed rules will impact the amount of fees that architectural firms will pay to the board, such rules will not impact the ability of such firms to compete for architectural projects or their employment of persons to perform architectural services. Accordingly, the board anticipates that the proposed rules will have no impact upon competition or employment in the public or private sectors.

Mary "Teeny" Simmons	John D. Carpenter
Executive Director	Legislative Fiscal Officer
1611#026	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Board of Examiners of Certified Shorthand Reporters

Applications for Examinations (LAC 46:XXI.301)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters proposes to amend the CDR examinations rule.

The coinciding Emergency Rule became effective on November 1, 2016.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXI. Certified Shorthand Reporters
Chapter 3. Examinations
§301. Applications for Examinations

A. - F. ...

G. A certified digital reporter (CDR) applicant who is eligible as an official or deputy official reporter will be scheduled for an examination to be given by a designee of the education or examination committee chair. The examination will not be administered for an individual CDR applicant more frequently on an annual basis than the number of examinations scheduled each year by the board in accordance with Subsection A of this Section. A certified digital reporter applicant is not subject to the qualifying exam.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and R.S. 37:2555(F).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:678 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 14:530 (August 1988), LR 16:393 (May 1990), LR 17:578 (June 1991), LR 19:1537 (December 1993), LR 27:183 (February 2001), amended by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters LR 29:1086 (July 2003), LR 35:64 (January 2009), LR 37:3512 (December 2011), LR 43:

Family Impact Statement

The proposed rule changes have no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed rules has been considered and will have no impact on poverty.

Provider Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed

rules has been considered and will have no impact on provider.

Public Comments

Interested persons may submit written comments on the proposed changes until 4 p.m., December 10, 2016, to Judge Paul A. Bonin, Chair of Louisiana Board of Examiners of Certified Shorthand Reporters, 1450 Poydras St., Ste. 630, New Orleans, LA 70112.

Judge Paul A. Bonin
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Applications for Examinations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends *Louisiana Administrative Code* Title 46, Part XXI, Chapter 3, and Section 301 – Applications for Examinations, to create flexibility in scheduling testing of Certified Digital Reporters (CDR) applicants. The proposed rule allows the Certified Shorthand Reporters (CSR) board flexibility in determining the location of testing for CDR examinations.

The proposed rule change will not result in any implementation costs (or savings) to state or local governmental units other than one-time costs directly associated with the publication and promulgation of this proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections to state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will expedite testing by determining the location of the testing and allow the CSR board to respond to the urgent needs of courts for support from Official and Deputy Official Court Reporters.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule will have no impact on competition or employment.

Judge Paul A. Bonin	Evan Brasseaux
Chairman	Staff Director
1611#017	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Commission on Law Enforcement

Peace Officer Training (LAC 22:III.Chapter 47)

In accordance with the provision of R.S. 40:2401, et. seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council hereby gives notice of its intent to promulgate rules and regulations relative to the training of peace officers.

Title 22
CORRECTIONS, CRIMINLA JUSTICE AND LAW ENFORCEMENT
Part III. Commission on Law Enforcement and Administration of Criminal Justice
Subpart 4. Peace Officers
Chapter 47. Standards and Training

§4721. Firearms Qualification

A. Pre-Academy Firearms Training

1. Any person employed or commissioned as a peace officer, or reserve or part-time peace officer must successfully complete a pre-academy firearms training program as prescribed by the council within thirty (30) days of employment if that person will be performing the duties of a peace officer before attending a basic or refresher law enforcement training course.

B. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:435 (August 1987), amended LR 25:664 (April 1999), LR 35:1236 (July 2009), LR 43:

§4750. In Service Training and Certification

A. - A.1.b. ...

B. Minimum Training Hours

1. Each calendar year, all certified level 1 and 2 officers must successfully complete, at a minimum, the required number of in-service training hours. This requirement includes "grandfathered" peace officers. These requirements begin the first calendar year after receiving certification or refresher training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 37:1606 (June 2011), amended LR 43:

§4761. Advanced Training

A. Sexual Assault Awareness Training

1. On and after January 1, 2016, each full-time peace officer shall complete a sexual assault awareness training program as provided by the council pursuant to R.S. 40:2405.8. The training program shall be implemented through a series of learning modules developed for this purpose.

B. Lead Homicide Investigator Training

1. Initial Training Course

a. The course content of the initial training course shall be approved by the council.

b. The content shall be determined based on a recommendation from a "curriculum committee" appointed by the council.

c. The "curriculum committee" shall consist of active homicide investigators, who shall advise the council on course content. The committee will consist of board members of the Louisiana Homicide Investigations Association.

2. Waiver

a. The council may issue a waiver for the initial training course on a case-by-case basis declaring that an officer has previously received training and experience that

is substantially equal to or exceeds that provided by the course.

b. A waiver form submitted to the council shall be reviewed by the committee and recommendations made to the council.

3. Certificate

a. Officers who complete the initial basic course or receive a waiver from the council shall be issued a certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 42:274 (February 2016), LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule has been considered. This proposed rule will have no impact on family functioning, stability, or autonomy as described in R.S. 49:972 since it outlines the implementation of sexual assault awareness training for peace officers and provides standards for lead homicide investigator training.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through post secondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

An analysis of the proposed Rule shows that it will have no impact on small business as defined by Act 820 of 2008.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on: t

1. the effect on the staffing level requirement or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to the same level of service.

Public Comments

Interested persons may submit written comments on this proposed rule no later than December 10, 2016 at 5pm to Bob Wertz, Peace Officer Standards and Training Council, Louisiana Commission on Law Enforcement, Box 3133 Baton Rouge, LA 708216.

Jim Craft
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Peace Officer Training

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes may result in expenditure increases for the Louisiana Commission on Law Enforcement (LCLE) as well as certain local governmental units for 1) requiring each full-time peace officer to complete a sexual assault awareness training program and requiring initial training for all lead homicide investigators (Title 22, Part III. Subpart 4. §4761. Advanced Training); 2) requiring all peace officers who are employed, including rehires to attend a pre-academy firearms training program if that person will be performing peace officer duties before attending a basic or refresher law enforcement training course (Title 22, Part III. Subpart 4. §4721. Firearms Qualifications A. Pre-Academy Firearms Training); and 3) requiring, annually, all certified level 1 and 2 officers complete the required number of in-service training hours, including "grandfathered" peace officers (Title 22, Part III. Subpart 4. §4750. In Service Training and Certifications B. Minimum Training Hours). LCLE has allocated approximately $12,500 in its current operating budget for expenditures associated with the lead investigator training. This will not require an increase over the agency's current operating budget level.

The proposed rule for the initial training for lead homicide investigators is estimated to impact a range of 50-120 individuals. It is anticipated to be an instructor led course taught once a year. However, the Louisiana Association of Homicide Investigators already has an annual conference, and the Peace Officer Standards and Training (POST) Council has decided that conference topics / contents could serve in lieu of training (waiver on a case by case basis). Therefore, the cost is estimated not to exceed $12,500 to the state and no cost is anticipated for non-governmental groups. The funding is included in the agency's existing operating budget and there is not a need for additional revenue for this expenditure. Also, the initial sexual assault awareness training and the annual firearms training is anticipated to be covered during the existing annual in-service training schedule.

The proposed rule for sexual assault training is not anticipated to have a fiscal impact. Approximately 23,000 full-time certified peace officers would be affected by the sexual assault training. Currently, there are online sexual assault training modules available (at no cost); therefore, there is no anticipated fiscal impact to complete the training.

The proposed rule for pre-academy firearm training is not anticipated to have a fiscal impact. The number of peace officers who need pre-academy firearm qualification for refreshers is minimal. In the prior fiscal year the total number of peace officers who had refresher training was 55. The cost for existing in service training is minimal and the POST Council currently accepts more than 21 online courses on its website that is currently available to all peace officers.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not increase revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly attended persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of this proposed amendment.

Jim Craft	John D. Carpenter
Executive Director	Legislative Fiscal Officer
1611#034	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing
and
Office of Behavioral Health

Behavioral Health Services
Healthy Louisiana and Coordinated System of Care Waiver
(LAC 50:XXXIII.Chapters 1, 3 and 7)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 1, 3 and 7 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amended the provisions governing behavioral health services coordinated by the statewide management organization (SMO) to: 1) narrow the SMO's scope of service administration to coordinated system of care (CSoC) services only; 2) revise the enrollment provisions; and 3) revise the reimbursement methodology to reflect the integration of specialized behavioral health services into the Healthy Louisiana program, formerly known as Bayou Health, by establishing capitation payments for recipients enrolled in managed care organizations (MCOs) (*Louisiana Register*, Volume 41, Number 11).

The department now proposes to amend the provisions governing behavioral health services in order to clarify and align the provisions with the 1915(b) Healthy Louisiana and CSoC Waiver.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services
Subpart 1. Healthy Louisiana and Coordinated System of Care Waiver
Chapter 1. Managed Care Organizations and the Coordinated System of Care Contractor
§101. General Provisions

A. The Medicaid Program hereby adopts provisions to establish a comprehensive system of delivery for specialized behavioral health and physical health services. These services shall be administered through the Healthy Louisiana and Coordinated System of Care (CSoC) Waiver under the authority of the Department of Health (LDH), in collaboration with managed care organizations (MCOs) and the coordinated system of care (CSoC) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. ...

C. Managed care organizations shall operate as such, and the CSoC contractor shall operate as a prepaid inpatient health plan (PIHP). The MCOs were procured through a competitive request for proposal (RFP) process. The CSoC contractor was procured through an emergency process consistent with 45 CFR part 92. The MCOs and CSoC contractor shall assist with the state's system reform goals to support individuals with behavioral health and physical health needs in families' homes, communities, schools and jobs.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:360 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2353 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:

§103. Recipient Participation

A. - A.5. ...

6. full dual eligibles (for behavioral health services only and non-emergency medical transportation (NEMT);

7. children residing in an intermediate care facility for persons with intellectual disabilities (for behavioral health services only and NEMT);

8. all enrollees of waiver programs administered by the LDH Office for Citizens with Developmental Disabilities (OCDD) or the LDH Office of Aging and Adult Services (OAAS) (mandatory for behavioral health services only and NEMT);

9. ...

10. adults residing in a nursing facility (for behavioral health services only and NEMT);

11. supplemental security income/transfer of resources/long-term care related adults and children (for behavioral health services only and NEMT); and

12. transfer of resources/long-term care adults and children (for behavioral health services only and NEMT).

* * *

B. ...

C. Notwithstanding the provisions of Subsection A of this Section, the following Medicaid recipients are excluded from enrollment in the MCOs and the CSoC contractor:

1. for adults and children:

a. Refugee Cash Assistance;

b. Refugee Medical Assistance;

c. Spend-Down Medically Needy;

d. Specified Low-Income Beneficiaries(SLMB)-only;

e. Aliens Emergency Services;

f. Qualified Individuals (QI)1;

g. Long-Term Care (LTC) co-insurance;

h. Qualified Disabled and Working Individuals (QDWI); and

i. Qualified Medicare Beneficiaries (QMB)-only; and

2. adult–only populations excluded from the 1915(b) waiver:

a. residents of an ICF/ID;

b. Program of All Inclusive Care for the Elderly (PACE); and

c. Take Charge Plus.

3. - 10. Repealed.

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:1286 (July 2015), LR 41:2354 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:

§107. Enrollee Rights and Responsibilities

A. - A.1.b. ...

c. receive assistance with care coordination from the primary care providers (PCP's) office or the enrollee's behavioral health provider;

d. Repealed.

A.2. - B.8. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2354 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:

Chapter 3. Managed Care Organizations and the Coordinated System of Care Contractor Participation

§301. Participation Requirements and Responsibilities

A. - B.4. ...

5. contract only with providers of services who are licensed and/or certified, meet the state of Louisiana credentialing criteria and enrolled with the Bureau of Health Services Financing, or its designated contractor, after this requirement is implemented;

B.6. - B.9. ...

a. are developed by the enrollee's primary care provider (PCP) or behavioral health provider with the enrollee's participation and in consultation with any specialists' providing care to the enrollee, with the exception of treatment plans or plans of care developed for recipients in the Home and Community Based Services (HCBS) Waiver. The wraparound agency shall develop plans of care according to wraparound best practice standards for recipients who receive behavioral health services through the HCBS Waiver;

b. ...

c. are in accordance with any applicable state and federal quality assurance and utilization review standards; and

9.d. - 10.c. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:362 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2355 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:

§303. Benefits and Services

A. ...

B. The MCO and CSoC contractor:

1. shall ensure that medically necessary services are sufficient in amount, duration, or scope to reasonably be expected to achieve the purpose for which the services are being furnished and shall not be more restrictive than services provided under the Medicaid State Plan;

B.2. - C.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:362 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2355 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:

Chapter 7. Grievance and Appeals Process

§701. General Provisions

A. ...

B. An enrollee, or a provider on behalf of an enrollee, has 60 calendar days from the date on the notice of action in which to file an appeal.

C. An enrollee may file a grievance at any time after an occurrence or incident which is the basis for the grievance.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:363 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2356 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service,

no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Behavioral Health Services Healthy Louisiana and Coordinated System of Care Waiver

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. It is anticipated that $1,080 ($540 SGF and $540 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 16-17. It is anticipated that $540 will be collected in FY 16-17 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing the delivery of physical and behavioral health services through the Healthy Louisiana and Coordinated System of Care Section 1915(b) Waiver utilizing managed care organizations and the Coordinated System of Care (CSoC) contractor. These provisions give the Medicaid program the authority to continue its mandatory enrollment of certain recipients into managed care. The proposed rule will also clarify and align the rule provisions with the language in the Healthy Louisiana and Coordinated System of Care (CSoC) Waiver application. It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the Medicaid program for FY 16-17, FY 17-18 and FY 18-19 since the rule only establishes the Medicaid program's authority to continue to mandate that certain Medicaid recipients continue to receive specific services through managed care delivery system.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1611#058

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Inpatient Psychiatric Services
Reimbursement Rate Reduction
(LAC 50:V.2903)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.2903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for inpatient hospital services in order to provide supplemental Medicaid payments to non-rural, non-state acute care hospitals that enter into a cooperative endeavor agreement with the department to provide inpatient psychiatric services (*Louisiana Register*, Volume 39, Number 2). The department amended the provisions governing disproportionate share hospital (DSH) payments to non-state distinct part psychiatric units that enter into a cooperative endeavor agreement with the department's Office of Behavioral Health (*Louisiana Register*, Volume 39, Number 3).

As a result of a budgetary shortfall in state fiscal year 2016, the department promulgated an Emergency Rule which amended the provisions governing DSH payments to reduce the payments made to non-rural, non-state acute care hospitals for inpatient psychiatric services (*Louisiana Register*, Volume 41, Number 10). The department determined that it was necessary to amend the provisions of the October 1, 2015 Emergency Rule in order to revise these provisions and to correct the formatting of these provisions to assure that these provisions were promulgated in a clear and concise manner in the *Louisiana Administrative Code* (LAC) (*Louisiana Register*, Volume 42, Number 1). This proposed Rule is being promulgated to continue the provisions of the January 20, 2016 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 3. Disproportionate Share Hospital Payments
Chapter 29. Public-Private Partnerships
§2903. Reimbursement Methodology

A. Free-Standing Psychiatric Hospitals. Effective for dates of service on or after October 1, 2015, the per diem rate paid to free-standing psychiatric hospitals shall be

reduced by 5 percent of the rate in effect on September 30, 2015. The new per diem rate shall be $552.05 per day.

1. Cost and lengths of stay will be reviewed for reasonableness before payments are made. Payments shall be made on a monthly basis.

2. Aggregate DSH payments for hospitals that receive payment from this category, and any other DSH category, shall not exceed the hospital's specific DSH limit. If payments calculated under this methodology would cause a hospital's aggregate DSH payment to exceed the limit, the payment from this category shall be capped at the hospital's specific DSH limit.

B. - C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:2259 (November 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability or autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of the reduced reimbursement rates.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual or family poverty in relation to individual or community asset development as described in R.S. 49:973 in the event that health care assistance is reduced as a result of diminished provider participation due to the reimbursement rate reductions.

Provider Impact Statement

In compliance with House Concurrent Resolution 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase the total direct and indirect cost to the provider to provide the same level of service due to the reduction in payments. The proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the reduction in payments adversely impacts the provider's financial standing.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Disproportionate Share Hospital Payments—Inpatient Psychiatric Services Reimbursement Rate Reduction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of $212,179 for FY 16-17, $212,561 for FY 17-18 and $218,938 FY 18-19. It is anticipated that $540 ($270 SGF and $270 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 and 18-90.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately $350,210 for FY 16-17, $367,256 for FY 17-18 and $378,274 for FY 18-19. It is anticipated that $270 will be expended in FY 15-16 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 and 18-19.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the October 1, 2015 and January 20, 2016 Emergency Rules which amended the provisions governing disproportionate share hospital (DSH) payments to reduce the payments made to non-rural, non-state acute care hospitals for inpatient psychiatric services (three hospitals are being impacted by these provisions). It is anticipated that implementation of this proposed rule will reduce programmatic expenditures for DSH payments by approximately $562,929 for FY 16-17, $579,817 for FY 17-18 and $597,212 for FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a negative effect on employment as it will reduce DSH payments. The reduction in payments may adversely impact the financial standing of the provider and could possibly cause a reduction in employment opportunities.

Jen Steele	John D. Carpenter
Medicaid Director	Legislative Fiscal Officer
1611#059	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing
and
Office of Behavioral Health

Home and Community-Based Behavioral Health Services Waiver (LAC 50:XXXIII.Chapters 81-83)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to amend LAC 50:XXXIII.Chapters 81-83 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing home and community-based behavioral health services to: 1) narrow the statewide management organization's scope of service administration to coordinated system of care (CSoC) services only; 2) delegate provider certification functions to managed care organizations if the department so chooses; and 3) revise the provisions governing the recipient qualifications and the services covered under the waiver (*Louisiana Register*, Volume 41, Number 11).

The department now proposes to amend the provisions governing home and community-based behavioral health services in order to clarify the provisions to ensure adequate service coordination and delivery.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services
Subpart 9. Home and Community-Based Services Waiver

Chapter 81. General Provisions

§8101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage under the Medicaid State Plan for behavioral health services rendered to children with mental illness and severe emotional disturbances (SED) by establishing a home and community-based services (HCBS) waiver. This HCBS waiver shall be administered under the authority of the Department of Health, in collaboration with the coordinated system of care (CSoC) contractor, which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B.- D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:366 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2361 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:

§8103. Recipient Qualifications

A. The target population for the Home and Community-Based Behavioral Health Services Waiver program shall be Medicaid recipients who:

1. are from the age of 5 years old through the age of 20 years old effective March 1, 2017:

a. recipients enrolled in the program prior to this date, who are between the ages of 0 through 4 or 20 through 21, may continue to be served through this waiver as long as they continue to meet the level of care criteria; and

b. prospectively recipients must be at least age 5 through age 20 to receive waiver services;

2. - 3. ...

4. require hospital or nursing facility level of care, as determined by the department's designated assessment tools and criteria;

5. meet financial eligibility criteria; and

6. reside in a home and community-based setting as defined in 42 CFR 441.301(c)(4) and in accordance with the department's policy and procedures.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:366 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2361 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:

Chapter 83. Services

§8301. General Provisions

A. - E. ...

F. Services may be provided at a site-based facility, in the community or in the individual's place of residence as outlined in the plan of care. All service locations must meet the home and community-based service setting criteria in 42 CFR 441.301(c)(4) and in accordance with the department's policy and procedures.

G. - G.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:367 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2361 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:

§8305. Covered Services

A. - C.3. ...

4. services rendered in an institution for mental disease or any other institutional setting as defined in 42 CFR 441.301(c)(4).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:367 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:2362 (November 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 43:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Home and Community-Based Behavioral Health Services Waiver

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. It is anticipated that $756 ($378 SGF and $378 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 16-17. It is anticipated that $378 will be collected in FY 16-17 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing home and community-based behavioral health services delivered through the Section 1915(c) Coordinated System of Care (CSoC) Waiver in order to clarify the provisions to ensure adequate service coordination and delivery, and revise the qualifying criteria to change the age limits for services. It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the Medicaid program for FY 16-17, FY 17-18 and FY 18-19 since the number of waiver opportunities available will not change (capped at 2400) and the existing waiver participants will continue to receive services regardless of the changes in the qualifying criteria.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele	John D. Carpenter
Medicaid Director	Legislative Fiscal Officer
1611#060	Legislative Fiscal Office

NOTICE OF INTENT

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

Home and Community-Based Services Waivers
Adult Day Health Care Waiver
Transportation Costs
(LAC 50:XXI.2905)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XXI.2905 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, amended the provisions governing the reimbursement for Adult Day Health Care (ADHC) Waiver services as a result of changes to the provision of services and discharge criteria (*Louisiana Register*, Volume 41, Number 2).

The department now proposes to amend the provisions governing the ADHC Waiver in order to better define the

cost categories for the reporting of costs associated with transportation services covered under the waiver.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services Waivers
Subpart 3. Adult Day Health Care
Chapter 29. Reimbursement
§2905. Cost Categories Included in the Cost Report

A. - D.10. ...

E. Transportation Costs

1. ...

2. Payroll Taxes, Transportation—the cost of the employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for drivers.

a. - c. Repealed.

3. Employee Benefits, Transportation–the cost of group insurance, pensions, uniform allowances and other employee benefits related to drivers.

4. Workers' Compensation, Transportation—the cost of workers' compensation insurance for drivers.

5. Non-Emergency Medical Transportation–the cost of purchased non-emergency medical transportation services including, but not limited to:

a. payments to employees for use of their personal vehicle(s);

b. ambulance companies; and

c. other transportation companies for transporting patients of the center.

6. Interest Expenses, Vehicles–interest paid or accrued on loans used to purchase vehicles.

7. Property Insurance, Vehicles–the cost of vehicle insurance.

8. Vehicle Expenses–vehicle maintenance and supplies, including gas and oil.

9. Lease, Automotive–the cost of leasing vehicles used for patient care. A mileage log must be maintained. If a leased vehicle is used for both patient care and personal purposes, cost must be allocated based on the mileage log.

10. Total Transportation Costs.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2166 (October 2008), repromulgated LR 34:2571 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2626 (September 2011), amended LR 41:381 (February 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Home and Community-Based Services Waivers—Adult Day Health Care Waiver Transportation Costs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. It is anticipated that $540 ($270 SGF and $270 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 16-17. It is anticipated that $270 will be collected in FY 16-17 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the Adult Day Health Care (ADHC) Waiver in order to better define the cost categories for the reporting of costs associated with transportation services covered under the waiver. It is anticipated that implementation of this proposed rule will have no costs, but may be beneficial to ADHC Waiver providers for FY 16-17, FY 17-18 and FY 18-19 by helping to clarify the costs reporting categories to ensure compliance with program requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1611#061

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Public Hospitals Supplemental Payments
(LAC 50:V.963)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:V.963 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing inpatient hospital services to provide supplemental Medicaid payments to qualifying non-rural, non-state public hospitals (*Louisiana Register,* Volume 39, Number 6). The department promulgated an Emergency Rule which amended the reimbursement methodology governing inpatient hospital services in order to amend the provisions governing supplemental Medicaid payments to qualifying non-rural, non-state public hospitals (*Louisiana Register*, Volume 41, Number 10). This proposed Rule is being promulgated in order to continue the provisions of the October 1, 2015 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services
Chapter 9. Non-Rural, Non-State Hospitals
Subchapter B. Reimbursement Methodology
§963. Public Hospitals

A. - B.1. ...

a. be designated as a major teaching hospital by the department as of July 1, 2015 and have at least 300 licensed acute hospital beds; or

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2772 (November 2012), amended LR 38:3181 (December 2012), repromulgated LR 39:95 (January 2013), amended LR 39:1471 (June 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase direct or indirect cost to the provider to provide the same level of service due to a reduction in Medicaid payments for inpatient hospital services. The proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the reduction in payments adversely impacts the provider's financial standing.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Public Hospitals Supplemental Payments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic

savings of $7,475,713 for FY 16-17, $7,479,851 for FY 17-18 and $7,704,247 FY 18-19. It is anticipated that $432 ($216 SGF and $216 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 and 18-19.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that federal revenue collections will decrease by approximately $12,332,889 for FY 16-17, $12,923,454 for FY 17-18 and $13,311,157 for FY 18-19. It is anticipated that $216 will be expended in FY 16-17 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 and 18-19.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the October 1, 2015 Emergency Rule which amended the reimbursement methodology governing inpatient hospital services in order to amend the provisions governing supplemental Medicaid payments to qualifying non-rural, non-state public hospitals (one hospital is impacted by these provisions). It is anticipated that implementation of this proposed rule will decrease programmatic expenditures for inpatient hospital services by approximately $19,809,034 for FY 16-17, $20,403,305 for FY 17-18 and $21,015,404 for FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, the reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Jen Steele
Medicaid Director
1611#062

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Intermediate Care Facilities for
Persons with Intellectual Disabilities
Evacuation and Temporary Sheltering Costs
(LAC 50:VII.33103 and 33105)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:VII.33103 and adopt §33105 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with intellectual disabilities (ICFs/ID) to establish reimbursement for complex care services provided to Medicaid recipients residing in non-state ICFs/ID (*Louisiana Register*, Volume 42, Number 2).

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/ID to establish provisions governing evacuation and temporary sheltering costs incurred during a declared disaster or emergency event to ensure evacuating ICFs/ID continue to receive vendor payments while providing essential care and services to residents at a host site when they are displaced (*Louisiana Register*, Volume 42, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 13, 2016 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part VII. Long-Term Care Services
Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities
Chapter 331. Vendor Payments
§33103. Payment Limitations

A. Temporary Absence of the Client. A client's temporary absence from an ICF/ID will not interrupt the monthly vendor payment to the ICF/ID, provided the following conditions are met:

1. the ICF/ID keeps a bed available for the client's return; and

2. the absence is for one of the following reasons:

a. …

b. leave of absence. A temporary stay outside the ICF/ID provided for in the client's written individual habilitation plan. A leave of absence will not exceed 45 days per fiscal year (July 1 through June 30) and will not exceed 30 consecutive days in any single occurrence. Certain leaves of absence will be excluded from the annual 45-day limit as long as the leave does not exceed the 30-consecutive day limit and is included in the written individual habilitation plan. These exceptions are as follows:

i.-v. …

NOTE: Elopements and unauthorized absences under the individual habilitation plan count against allowable leave days. However, Title XIX eligibility is not affected if the absence does not exceed 30 consecutive days and if the ICF/ID has not discharged the client.

3. …

4. a period of 24 continuous hours or more shall be considered an absence. Likewise, a temporary leave of absence for hospitalization or a home visit is broken only if the client returns to the ICF/ID for 24 hours or longer;

5. upon admission, a client must remain in the ICF/ID at least 24 continuous hours in order for the ICF/ID to submit a payment claim for a day of service or reserve a bed;

EXAMPLE: A client admitted to an ICF/ID in the morning and transferred to the hospital that afternoon would not be eligible for any vendor payment for ICF/ID services.

6. …

7. the ICF/ID shall promptly notify DHH of absences beyond the applicable thirty- or seven-day limitations. Payment to the ICF/MR shall be terminated from the thirty-first or eighth day, depending upon the leave of absence. Payment will commence after the individual has been determined eligible for Title XIX benefits and has remained in the ICF/ID for 30 consecutive days;

8. the limit on Title XIX payment for leave days does not mean that further leave days are prohibited when provided for in the individual habilitation plan. After the Title XIX payment limit is met, further leave days may be arranged between the ICF/ID and the client, family or responsible party. Such arrangements may include the following options.

a. The ICF/ID may charge the client, family or responsible party an amount not to exceed the Title XIX daily rate.

b. The ICF/ID may charge the client, family or responsible party a portion of the Title XIX daily rate.

c. The ICF/ID may absorb the cost into its operation costs.

B. Temporary Absence of the Client Due to Evacuations. When local conditions require evacuation of ICF/ID residents, the following procedures apply.

1. When clients are evacuated to a family's or friend's home at the ICF/ID's request, the ICF/MR shall not submit a claim for a day of service or leave day, and the client's liability shall not be collected.

2. When clients go home at the family's request or on their own initiative, a leave day shall be charged.

3. When clients are admitted to the hospital for the purpose of evacuation of the ICF/ID, Medicaid payment shall not be made for hospital charges.

4. - 5. Repealed.

C. Payment Policy in regard to Date of Admission, Discharge, or Death

1. Medicaid (Title XIX) payments shall be made effective as of the admission date to the ICF/ID. If the client is medically certified as of that date and if either of the following conditions is met:

a. the client is eligible for Medicaid benefits in the ICF/ID (excluding the medically needy); or

b. the client was in a continuous institutional living arrangement (nursing home, hospital, ICF/ID, or a combination of these institutional living arrangements) for 30 consecutive days; the client must also be determined financially eligible for medical assistance.

2. The continuous stay requirement is:

a. ...

b. not interrupted by the client's absence from the ICF/ID when the absence is for hospitalization or leave of absence which is part of the written individual habilitation plan.

3. The client's applicable income is applied toward the ICF/ID fee effective with the date Medicaid payment is to begin.

4. - 5. ...

NOTE: The ICF/ID shall promptly notify LDH/BHSF of admissions, death, and/or all discharges.

D. Advance Deposits

1. An ICF/ID shall neither require nor accept an advance deposit from an individual whose Medicaid (Title XIX) eligibility has been established.

EXCEPTION: An ICF/ID may require an advance deposit for the current month only on that part of the total payment which is the client's liability.

2. ...

E. Retroactive Payment. When individuals enter an ICF/ID before their Medicaid (Title XIX) eligibility has been established payment for ICF/ID services is made retroactive to the first day of eligibility after admission.

F. Timely Filing for Reimbursements. Vendor payments cannot be made if more than 12 months have elapsed between the month of initial services and submittal of a claim for these services. Exceptions for payments of claims over 12 months old can be made with authorization from LDH/BHSF only.

G. Refunds to Clients

1. When the ICF/ID receives vendor payments, it shall refund any fees for services collected from clients, family or responsible party by the end of the month in which vendor payment is received.

2. Advance payments for a client's liability (applicable income) shall be refunded promptly if he/she leaves the ICF/ID.

3. The ICF/ID shall adhere to the following procedures for refunds.

a. The proportionate amount for the remaining days of the month shall be refunded to the client, family, or the responsible party no later than 30 days following the date of discharge. If the client has not yet been certified, the procedures spelled out in §33103.G.1 above shall apply.

b. No penalty shall be charged to the client, family, or responsible party even if the circumstances surrounding the discharge occurred as follows:

i. - ii. ...

iii. within some other "minimum stay" period established by the ICF/ID.

c. ...

H. ICF/ID Refunds to the Department

1. Nonparticipating ICF/ID. Vendor payments made for services performed while an ICF/ID is in a nonparticipating status with the Medicaid Program shall be refunded to the department.

2. Participating ICF/ID. A currently participating Title XIX, ICF/ID shall correct billing or payment errors by use of appropriate adjustment void or patient liability (PLI) adjustment forms.

I. Sitters. An ICF/ID will neither expect nor require a client to have a sitter. However, the ICF/ID shall permit clients, families, or responsible parties directly to employ and pay sitters when indicated, subject to the following limitations.

1. The use of sitters will be entirely at the client's, family's, or responsible party's discretion. However, the ICF/ID shall have the right to approve the selection of a sitter. If the ICF/ID disapproves the selection of the sitter, the ICF/ID will provide written notification to the client, family, and/or responsible party, and to the department stating the reasons for disapproval.

2. - NOTE. ...

3. Payment to sitters is the direct responsibility of the ICF/ID facility when:

a. - c. ...

4. A sitter will be expected to abide by the ICF/ID's rules, including health standards and professional ethics.

5. The presence of a sitter does not absolve the ICF/ID of its full responsibility for the client's care.

6. The ICF/ID is not responsible for providing a sitter if one is required while the resident is on home leave.

J. Tips. The ICF/ID shall not permit tips for services rendered by its employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:682 (April 1999), LR 31:1082 (May 2005), repromulgated LR 31:2257 (September 2005), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§33105. Evacuation and Temporary Sheltering Costs

A. Intermediate care facilities for persons with intellectual disabilities required to participate in an evacuation, as directed by the appropriate parish or state official, or which act as a host shelter site may be entitled to reimbursement of its documented and allowable evacuation and temporary sheltering costs.

1. The expense incurred must be in excess of any existing or anticipated reimbursement from any other sources, including the Federal Emergency Management Agency (FEMA) or its successor.

2. ICFs/ID must first apply for evacuation or sheltering reimbursement from all other sources and request that the department apply for FEMA assistance on their behalf.

3. ICFs/ID must submit expense and reimbursement documentation directly related to the evacuation or temporary sheltering of Medicaid residents to the department.

B. Eligible Expenses. Expenses eligible for reimbursement must occur as a result of an evacuation and be reasonable, necessary, and proper. Eligible expenses are subject to audit at the department's discretion and may include the following.

1. Evacuation Expenses. Evacuation expenses include expenses from the date of evacuation to the date of arrival at a temporary shelter or another ICF/ID. Evacuation expenses include:

a. resident transportation and lodging expenses during travel;

b. nursing staff expenses when accompanying residents, including:

i. transportation;

ii. lodging; and

iii. additional direct care expenses, when a direct care expense increase of 10 percent or more is documented:

(a). the direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department;

c. any additional allowable costs that are directly related to the evacuation and that would normally be allowed under the ICF/ID rate methodology.

2. Non-ICF/ID Facility Temporary Sheltering Expenses. Non-ICF/ID facility temporary sheltering expenses include expenses from the date the Medicaid residents arrive at a non-ICF/ID facility temporary shelter to the date all Medicaid residents leave the shelter. A non-ICF/ID facility temporary shelter includes shelters that are not part of a licensed ICF/ID and are not billing for the residents under the ICF/ID reimbursement methodology or any other Medicaid reimbursement system. Non-ICF/ID facility temporary sheltering expenses may include:

a. additional nursing staff expenses including:

i. lodging; and

ii. additional direct care expenses, when a direct care expense increase of 10 percent or more is documented:

(a). the direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department;

b. care-related expenses incurred in excess of care-related expenses prior to the evacuation;

c. additional medically necessary equipment such as beds and portable ventilators that are not available from the evacuating nursing facility and are rented or purchased specifically for the temporary sheltered residents; and

i. these expenses will be capped at a daily rental fee not to exceed the total purchase price of the item;

ii. the allowable daily rental fee will be determined by the department;

d. any additional allowable costs as determined by the department and that are directly related to the temporary sheltering and that would normally be allowed under the ICF/ID reimbursement methodology.

3. Host ICF/ID Temporary Sheltering Expenses. Host ICF/ID temporary sheltering expenses include expenses from the date the Medicaid residents are admitted to a licensed ICF/ID to the date all temporary sheltered Medicaid residents are discharged from the ICF/ID, not to exceed a six-month period.

a. The host ICF/ID shall bill for the residents under Medicaid's ICF/ID reimbursement methodology.

b. Additional direct care expenses may be submitted when a direct care expense increase of 10 percent or more is documented.

i. The direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department.

C. Payment of Eligible Expenses

1. For payment purposes, total eligible Medicaid expenses will be the sum of nonresident-specific eligible expenses multiplied by the facility's Medicaid occupancy percentage plus Medicaid resident-specific expenses.

a. If Medicaid occupancy is not easily verified using the evacuation resident listing, the Medicaid occupancy from the most recently filed cost report will be used.

2. Payments shall be made as quarterly lump-sum payments until all eligible expenses have been submitted and paid. Eligible expense documentation must be submitted to the department by the end of each calendar quarter.

3. All eligible expenses documented and allowed under §33105 will be removed from allowable expenses when the ICF/ID's Medicaid cost report is filed. These expenses will not be included in the allowable cost used to set ICF/ID reimbursement rates in future years.

a. Equipment purchases that are reimbursed on a rental rate under §33105.B.2.c may have their remaining basis included as allowable cost on future costs reports provided that the equipment is in the ICF/ID and being used.

If the remaining basis requires capitalization then depreciation will be recognized.

4. Payments shall remain under the upper payment limit cap for ICFs/ID.

D. When an ICF/ID resident is evacuated to a temporary sheltering site (an unlicensed sheltering site or a licensed ICF/ID) for less than 24 hours, the Medicaid vendor payment to the evacuating facility will not be interrupted.

E. When an ICF/ID resident is evacuated to a temporary sheltering site (an unlicensed sheltering site or a licensed NF) for greater than 24 hours, the evacuating ICF/ID may submit the claim for Medicaid vendor payment for a maximum of five days, provided that the evacuating ICF/ID provides sufficient staff and resources to ensure the delivery of essential care and services to the resident at the temporary shelter site.

F. When an ICF/ID resident is evacuated to a temporary shelter site, which is an unlicensed sheltering site, for greater than five days, the evacuating ICF/ID may submit the claim for Medicaid vendor payment for up to an additional 15 days, provided that the evacuating ICF/ID:

1. has received an extension to stay at the unlicensed shelter site; and

2. provides sufficient staff and resources to ensure the delivery of essential care and services to the resident, and to ensure the needs of the resident are met.

G. When an ICF/ID resident is evacuated to a temporary shelter site, which is a licensed ICF/ID, for greater than 5 days, the evacuating ICF/ID may submit the claim for Medicaid vendor payment for an additional period, not to exceed 55 days, provided that:

1. the host/receiving ICF/ID has sufficient licensed and certified bed capacity for the resident, or the host/receiving ICF/ID has received departmental and/or CMS approval to exceed the licensed and certified bed capacity for a specified period; and

2. the evacuating ICF/ID provides sufficient staff and resources to ensure the delivery of essential care and services to the resident, and to ensure the needs of the resident are met.

H. If an ICF/ID resident is evacuated to a temporary shelter site which is a licensed ICF/ID, the receiving/host ICF/ID may submit claims for Medicaid vendor payment under the following conditions:

1. beginning day two and continuing during the "sheltering period" and any extension period, if the evacuating nursing home does not provide sufficient staff and resources to ensure the delivery of essential care and services to the resident and to ensure the needs of the residents are met;

2. upon admission of the evacuated residents to the host/receiving ICF/ID; or

3. upon obtaining approval of a temporary hardship exception from the department, if the evacuating ICF/ID is not submitting claims for Medicaid vendor payment.

I. Only one ICF/ID may submit the claims and be reimbursed by the Medicaid Program for each Medicaid resident for the same date of service.

J. An ICF/ID may not submit claims for Medicaid vendor payment for non-admitted residents beyond the expiration of its extension to exceed licensed (and/or certified) bed capacity or expiration of its temporary hardship exception.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring continued access to ICF/ID services for residents who have been evacuated during a declared disaster or emergency event.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden on families who may encounter expenses when family members are evacuated from ICFs/ID during declared disasters or emergency events.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Intermediate Care Facilities for Persons with Intellectual Disabilities Evacuation and Temporary Sheltering Costs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. There is no anticipated net increase in vendor payments as these provisions will only clarify which facility will receive the vendor payment. It is anticipated that $2,052 ($1,026 SGF and $1,026 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 16-17. It is anticipated that $1,026 will be collected in FY 16-17 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the October 13, 2016 Emergency Rule which amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with intellectual disabilities (ICFs/ID) to establish provisions governing evacuation and temporary sheltering costs incurred during a declared disaster or emergency event to ensure evacuating ICFs/ID continue to receive vendor payments while providing essential care and services to residents at a host site when they are displaced. It is anticipated that implementation of this proposed rule will not have economic costs, but will be beneficial to ICFs/ID facilities for FY 16-17, FY 17-18 and FY 18-19 by ensuring continued vendor payments for services delivered during an evacuation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele	John D. Carpenter
Medicaid Director	Legislative Fiscal Officer
1611#063	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Nursing Facilities
Evacuation and Temporary Sheltering Costs
(LAC 50:II.20019)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.20019 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

In compliance with the directives of Act 540 of the 2006 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for nursing facilities to provide for the facility-specific reimbursement of documented and allowable evacuation and temporary sheltering costs of Medicaid-certified nursing facilities (*Louisiana Register,* Volume 38, Number 5).

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the May 20, 2008 Rule governing the reimbursement methodology for nursing facilities to amend the provisions governing evacuation and temporary sheltering costs in order to ensure that an evacuating nursing facility continues to receive vendor payments while providing essential care and services to residents at a host site when they are displaced (*Louisiana Register*, Volume 42, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 13, 2016 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement
Chapter 200. Reimbursement Methodology
§20019. Evacuation and Temporary Sheltering Costs [Formerly LAC 50:VII.1319]

A. - B.1.b.iii.(a). …

c. any additional allowable costs as defined in the CMS Publication 15-1-21, last modified 9/28/2012, that are directly related to the evacuation and that would normally be allowed under the nursing facility case-mix rate.

2. - 2.a.ii.(a). …

b. care-related expenses as defined in LAC 50:II.20005 and incurred in excess of care-related expenses prior to the evacuation;

c. - c.ii. …

d. any additional allowable costs as defined in the CMS Publication 15-1-21, last modified 9/28/2012, that are directly related to the temporary sheltering and that would normally be allowed under the nursing facility case-mix rate.

3. - 3.b.i. …

C. Payment of Eligible Expenses

1. - 2. …

3. All eligible expenses documented and allowed under §20019 will be removed from allowable expenses when the nursing facility's Medicaid cost report is filed. These expenses will not be included in the allowable cost used to set case-mix reimbursement rates in future years.

a. Equipment purchases that are reimbursed on a rental rate under §20019.B.2.c may have their remaining basis included as allowable cost on future costs reports provided that the equipment is in the nursing facility and being used. If the remaining basis requires capitalization under CMS Publication 15-1-21 guidelines, last modified 9/28/2012, then depreciation will be recognized.

4. …

D. When a nursing facility (NF) resident is evacuated to a temporary shelter site (an unlicensed sheltering site or a licensed NF) for less than 24 hours, the Medicaid vendor payment to the evacuating facility will not be interrupted.

E. When a NF resident is evacuated to a temporary shelter site (an unlicensed sheltering site or a licensed NF)

for greater than 24 hours, the evacuating nursing facility may submit the claim for Medicaid vendor payment for a maximum of five days, provided that the evacuating nursing facility provides sufficient staff and resources to ensure the delivery of essential care and services to the resident at the temporary shelter site.

F. When a NF resident is evacuated to a temporary shelter site, which is an unlicensed sheltering site, for greater than five days, the evacuating nursing facility may submit the claim for Medicaid vendor payment for up to an additional 15 days, provided that the evacuating nursing facility:

1. has received an extension to stay at the unlicensed shelter site; and

2. provides sufficient staff and resources to ensure the delivery of essential care and services to the resident, and to ensure the needs of the resident are met.

G. When a NF resident is evacuated to a temporary shelter site, which is a licensed nursing home, for greater than five days, the evacuating nursing facility may submit the claim for Medicaid vendor payment for an additional period, not to exceed 55 days, provided that:

1. the host/receiving nursing home has sufficient licensed and certified bed capacity for the resident, or the host/receiving nursing home has received departmental and/or CMS approval to exceed the licensed and certified bed capacity for a specified period; and

2. the evacuating nursing facility provides sufficient staff and resources to ensure the delivery of essential care and services to the resident, and to ensure the needs of the resident are met.

H. If a NF resident is evacuated to a temporary shelter site which is a licensed NF, the receiving/host nursing home may submit claims for Medicaid vendor payment under the following conditions:

1. beginning day two and continuing during the "sheltering period" and any extension period, if the evacuating nursing home does not provide sufficient staff and resources to ensure the delivery of essential care and services to the resident and to ensure the needs of the residents are met;

2. upon admission of the evacuated residents to the host/receiving nursing facility; or

3. upon obtaining approval of a temporary hardship exception from the department, if the evacuating NF is not submitting claims for Medicaid vendor payment.

I. Only one nursing facility may submit the claims and be reimbursed by the Medicaid Program for each Medicaid resident for the same date of service.

J. A nursing facility may not submit claims for Medicaid vendor payment for non-admitted residents beyond the expiration of its extension to exceed licensed (and/or certified) bed capacity or expiration of its temporary hardship exception.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:879 (May 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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

Family Provider Impact

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring continued access to nursing facility services for residents who have been evacuated during a declared disaster or emergency event.

Poverty Provider Impact

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden on families who may encounter expenses when family members are evacuated from nursing facilities during declared disasters or emergency events.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities
Evacuation and Temporary Sheltering Costs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. There is no anticipated

net increase in vendor payments as these provisions will only clarify which facility will receive the vendor payment. It is anticipated that $864 ($432 SGF and $432 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 16-17. It is anticipated that $432 will be collected in FY 16-17 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the October 13, 2016 Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities to revise the provisions governing evacuation and temporary sheltering costs to ensure that an evacuating nursing facility continues to receive vendor payments while providing essential care and services to residents at a host site. It is anticipated that implementation of this proposed rule will not have economic costs, but will be beneficial to nursing facilities for FY 16-17, FY 17-18 and FY 18-19 by ensuring continued vendor payments for services delivered during an evacuation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1611#064

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Psychiatric Residential Treatment Facilities
Licensing Standards
(LAC 48:I.9047)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.9047 as authorized by R.S. 40:2009. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the licensing standards for psychiatric residential treatment facilities (PRTFs) in order to remove service barriers, clarify appeal opportunities, avoid a reduction in occupancy of PRTFs in rural locations, and clarify the process for cessation of business (*Louisiana Register*, Volume 42, Number 2).

The department promulgated an Emergency Rule which amended the provisions governing PRFTs in order to revise the minimum staffing requirements for staff-to-client ratios (*Louisiana Register*, Volume 42, Number 5). This proposed Rule is being promulgated to continue the provisions of the May 20, 2016 Emergency Rule.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing
Chapter 90. Psychiatric Residential Treatment Facilities (under 21)
Subchapter D. Human Resources
§9047. Personnel Requirements

A. - A.4. ...

B. The facility shall maintain a minimum ratio of one staff person for four residents (1:4) between the hours of 6 a.m. and 10 p.m. The staff for purposes of this ratio shall consist of direct care staff (i.e. licensed practical nurse (LPN), MHS, MHP, LMHP, etc.).

C. The facility shall maintain a minimum ratio of one staff person for six residents (1:6) between 10 p.m. and 6 a.m. Staff shall always be awake while on duty. The staff for purposes of this ratio shall consist of direct care staff (i.e. LPN, MHS, MHP, LMHP, etc.).

D. Staffing ratios listed above are a minimum standard. The PRTF must have written policies and procedures that:

1. demonstrate how the staffing pattern will be adjusted when necessary to meet the individual needs and acuity of youth as those fluctuate over time;

2. document how the PRTF continuously monitors the appropriateness of its staffing pattern to ensure the safety of both youth and staff;

a. This documentation shall include specific methods used by the PRTF to monitor metrics such as restraints and seclusions and other adverse incidents, and documentation of how the PRTF uses this monitoring to make ongoing decisions about staffing patterns; and

3. document how the PRTF continuously monitors the appropriateness of its staffing pattern to ensure that youth receive appropriate, individualized care and treatment and therapeutic interactions;

a. This documentation shall include specific methods used by the PRTF to monitor metrics such as clinical progress and outcomes, and documentation of how the PRTF uses this monitoring to make ongoing decisions about staffing patterns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:385 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring continued access to psychiatric residential treatment facilities for children under the age of 21.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child,

individual or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden on families who may encounter expenses when children under the age of 21 are unable to receive care in a psychiatric residential treatment facility.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an impact on the staffing level requirements or qualifications required to provide the same level of service if the provider determines the current number of staff is not needed, and hence may reduce direct or indirect cost to the provider to provide the same level of service in the event the current staffing levels are reduced. The proposed Rule may also have a positive impact on the provider's ability to provide the same level of service as described in HCR 170 since providers may be able to provide the same level of services with fewer staff.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, December 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Psychiatric Residential Treatment Facilities—Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. It is anticipated that $540 (SGF) will be expended in FY 16-17 for the state's administrative expense for the promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the May 20, 2016 Emergency Rule which amended the provisions governing the licensing standards for psychiatric residential treatment facilities (PRTFs) in order to revise the minimum staffing requirements for staff-to-client ratios to increase the number of clients a staff person may serve. It is anticipated that the implementation of this proposed rule may reduce economic costs to PRTFs and have benefits in FY 16-17, FY 17-18 and FY 18-19 in the event staffing costs are reduced if facilities are able to provide services with fewer staff.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello	John D. Carpenter
Health Standards Section Director	Legislative Fiscal Officer
1611#065	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Office of Public Health

Special Supplemental Nutrition Program for Women, Infants and Children (WIC) (LAC 48:V.Chapters 41-45)

Under the authority of R.S. 46:972 and in accordance the Administrative Procedure Act, notice is hereby given that the Louisiana Department of Health, Office of Public Health (LDH-OPH), amends Subpart 15 [Supplemental Food Services for Women, Infants, and Children (WIC)] of Part V (Preventive Health Services) of Title 48 (Public Health−General) of the *Louisiana Administrative Code* (LAC).

The proposed Rule amends Subpart 15 [Supplemental Food Services for Women, Infants, and Children (WIC)] of Part V (Preventive Health Services) of Title 48 (*Public Health—General*) of the *Louisiana Administrative Code* (LAC). This proposed Rule ensures that the state remains in compliance with applicable federal regulations of the United States Department of Agriculture (USDA), adds definitions, and corrects obsolete and typographical references. The following Sections are proposed for amendment: Sections 4101 and 4103 of Chapter 41 – General Provisions; Sections 4301, 4303, 4305, 4307 and 4309 of Chapter 43, Participant Eligibility and Certification; and Sections 4503, 4505, 4507, 4509, 4511 and 4513 of Chapter 45, Vendor Selection, Participation and Sanctions.

These amendments are also necessary to ensure that the State of Louisiana remains in compliance with applicable federal regulations of the United States Department of Agriculture (USDA). Failure to timely adopt such amendments may cause federal monetary sanctions to be imposed against the Louisiana WIC program. At this time, the Louisiana WIC program intends to publish a Notice of Intent under regular rulemaking procedures in the November 20, 2016, Louisiana Register. This action follows an

Emergency Rule that was issued and effective as of October 1, 2016. LDH will need to issue an additional Emergency Rule until a final Rule is in place. The anticipated date for a final Rule is January 20, 2017.

Title 48

PUBLIC HEALTH—GENERAL

Part V. Preventive Health Services

Subpart 15. Special Supplemental Nutrition Program for Women, Infants and Children (WIC)

Chapter 41. General Provisions

§4101. Purpose and Scope

A. The purpose of LAC 48:V.Subpart 15 is to adopt applicable and corresponding state regulations enacted under the authority of the federal Secretary of Agriculture in order to implement the federal Special Supplemental Nutrition Program for Women, Infants and Children (WIC program) within the state of Louisiana. Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), as amended, states in part that "Congress finds that substantial numbers of pregnant, postpartum, and breastfeeding women, infants, and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. It is, therefore, the purpose of the program to provide supplemental foods and nutrition education, including breastfeeding promotion and support, through any eligible local agency that applies for participation in the program. The program shall serve as an adjunct to good health care, during critical times of growth and development, to prevent the occurrence of health problems, including drug abuse, and improve the health status of these persons." The program shall be supplementary to the Supplemental Nutrition Assistance Program (SNAP); any program under which foods are distributed to needy families in lieu of SNAP benefits; and, receipt of food or meals from soup kitchens, or shelters, or other forms of emergency food assistance.

B. The Special Supplemental Nutrition Program for Women, Infants and Children (WIC), also hereinafter known as "program" or "the program", provides supplemental foods and nutrition education, including breastfeeding promotion and support, for women, infants and children. It is federally funded through the U.S. Department of Agriculture via cash grants to state agencies which administer the program. The Louisiana Department of Health, Office of Public Health, Center for Community and Preventive Health, Bureau of Nutrition Services, shall be responsible for the administration of the program in Louisiana. Extensive regulations have been published by the Food and Nutrition Service (FNS) of the U.S. Department of Agriculture in 7 CFR Part 246. Federal regulations stipulate participation requirements, length of certifications, certification processes and standards, participant responsibilities and participant grievance rights. If there is a conflict with any portion of LAC 48:V.Subpart 15 and 7 CFR Part 246, the provisions of 7 CFR Part 246 shall supersede the provisions of LAC 48:V.Subpart 15.

C. The annual Louisiana WIC program state plan, including a comprehensive policy and procedure manual, is available for review by any interested party at both of the Bureau of Nutrition Services offices in Louisiana, as follows: Room 828, 628 North Forth Street, Baton Rouge, LA 70802 and Suite 1906, 1450 Poydras Street, New Orleans, LA 70112.

D. As described in 7 CFR Part 246, the agency is to provide supplemental foods and nutrition education, including breastfeeding promotion and support, to categorically eligible participants who are income eligible and found to be at nutritional risk. The program shall serve as an adjunct to good health care during critical times of growth and development, in order to prevent the occurrence of health problems, including drug and other harmful substance abuse, and to improve the health status of these persons. The WIC state agency is responsible for providing services to as many eligible participants as funding allows.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR Part 246, P. L. 95-627, and 41 USC 1786. Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

§4103. Definitions

A. The following words and terms are defined for the purposes of this Subpart and for all contracts, guidelines, instructions, forms and other documents related hereto.

Above-50-Percent (*A50*) *Vendors*—vendors that derive more than 50 percent of their annual food sales revenue from WIC food instruments, and new vendor applicants expected to meet this criterion under guidelines approved by FNS. A50 vendors are subject to payment limitations that ensure that the prices of A50 vendors do not result in higher total food costs if program participants transact their food instruments at A50 vendors rather than at non-A50 ("regular") vendors.

Administrative Review—a procedure by which a vendor may appeal an adverse action by the state agency.

Applicants—pregnant women, breastfeeding women, postpartum women, infants, and children who are applying to receive WIC benefits, and the breastfed infants of applicant breastfeeding women. Applicants include individuals who are currently participating in the program but are re-applying because their certification period is about to expire.

Authorized Supplemental Foods/WIC-Approved Foods—those supplemental foods authorized by the state agency for issuance to participants.

Authorized WIC Vendor (Vendor)—a retail grocery store that has submitted a complete WIC vendor application and any required supporting documentation, passed a pre-authorization on-site review, completed a training program, signed a formal vendor agreement binding the vendor to follow all WIC rules and policies upon authorization, and received a signed authorization letter from the Louisiana WIC program. Only authorized WIC vendors may transact WIC food instruments (FIs)/cash-value vouchers (CVVs).

Breastfeeding—the practice of feeding a mother's breastmilk to her infant(s) on an average frequency of at least once a day.

Breastfeeding Women—women up to 1 year postpartum who are breastfeeding their infants.

Cash-Value Voucher (*CVV*)—a fixed-dollar amount check, voucher, electronic benefit transfer (EBT) card or other document which is used by a participant to obtain authorized fruits and vegetables.

Categorical Eligibility—persons who meet the definitions of pregnant women, breastfeeding women, postpartum women, infants or children.

Certification—the implementation of criteria and procedures to assess and document each applicant's eligibility for the program.

Change of Location—the move of a WIC vendor from one physical address to another address.

Change of Ownership—a change that results when all of the assets of the store are sold or transferred to a new owner or business entity. This includes adding a new partner(s).

Children—persons who have had their first birthday but have not yet attained their fifth birthday.

Clinic—a facility where applicants are certified.

CMP—civil money penalty.

Competent Professional Authority—an individual on the staff of the local agency authorized to determine nutritional risk and prescribe supplemental foods. The following persons are the only persons the state agency may authorize to serve as a competent professional authority: physicians, nutritionists (bachelor's or master's degree in nutritional sciences, community nutrition, clinical nutrition, dietetics, public health nutrition or home economics with emphasis in nutrition), dieticians, registered nurses, physician's assistants (certified by the National Committee on Certification of Physician's Assistants or certified by the state medical certifying authority), or state or local medically trained health officials. This definition also applies to an individual who is not on the staff of the local agency but who is qualified to provide data upon which nutritional risk determinations are made by a competent professional authority on the staff of the local agency.

Competitive Price Criteria (CPC)—price level at or below which WIC-approved foods shall be priced in order for a vendor applicant to be considered for authorization. The state agency determines CPC for each WIC-approved food item based on shelf prices for vendors within each peer group of regular vendors. CPC varies by vendor peer group. All vendors are subject to the CPC at all times in order to ensure that vendors do not raise prices, subsequent to selection, to a level that would make such vendors ineligible for authorization.

Confidentiality—in the context of the WIC program, not using or disclosing any confidential applicant, participant or vendor information gathered as a result of participation in the WIC program. Confidential applicant and participant information is any information about an applicant or participant, whether it is obtained from the applicant or participant, another source, or generated as a result of WIC application, certification, or participation, that individually identifies an applicant or participant and/or family member(s). Applicant or participant information is confidential, regardless of the original source. Vendors are required to keep confidential the customer's eligibility for and receipt of WIC benefits. Confidential vendor information is any information about a vendor (whether it is obtained from the vendor or another source) that individually identifies the vendor, except for vendor's name, address, telephone number, web site/e-mail address, store type, and authorization status.

Corrective Action Plan (CAP)—any plan developed by the state agency, or by a vendor and approved by the state agency, to correct deficiencies identified by the state agency in a vendor's compliance with WIC rules, regulations, policies, and/or procedures. Vendors shall implement CAPs when required by the state agency. CAPs may include, but are not limited to, requirements to provide store personnel or stock rotation training and/or to correct inappropriate WIC FI/CVV processing procedures used by the vendor.

CSFP—the Commodity Supplemental Food Program administered by the U.S. Department of Agriculture, authorized by section 4 of the Agriculture and Consumer Protection Act of 1973 [7 U.S.C. 1431(a)], as amended, and governed by 7 CFR Part 247.

Days—calendar days.

Disqualification—the act of ending the program participation of a participant, or authorized state or local agency, whether as a punitive sanction or for administrative reasons and the act of ending program participation of an authorized WIC vendor for violations of the vendor agreement and/or federal or state rules, regulations or policy governing the WIC program.

Documentation—the presentation of written documents which substantiate oral, written, or electronic statements made by an applicant or participant or a person applying on behalf of an applicant or a vendor.

Drug—

a. beverage containing alcohol;

b. controlled substance (having the meaning given it in section 102 of the Controlled Substances Act of 1970 (21 U.S.C. 802(6)), as amended; or

c. controlled substance analogue (having the meaning given it in section 102 of the Controlled Substances Act of 1970 [21 U.S.C. 802(32)], as amended.

Dual Participation—simultaneous participation in the program in more than one WIC clinic, or participation in the program and in the CSFP during the same period of time.

Electronic Signature—an electronic sound, symbol, or process, attached to or associated with an application or other record and executed and or adopted by a person with the intent to sign the record.

Family—a group of related or nonrelated individuals who are living together as one economic unit, except that residents of a homeless facility or an institution shall not all be considered as members of a single family.

FNS—the Food and Nutrition Service of the U.S. Department of Agriculture.

Food Costs—the costs of supplemental foods, determined in accordance with 7 CFR §246.14(b).

Food Delivery System—the method used by state and local agencies to provide supplemental foods to participants.

Food Instrument (*FI*)—a voucher, check, electronic benefits transfer (EBT) card, coupon or other document that is used by a participant to obtain WIC-approved foods.

Food Package—WIC eligible food items listed on WIC food instruments in designated quantities.

Food Sales—sales of all SNAP eligible foods intended for home preparation and consumption, including meat, fish, and poultry; bread and cereal products; dairy products; and fruits and vegetables. Food items such as condiments and spices, coffee, tea, cocoa, and carbonated and noncarbonated drinks may be included in food sales when offered for sale along with foods in the categories identified above. Food sales do not include sales of any items that cannot be

purchased with SNAP benefits, such as hot foods or food that will be eaten in the store.

Fraud and Abuse—conduct that violates WIC program rules, regulations, policies, and/or procedures, including, but not limited to, those violations leading to disqualification, as identified in the sanction schedule.

Full-Line Grocery Store—a retail food store/market (as defined under LAC 51:XXIII.101.A.) that stocks, and has on hand at all times, at least:

a. 5 varieties of cereal with 5 or more units of each variety;

b. 3 varieties of bread or tortillas with 5 or more units of each variety;

c. 4 varieties of fresh fruits with at least 5 units of each variety;

d. 4 varieties of fresh vegetables with at least 5 units of each variety; and

e. 4 varieties of fresh or frozen meat, poultry or fish with at least 5 units of each variety;

f. 2 varieties of rice with 6 or more units of each variety.

Health Services—ongoing, routine pediatric and obstetric care (such as infant and child care and prenatal and postpartum examinations) or referral for treatment.

Homeless Facility—the following types of facilities which provide meal service:

a. a supervised publicly or privately operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;

b. a facility that provides a temporary residence for individuals intended to be institutionalized; or

c. a public or private place not designed for, or normally used as, a regular sleeping accommodation for human beings.

Homeless Individual—a woman, infant or child:

a. who lacks a fixed and regular nighttime residence; or

b. whose primary nighttime residence is:

i. a supervised publicly or privately operated shelter (including a welfare hotel, a congregate shelter, or a shelter for victims of domestic violence) designated to provide temporary living accommodation;

ii. an institution that provides a temporary residence for individuals intended to be institutionalized;

iii. a temporary accommodation of not more than 365 days in the residence of another individual; or

iv. a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Incentive Items/Incentives—any goods or services provided as inducements to shop in a grocery store or recruit customers.

Infant Formula—a food that meets the definition of an infant formula in section 201of the Federal Food, Drug, and Cosmetic Act of 1938 (21 U.S.C. 321(z)), as amended, and that meets the requirements for an infant formula under section 412 of the Federal Food, Drug, and Cosmetic Act of 1938 (21 U.S.C. 350a), as amended, and the regulations at 21 CFR parts 106 and 107.

Institution—any residential accommodation which provides meal service, except private residences and homeless facilities.

Infants—persons under 1 year of age.

Judicial Review—the procedure by which a vendor may appeal a decision rendered at an administrative review, or a participant may appeal a decision rendered at a fair hearing.

Local Agency—a public or private, nonprofit or human service agency which provides health services, either directly or through contract, in accordance with 7 CFR §246.5.

Maximum Allowable Reimbursement Level (MARL)—the highest reimbursement amount for each FI for each peer group that the state agency may pay. The state agency determines a MARL for every WIC FI. Any FI that is submitted with a price higher than MARL shall be reduced through the automated clearing house (ACH) process.

Migrant Farmworker—an individual whose principal employment is in agriculture on a seasonal basis, who has been so employed within the last 24 months, and who establishes, for the purposes of such employment, a temporary abode.

Non-A50 Vendors—see *regular vendors* (*non*-A50).

Nonprofit Agency—a private agency which is exempt from federal income tax under the *Internal Revenue Code* of 1954, (title 26 of the U.S.C.), as amended.

Nutrition Education—individual and group sessions and the provision of materials that are designed to improve health status and achieve positive change in dietary and physical activity habits, and that emphasize the relationship between nutrition, physical activity, and health, all in keeping with the personal and cultural preferences of the individual.

Nutritional Risk—

a. detrimental abnormal nutritional conditions detectable by biochemical or anthropometric measurements;

b. other documented nutritionally related medical conditions;

c. dietary deficiencies that impair or endanger health;

d. conditions that directly affect the nutritional health of a person, including alcoholism or drug abuse; or

e. conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, including, but not limited to, homelessness and migrancy.

Other Harmful Substances—other substances such as tobacco, prescription drugs and over-the-counter medications that can be harmful to the health of the WIC population, especially the pregnant woman and her fetus.

Participant Access—the ability of a WIC participant to adequately access WIC-approved foods through the state agency's selection and authorization of an appropriate number and distribution of vendors consistent with ensuring effective state agency management, oversight, and review of its authorized vendors. The state agency has established participant access criteria in accordance with WIC regulations at 7 CFR part 246.

Participant Violation—any intentional or unintentional action of a participant, caregiver or a proxy that violates federal or state statutes, regulations, policies or procedures governing the program.

Participants—pregnant women, breastfeeding women, postpartum women, infants and children up to their fifth birthday who are currently enrolled in the WIC program and

are receiving supplemental foods under the program, and the breastfed infants of participant breastfeeding women.

Participation—the sum of the number of:

a. persons who received supplemental foods or food instruments during the reporting period;

b. infants who did not receive supplemental foods or food instruments but whose breastfeeding mother received supplemental foods or food instruments during the report period; and

c. breastfeeding women who did not receive supplemental foods or food instruments but whose infant received supplemental foods or food instruments during the report period.

Peer Group—a group of vendors that is based on common characteristics or criteria that affect food prices. Vendors are grouped for management and cost containment purposes including, but not limited to, establishing and applying appropriate competitive price criteria (CPC) and MARLs to vendors.

Postpartum Women—usually, women up to six months after termination of pregnancy; however, this term shall also be apply to breastfeeding women up one year after termination of pregnancy.

Pregnant Women—women determined to have one or more embryos or fetuses *in utero*.

Price Adjustment—an adjustment made by the state agency, in accordance with the vendor agreement, to the purchase price on a food instrument after it has been submitted by a vendor for redemption. Price adjustments are made to ensure that the payment to the vendor for the food instrument complies with the state agency's price limitations.

Program—WIC (unless the context in which this word is used in this Subpart clearly indicates otherwise).

Proxy—any person designated by a woman participant, or by a parent or caretaker of an infant or child participant, to obtain and transact FIs and CVVs and/ or to obtain WIC-approved foods on behalf of a participant. The proxy shall be designated consistent with the state agency's procedures established pursuant to 7 CFR §246.12(r)(1). Parents or caretakers applying on behalf of child and infant participants are not proxies.

Regular Vendors (*Non-A50*)—vendors that do not meet the above-50-percent (A50) vendor's criterion, as defined elsewhere in this Subsection.

Reimbursement—the payment received by vendors after completing the routine process of depositing an FI or CVV into the banking system and the payment that may be received through the procedure an authorized vendor may use to request payment from the state agency when an FI or CVV has been refused by the bank or state agency. The state agency only reimburses vendors up to the applicable maximum allowable reimbursement level (MARL) for valid FIs and CVVs.

Sanctions—actions taken by the state agency when an authorized vendor fails to comply with WIC program rules, regulations, policies and/or procedures. Actions include, but are not limited to, CAPs, training requirements, termination of agreements, disqualifications or civil money penalties (CMPs), and fines.

Secretary—the secretary of the United States Department of Agriculture.

Sign or *Signature*—a handwritten signature on paper or an electronic signature. If the state agency chooses to use electronic signatures, the state agency shall ensure the reliability and integrity of the technology used and the security and confidentiality of electronic signatures collected in accordance with sound management practices, and applicable Federal law and policy, and the confidentiality provisions at 7 CFR §246.26.

State—the state of Louisiana.

State Agency—the state of Louisiana, Louisiana Department of Health, Office of Public Health, Center for Community and Preventive Health.

State Plan—a plan of program operation and administration that describes the manner in which the state agency intends to implement and operate all aspects of program administration within its jurisdiction in accordance with 7 CFR §246.4.

Supplemental Foods—those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding and postpartum women, infants, and children, and foods that promote the health of the population served by the WIC program as indicated by relevant nutrition science, public health concerns, and cultural eating patterns, as prescribed by the secretary in 7 CFR §246.10.

Supplemental Nutrition Assistance Program (*SNAP*)—the program authorized by the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), in which eligible households receive benefits that can be used to purchase food items from authorized retail stores and farmers' markets (formerly known as the Food Stamp Program).

Termination—the ending of a vendor agreement by the state agency for administrative reasons.

USDA—the United States Department of Agriculture.

Vendor—a sole proprietorship, partnership, cooperative association, corporation, or other business entity operating one or more stores authorized by the state agency to provide authorized supplemental foods to participants under a retail food delivery system. Each store operated by a business entity constitutes a separate vendor and shall be authorized separately from other stores operated by the business entity. Each store shall have a single, fixed location, except when the authorization of mobile stores is necessary to meet the special needs described in the state agency's state plan in accordance with 7 CFR §246.4(a)(14)(xiv).

Vendor Agreement—a document that is a legally binding agreement between an authorized vendor and the WIC program.

Vendor Authorization—the process by which the state agency assesses, selects, and enters into agreements with stores that apply or subsequently reapply to be authorized as vendors.

Vendor Limiting Criteria—criteria established by the state agency to determine the maximum number and distribution of vendors it authorizes pursuant to 7 CFR §246.12(g)(2).

Vendor Number—a distinctive five digit number assigned to each authorized vendor.

Vendor Overcharge—any intentional or unintentional charge for supplemental foods to the state agency for more than is permitted under the vendor agreement. It is not a

vendor overcharge when a vendor submits a food instrument for redemption in accordance with the vendor agreement and the state agency makes a price adjustment to the food instrument.

Vendor Portal—a web-based application maintained by the state agency that serves as the primary point of contact for all Louisiana vendors and contains the WIC vendor price reporting system.

Vendor Selection Criteria—the criteria established by the state agency to select individual vendors for authorization consistent with the requirements in 7 CFR §246.12(g)(3) and (g)(4) and found in §4503 of this Subpart.

Vendor Violation—any intentional or unintentional action of a vendor's current owners, officers, managers, agents, or employees (with or without the knowledge of management) that violates the vendor agreement or federal or state statutes, regulations, policies, or procedures governing the program.

WIC—WIC program.

WIC-Approved Foods (*Authorized Supplemental Foods*)—those supplemental foods authorized by the state agency for issuance to participants.

WIC Program—the Special Supplemental Nutrition Program for Women, Infants and Children authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health Office of Public Health, LR 14:868 (December 1988), amended by the Department of Health, Office of Public Health, LR 43:

Chapter 43. Participant Eligibility

§4301. Integration with Health Services

A. To lend administrative efficiency and participant convenience to the certification process, whenever possible, program intake procedures shall be combined with intake procedures for other health programs or services administered by the state and local agencies. Such merging may include verification procedures, certification interviews, and income computations. Local agencies shall maintain and make available for distribution to all pregnant, postpartum, and breastfeeding women, and to parents or caretakers of infants and children, any of whom are applying for and participating in the program, a list of local counseling and treatment resources for drug and other harmful substance abuse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

§4303. Eligibility Criteria

A. To be certified as eligible for the WIC program, applicants shall:

1. reside within the jurisdiction of the state, however, length of residency is not an eligibility requirement;

2. meet the income requirement as described in Subsection B of this Section; and

3. meet nutritional risk criteria as described in Subparagraph d (priority IV) of Paragraph 3 of Subsection C of this Section and in the state plan.

B. Income Criteria and Income Eligibility Determination

1. Income criteria for the program is established at 185 percent of poverty level (U.S. Department of Health and Human Services) as issued annually by the Louisiana Department of Health, Office of Public Health, Bureau of Nutrition Services. This shall have an effective date of no later than July 1 annually.

2. The state agency shall ensure that WIC clinics and local agencies determine income through the use of a clear and simple application form provided or approved by the state agency. Routine verification of income and/or a random selection to verify participant income is at the discretion of the state agency. Documentation of an applicant's participation in other agency-administered programs which routinely verify income, such as Medicaid, Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF) may be accepted provided those programs have income guidelines at or below the WIC program guidelines.

C. Nutritional Risk. A competent professional authority shall determine if a participant is at nutritional risk through a medical and/or nutritional assessment. This determination may be based on referral data by an applicant or participant's medical provider.

1. Determination of Nutritional Risk. At a minimum, height or length and weight of the participant shall be measured, and a hematological test for anemia such as a hemoglobin, hematocrit or free erythrocyte protoporphyrin test shall be performed. However, such tests are not required for infants under 9 months of age.

2. Appropriate nutritional risk codes, as specified in the state plan and as summarized in Paragraph 3 of this Subsection, shall be documented at each certification/recertification visit.

3. Nutritional Risk Priority System. The state agency shall, in the event that statewide participation has reached the maximum level, fill vacancies according to the federally mandated priority system. In the event a priority level must be partially closed, subpriorities are described in the state plan as approved by USDA. Priority levels are identified as follows.

a. Priority I consists of pregnant women, breastfeeding women and infants at nutritional risk as demonstrated by hematological or anthropometric measurements, or other documented nutritionally related medical conditions which demonstrate the need for supplemental foods.

b. Priority II consists of (except those infants who qualify for Priority I) infant up to 6 months of age born of women who participated in the program during pregnancy, and infants up to 6 months of age born of women who were not program participants during pregnancy but whose medical records document that they were at nutritional risk during pregnancy due to nutritional conditions detectable by biochemical or anthropometric measurements or other documented nutritionally related medical conditions which demonstrated the person's need for supplemental foods.

c. Priority III consists of children at nutritional risk as demonstrated by hematological or anthropometric measurements or other documented medical conditions which demonstrate the child's need for supplemental foods.

d. Priority IV consists of pregnant women, breastfeeding women, and infants at nutritional risk because of an inadequate dietary pattern.

e. Priority V consists of children at nutritional risk because of an inadequate dietary pattern.

f. Priority VI consists of postpartum women at nutritional risk.

g. Priority VII consists of individuals certified for WIC solely due to homelessness or migrancy and, at state agency option, previously certified participants who might regress in nutritional status without continued provision of supplemental foods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health Office of Public Health, LR 14:868 (December 1988), amended by the Department of Health, Office of Public Health, LR 43:

§4305. Timeframes for Processing Applicants

A. When the WIC clinic or local agency is not serving its maximum caseload, the local agency shall accept applications, make eligibility determinations, notify the applicants of the decisions made and, if the applicants are to be enrolled, issue food, cash-value vouchers or food instruments. All of these actions shall be accomplished within the timeframes set forth below.

1. The processing timeframes shall begin when the individual visits the local agency during clinic office hours to make an oral or written request for benefits.

2. Special nutritional risk applicants shall be notified of their eligibility or ineligibility within 10 days of the date of the first request for program benefits; except that state agencies may provide an extension of the notification period to a maximum of 15 days for those local agencies which make written request, including a justification of the need for an extension. The state agency shall establish criteria for identifying categories of persons at special nutritional risk who require expedited services. At a minimum, however, these categories shall include pregnant women eligible as priority I participants, and migrant farm workers and their family members who soon plan to leave the jurisdiction of the local agency.

3. All other applicants shall be notified of their eligibility or ineligibility within 20 days of the first date of the request for program benefits.

4. Each WIC clinic or local agency using a retail purchase system shall issue a food instrument(s) and if applicable a cash-value voucher(s) to the participant at the same time as notification of certification. Such food instrument(s) and cash-value voucher(s) shall provide benefits for the current month or the remaining portion thereof and shall be redeemable immediately upon receipt by the participant. Local agencies may mail the initial food instrument(s) and, if applicable, cash-value voucher(s) with the notification of certification to those participants who meet the criteria for the receipt of food instruments through the mail, as provided in 7 CFR §246.12(r)(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

§4307. Certification Periods

A. Program benefits shall be based upon certifications established in accordance with the following timeframes.

1. Pregnant women shall be certified for the duration of their pregnancy and for up to six weeks postpartum.

2. Postpartum women shall be certified for up to six months postpartum.

3. Breastfeeding women shall be certified at intervals of approximately six months and ending with the breastfed infant's first birthday.

4. Infants shall be certified up until their first birthday.

5. Children shall be certified at intervals of approximately six months and ending with the end of the month in which a child reaches its fifth birthday.

B. Upon request, participants shall receive verification of certification when transferring to another WIC program out of state.

C. If the nutritional risk determination is based on data taken before the time of entrance into the program, the certification period for breastfeeding women and children shall be based upon the date when the data was first taken.

D. Participants receiving program benefits may be disqualified during a certification period for the following reasons.

1. Participant violation including, but not limited to, intentionally making false or misleading statements or intentionally misrepresenting, concealing, or withholding facts to obtain benefits; exchanging CVVs, FIs, or WIC-approved foods for cash, credit, non-food items, or unauthorized food items, including WIC-approved foods in excess of those listed on the participant's FI; threatening to harm or physically harming vendor staff; or making a written, electronic, or verbal offer to sell WIC benefits, including WIC-approved foods, FIs, CVVs, and/or EBT cards, or allowing someone else to do so.

2. If the state agency experiences funding shortages, it may be necessary to discontinue program benefits to a number of certified and participating participants. The state agency shall not enroll new participants during the period when currently participating participants, those who have received benefits during a current certification, are denied remaining benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

§4309. Participant Rights and Responsibilities/Notification/Fair Hearing

A. Participant Rights and Responsibilities. All applicants shall read or have read to them the programs' rights and responsibilities statement, including the restriction of dual participation in the program or between the program and CSFP. After reviewing the statement, all applicants shall sign attesting to have reviewed the statement.

B. Notification of Ineligibility. Participants found ineligible during a certification period shall be advised in writing of the ineligibility, the reasons for the ineligibility and of the right to a fair hearing.

C. Notification of Disqualification. Participants who are about to be disqualified from program participation during a certification period shall be advised in writing not less than 15 days before the effective date of disqualification, of the reasons for the disqualification and the right to a fair hearing.

D. Fair Hearing Procedures for Participants. The state agency provides a hearing procedure through which any individual may appeal, within 60 days of the date of notification by the state agency, an action which results in the denial of participation or the disqualification from the program.

1. The hearing process is governed by the procedures set forth in the Administrative Procedure Act, R.S. 49:950 et seq., and as mandated by federal regulations, 7 CFR part 246.

2. The state agency shall not summarily deny or dismiss an appeal unless:

a. the request is withdrawn in writing by the appellant or legal representative of the appellant;

b. the appellant or legal representative fails, without good cause, to appear at the scheduled hearing; or

c. the appellant has been denied participation by a previous decision following a hearing and does not allege in the request for appeal that circumstances relevant to program eligibility have changed in such a way as to justify a new hearing.

3. The state agency shall continue program benefits for a participant whose participation has been terminated during a certification period if a request for an appeal is received within the 15 days advance notification of disqualification. Benefits shall continue until the hearing officer reaches a decision or the certification period expires, whichever occurs first. Applicants who are denied benefits at initial certification or because of the expiration of their certification may appeal the denial, but shall not receive benefits while pending the hearing and decision of the hearing officer.

4. A participant or representative may appeal the fair hearing decision through judicial review as provided for in the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

Chapter 45. Vendor Selection, Participation and Sanctions

§4501. Reserved.

§4503. Vendor Selection Criteria

A. As outlined in the *Federal Register*, 7 CFR part 246, the state agency has the responsibility to maximize the use of available funds by providing supplemental foods to participants at the most reasonable prices and to have an agreement with enough vendors to ensure adequate participant access. The state agency reserves the right to implement limiting criteria on vendors statewide by peer group in order to meet this responsibility. If the state agency elects to implement such limiting criteria, the criteria shall be made available to all vendors and applied equally to all vendors within peer groups.

B. Vendor Selection Criteria. In order to be eligible to participate in the Louisiana WIC program, the applicant vendor and/or authorized vendors shall:

1. submit a complete and notarized application, including any required supporting documentation, to the WIC state agency within applicable timeframes set by the WIC state agency;

2. be currently authorized and participating in the USDA Supplemental Nutrition Assistance Program (SNAP) and cannot have received a SNAP civil money penalty (CMP) for which the disqualification period, if it had been imposed, would not yet have expired;

3. have a grocery class permit to operate issued under the Bureau of Sanitarian Services of the Office of Public Health for the current state fiscal year;

4. maintain the establishment in a clean, orderly and safe condition, with no current sanctions for violations of the Louisiana state *Sanitary Code* (LAC 51), the *International Plumbing Code* as amended by the Louisiana State Uniform Construction Code Council (LAC 17:I.111), or local health code ordinances;

5. be open a minimum of 6 days, and at least 48 hours, per week;

6. have prices that are competitive with other vendors in the vendor's state agency designated peer group, as determined by the state agency's competitive price criteria (CPC). Applying vendors, whose prices are higher than the CPC applicable to their peer groups, shall be informed and given one opportunity to lower their prices to meet the CPC;

7. display prices for WIC-approved foods on the foods or on the shelves/display area in immediate proximity to the foods;

8. stock and maintain sufficient quantities and varieties of all WIC-approved foods in accordance with Louisiana WIC's minimum stock requirements, which can be found in the minimum stock requirements section of the vendor guide;

9. purchase infant formula only from vendors included on Louisiana WIC's list of infant formula manufacturers registered with the Food and Drug Administration (FDA) that provide infant formula, and licensed infant formula wholesalers, distributors ,and retailers. This list can be found at http://new.dhh.louisiana.gov/index.cfm/newsroom/detail/2328;

10. not have been denied WIC authorization or had a prior WIC authorization terminated by the state agency within the past year for any reason other than the expiration of the vendor agreement, store closing, or store relocation;

11. ensure that the vendor, vendor applicant or any of the vendor's or vendor applicant's current owners, officers, or managers shall not have been formerly employed by any vendor that was disqualified from any USDA food program within the prior six years;

12. ensure that the vendor, vendor applicant or any of the vendor's or vendor applicant's current owners, officers, or managers shall not have been convicted of any felony within the prior six years;

13. ensure that the vendor, vendor applicant or any of the vendor's or vendor applicant's current owners, officers, or managers shall not have been convicted of any federal, state or local tax violations within the prior six years;

14. ensure that the vendor, vendor applicant or any of the vendor's or vendor applicant's current owners, officers, or managers shall not have a civil judgment entered against them within the prior six years for any activity indicating a lack of business integrity (including but not limited to fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, and obstruction of justice);

15. be in good standing with no unpaid or overdue balances owed to the Louisiana WIC program;

16. not have had any WIC vendor agreement terminated due to false or inaccurate information provided to the WIC program within the past six years;

17. have access to a computer, with internet access, and shall have an e-mail account that can be used to send messages to and receive messages from the Louisiana WIC program, and shall be able to download and upload electronic documents sent/received via email or posted/requested on the vendor portal or any other online application used by the WIC program;

18. utilize a cash register system that performs split tender transactions and produces itemized receipts showing date of purchase, items purchased, price of items purchased, and the total sale amount, at a minimum;

19. redeem or expect to redeem at least 50 WIC FIs per month;

20. agree to be placed in a vendor peer group with other above-50-perecent vendors when deriving or expecting to derive more than 50 percent of their annual food sales revenue from WIC FI transactions. Vendors within this peer group shall maintain WIC-approved food prices at a level such that the average payments per FI for above-50-percent vendors does not exceed average payments per FI to regular vendors;

21. agree to neither provide nor advertise nor indicate an intent to provide customers with any incentive items, when deriving or expecting to derive more than 50 percent of their annual food sales revenue from WIC FI transactions. The state agency shall make a determination on what constitutes a violation of the intent of the previous sentence; however, incentive items definitively prohibited include, but are not necessary limited to:

a. services which result in a conflict of interest or the appearance of such conflict for the above-50-percent vendor, such as assistance with applying for WIC benefits;

b. lottery tickets at no charge or below face value;

c. cash gifts in any amount for any reason;

d. anything made available in a public area as a complimentary gift which may be consumed or taken without charge;

e. food, merchandise or services of any value provided to the customer;

f. food, merchandise sold to customers below cost, or services purchased by customers below fair market value;

g. any kind of incentive item which incurs a liability for the WIC program; and

h. any kind of incentive item which violates any federal, state, or local law or regulations;

22. not derive or expect to derive more than 50 percent of annual food sales revenue from WIC FI transactions; and

23. be a full-line grocery store, as defined by the state agency. The Louisiana WIC definition of a *full-line grocery store* can be found in §4103 of this Subpart.

C. After authorization, all WIC vendors shall continue to meet the criteria of this Section, and any changes thereto, at all times. A WIC vendor found to be out of compliance with the WIC regulations, vendor agreement, or WIC vendor selection criteria, at any time during the authorization period is subject to termination of the WIC authorization and vendor agreement and possible disqualification. Disqualification from WIC may result in disqualification from the Supplemental Nutrition Assistance Program (SNAP) and such SNAP disqualification is not subject to administrative or judicial review under the SNAP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

§4505. Agreement

A. The authorized vendor shall sign and agree to the conditions enumerated and/or referenced in the WIC vendor application and vendor agreement.

B. The authorized vendor shall accept state agency adjustments to WIC FI and CVV claims for reimbursement. The state agency may make adjustments to ensure that payments to the authorized vendor do not exceed the maximum allowable reimbursement level for the vendor's assigned peer group.

C. No request for reimbursement submitted by the vendor shall be paid by the state agency unless the claim is in accordance with the terms of the vendor agreement.

D. Unauthorized vendors that accept FIs or CVVs may be held liable for repayment of any funds received.

E. Terms of Agreement. An agreement shall be for a period not exceeding three years. The agreement is null and void if ownership changes. Neither party has an obligation to renew the agreement. Fifteen days written notice shall be given prior to the expiration of an agreement. Expiration of an agreement is not subject to appeal.

F. Termination of Agreement. The agreement may be terminated by 15-days written notice to the other party or by the mutual agreement to terminate of both parties. The 15-days written notice does not apply when the state agency terminates the agreement or disqualifies a vendor as a result of violation(s) of the terms of the agreement.

1. The state agency shall terminate an authorized vendor agreement for failure of the vendor to meet the selection criteria found in §4503.B of this Subpart

2. The state agency shall immediately terminate the agreement if it determines that the vendor has provided false information in connection with its application for authorization. Violations of the WIC program regulations shall result in termination of the agreement, disqualification, and/or possible referral for criminal prosecution.

G. A vendor may be subject to announced and unannounced monitoring visits and inventory audits by

authorized personnel to determine compliance with the vendor agreement and/or federal or state rules, regulations or policy governing the WIC program.

H. WIC vendors agree to provide any records requested by authorized parties pursuant to their vendor agreement by established due dates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

§4507. Reimbursement of Altered or Bank Rejected Food Instruments or Cash-Value Vouchers

A. If a vendor has a FI or CVV that has been rejected or has had the payment amount adjusted by the Louisiana WIC contracted bank and the vendor feels that the rejection or adjustment was made in error, the vendor may request reimbursement from the state agency.

B. The vendor shall submit to the state agency, in a format specified by the state agency, any bank rejected FIs or CVVs within 60 days from the last day of the valid period. Any FIs or CVVs submitted thereafter shall not be considered.

C. In determining whether or not to reimburse vendors for FI(s) or CVV(s) rejected by the bank due to errors on the vendors' part, the state agency may consider the following criteria in making its determination:

1. the prior record of the same repeated errors;

2. the vendor's reported food costs versus the amount requested for reimbursement; and

3. the level of documented inventory on hand.

D. Vendors shall be notified of adverse reimbursement decisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

§4509. Vendor Sanctions for Violations

A. Federal Mandatory Vendor Sanctions

1. The state agency shall permanently disqualify a vendor convicted of trafficking in food instruments (FIs) or cash value vouchers (CVVs) or selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act of 1970 (21 U.S.C. 802), as amended) in exchange for FIs or CVVs.

2. The state agency shall disqualify a vendor for six years for:

a. one incidence of buying or selling a WIC FI or CVV for cash (trafficking); or

b. one incidence of selling firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, as amended, in exchange for a WIC FI or CVV.

3. The state agency shall disqualify a vendor for three years for:

a. one incidence of the sale of alcohol, alcoholic beverages, or tobacco products in exchange for a WIC FI or CVV;

b. a pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item that exceeds the store's documented inventory of that supplemental food item for a specific period of time;

c. a pattern of vendor overcharges;

d. a pattern of receiving, transacting and/or redeeming FIs or CVVs outside of authorized channels, including the use of an unauthorized vendor and/or an unauthorized person;

e. a pattern of charging for supplemental foods not received by the participant; or

f. a pattern of providing credit or non-food items (not including alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, as amended) in exchange for FIs or CVVs.

4. The state agency shall disqualify a vendor for one year for if:

a. a pattern of providing unauthorized food items in exchange for FIs or CVVs, including charging for supplemental foods provided in excess of those listed on the FI; or

b. a pattern of an above-50-percent vendor providing prohibited incentive items to participants as set forth in federal regulations at 7 CFR 246.12(g)(3)(iv).

B. Second Federal Mandatory Vendor Sanction. When a vendor that has previously been assessed a sanction for any of the federal mandatory vendor sanctions and then receives a second sanction for any of the federal mandatory vendor sanctions, the state agency shall double the second sanction. The total amount assessed in civil money penalties (CMPs) for a second sanction may not exceed the maximum limits allowed under federal regulations.

C. Third or Subsequent Federal Mandatory Vendor Sanction. When a vendor who previously has been assessed two or more sanctions for any of the federal mandatory vendor sanctions and then receives another sanction for any of the federal mandatory vendor sanctions, the state agency shall double the third sanction and all subsequent sanctions. The state agency may not impose a civil money penalty (CMP) in lieu of disqualification for third or subsequent sanctions for federal mandatory vendor sanctions.

D. State Agency Vendor Sanctions. The state agency identifies violations contained in Paragraphs 1 through 7 and 9 of this Subsection as actions subject to a corrective action plan for an initial violation. Corrective action plans shall be implemented in full by vendors when required by the state agency and can include, but are not limited to, store employee training, stock rotation training, and/or training on WIC FI/CVV processing procedures. If the vendor fails to implement a corrective action plan for failure to adhere to selection criteria, the state agency shall terminate the vendor agreement. The state agency may disqualify a vendor from participation in WIC for one year for a pattern of any of the following state agency violations:

1. providing cash for returned WIC-approved foods purchased with WIC FIs/CVVs;

2. failing to comply with FI and CVV processing and redemption procedures;

3. stocking or selling WIC-approved foods that are expired or otherwise not fresh, as determined by the state agency;

4. failing to participate in and complete training, as scheduled and required by the state agency;

5. failing to maintain or provide the state agency with required information by the due date identified by the state agency;

6. failing to notify the state agency of instances in which a participant or proxy has failed to comply with WIC program requirements;

7. failing to provide to WIC participants or proxies the same courtesies as offered to other customers;

8. failing to implement a corrective action plan imposed by the state agency; or

9. failing to adhere to any other requirements of the vendor agreement or vendor guide except those for which a longer disqualification period is required as specifically identified within Subsection A-A.2.f of this Section.

E. Civil Money Penalty. Except where prohibited by federal regulation or in those cases of permanent vendor disqualification pursuant to the application of Subsection A of this Section, if the state agency determines in its sole discretion that disqualification of the authorized vendor would result in inadequate participant access, the state agency shall impose a civil money penalty (CMP) in lieu of disqualification. Such CMP shall be calculated in accordance with federal regulations. If a vendor does not pay the CMP, only partially pays the CMP, or fails to make timely payment of the CMP in lieu of disqualification, the state agency shall disqualify the vendor for the length of the disqualification corresponding to the violation for which the CMP was assessed.

F. Recoupment of Excess Payment. The state agency shall recoup excess payments made to the authorized vendor resulting from the vendor's violation of the vendor agreement.

G. SNAP Disqualification. The state agency shall disqualify from the WIC program a vendor who is disqualified from SNAP. The disqualification shall be for the same length of time as SNAP disqualification, may begin at a later date than SNAP disqualification, and is not subject to administrative or judicial review under the WIC program.

H. SNAP CMP. The state agency shall disqualify a vendor who receives a CMP for hardship by SNAP. The length of such disqualification shall correspond to the period for which the vendor would otherwise have been disqualified in SNAP.

I. Mandatory Sanction by another WIC State Agency. The state agency shall disqualify a vendor that has been disqualified or assessed a CMP in lieu of disqualification by another WIC state agency for a federal mandatory vendor sanction under the provisions of Subsection A.1-A.4.b of this Section. The length of the disqualification shall be for the same length of time as the disqualification by the other WIC state agency or, in the case of a CMP in lieu of disqualification assessed by the other WIC state agency, for the same length of time for which the vendor would otherwise have been disqualified. The disqualification may begin at a later date than the sanction imposed by the other WIC state agency.

J. Voluntary Withdrawal not Accepted. Voluntary withdrawal of a vendor and non-renewal of the vendor agreement as alternatives to WIC disqualifications shall not be accepted, and the disqualification shall be entered on the record.

K. Comprehensive Inclusion of Violations of Vendor Document Requirements (including the WIC vendor guide and the WIC vendor agreement which is not covered elsewhere in this Section). Vendor sanctions for violations of vendor document requirements (including the WIC vendor guide and the WIC vendor agreement not covered elsewhere in this Section) may result in termination or disqualification, following provision to the vendor of reasonable notice and opportunity to correct, where permitted by WIC regulations. Violations may give rise to the state agency's assessment of vendor claims, fines, and penalties. Termination of the vendor agreement does not relieve the vendor of the obligation to pay such assessments.

L. State Agency Actions. The state agency shall determine the action to be taken whenever vendor fraud, abuse, or administrative violations are discovered. If the state agency determines that the vendor has violated WIC rules or regulations, the vendor may be required to develop and submit a corrective action plan, the vendor agreement may be terminated and/or the vendor may be disqualified from participation in the WIC program for a period of time no more than the maximum period of time allowed under federal regulations at 7 CFR part 246. To obtain reauthorization, vendors who are disqualified or whose vendor agreement has been terminated shall reapply and meet all current requirements for authorization.

M. Vendor Notification. The state agency shall notify a vendor in writing when an investigation reveals an initial incidence of a violation for which a pattern of incidences must be established in order to impose a sanction, before another such incidence is documented, unless the state agency determines, in its discretion, on a case-by-case basis, that notifying the vendor would compromise an investigation. Notification shall not be provided for a pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item that exceeds documented inventory.

N. Effect on Other Stores under Same Ownership. If an individual, partnership, corporation, limited liability company, or other business structure is convicted of a criminal offense involving WIC, SNAP, or any other program funded and administered by the Food and Nutrition Service of the U.S. Department of Agriculture, all grocery stores wholly or partially owned or managed by the convicted individual, partnership, corporation, limited liability company, other business structure, or by a partner of a convicted partnership or an officer, of a convicted corporation or a convicted limited liability company, shall be terminated from vendor authorization and shall be ineligible for future vendor authorization for the maximum period of time allowed by federal law and regulations. This termination and period of ineligibility shall occur whether or not the grocery store was the location at which the crime occurred, and regardless of whether or not a penalty was imposed upon the convicted party by the court of competent jurisdiction.

O. Legal Remedies Not Precluded by Sanction. The state agency sanctions for vendor violations or program abuse shall not be construed as excluding or replacing any criminal or civil sanctions or other remedies that may be applicable

under any federal or state statute or local ordinance. A vendor who commits fraud or abuse of the program is liable to prosecution under applicable federal, state or local laws. Those vendors who have willfully misapplied, stolen or fraudulently obtained program funds shall be subject to a fine of not more than $25,000 or imprisonment for not more than 5 years or both, if the value of the funds is $100 or more. If the value of the funds is less than $100, such vendors shall be subject to a fine of not more than $1,000 or imprisonment for not more than 1 year, or both.

P. Prosecution Referral. The state agency shall, where appropriate, refer vendors who abuse the program to federal, state and/or local authorities for prosecution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

§4511. Administrative Review of State Agency Adverse Actions

A. Adverse actions taken by the Louisiana WIC program that affect vendors or vendor applicants may be subject to administrative review, if appealed.

B. The Louisiana WIC program shall provide written notification of the adverse action, the procedures to follow to request an administrative review, and the cause(s) for and the effective date of the action. If the vendor is disqualified due in whole or in part to violations of §4509.A of this Subpart, such notification shall include the following statement: "This disqualification from WIC may result in disqualification as a retailer in SNAP. Such disqualification is not subject to administrative or judicial review under SNAP." If the WIC authorized vendor or applicant vendor wishes to appeal the decision, the vendor or applicant vendor shall submit a request for appeal stating the reason for the appeal. The request shall be submitted in writing and mailed to the Louisiana WIC program within 15 calendar days after the receipt of the state agency's written notification of the adverse action. Within the notice of adverse action, the Louisiana WIC program shall include an appropriate return mailing address, along with a staff member's contact name, so that an aggrieved party may properly submit a request for appeal.

C. The adverse action shall be imposed on the effective date noted in the written notification and shall remain in place during the administrative review unless the Louisiana WIC program determines, at its sole discretion, that the adverse action would result in inadequate participant access to supplemental foods.

D. Adverse actions subject to administrative review include the following:

1. denial of authorization based on the application of the vendor selection criteria for minimum variety and quantity of approved foods;

2. denial of authorization based on a determination that the vendor is attempting to circumvent a sanction;

3. termination of an agreement for cause;

4. disqualification, except as a result of a disqualification from SNAP;

5. imposition of a fine or a civil money penalty in lieu of disqualification;

6. denial of authorization based on the vendor selection criteria for business integrity;

7. denial of authorization based on the selection criteria for a current SNAP disqualification or civil money penalty for hardship;

8. denial of authorization based on the application of the vendor selection criteria for competitive price;

9. the application of the state agency's vendor peer group criteria and the criteria used to identify vendors that are above-50-percent vendors or comparable to above-50-percent vendors;

10. denial of authorization based on a state agency-established vendor selection criterion if the basis of the denial is a WIC vendor sanction or a SNAP withdrawal of authorization or disqualification;

11. denial of authorization based on the state agency's limiting criteria, if any;

12. denial of authorization because a vendor submitted its application outside the time frames during which applications are being accepted and processed, as established by the state agency;

13. termination of an agreement because of a change in ownership or location or cessation of operations;

14. a civil money penalty imposed in lieu of disqualification based on a SNAP disqualification; and

15. denial of an application based on a determination of whether an applicant vendor is currently authorized by SNAP.

E. A WIC authorized vendor or vendor applicant who files a proper appeal request for those actions subject to administrative review shall be provided:

1. adequate advance notice of the time and place of the administrative review to provide all parties involved sufficient time to prepare for the review and at least one opportunity to reschedule the administrative review date upon specific request;

2. the opportunity to examine, prior to the review, the evidence upon which the Louisiana WIC program's action is based;

3. the opportunity to be represented by counsel;

4. the opportunity to cross-examine adverse witnesses (when necessary to protect the identity of witnesses, they may be cross-examined behind a protective screen or other device);

5. the opportunity to present its case;

6. an impartial decision-maker, whose determination is based solely on whether the Louisiana WIC program has correctly applied federal and state statutes, regulations, policies, and procedures governing the program, according to the evidence presented at the review; and

7. written notification of the review decision, including the basis for the decision, within 90 days from the date of receipt of a vendor's request for an administrative review; however, this timeframe is only an administrative goal for the Louisiana WIC program and, should a decision of the appeal review not be made within the specified time frame, such delay shall not provide a basis to overturn the adverse action.

F. Actions not subject to administrative review include:

1. the validity or appropriateness of the Louisiana vendor limiting criteria, if any;

2. the validity or appropriateness of Louisiana's vendor selection criteria for the minimum variety and quantity of supplemental foods, business integrity, current SNAP disqualification, or civil money penalty for hardship;

3. the validity or appropriateness of the Louisiana selection criteria for a competitive price including, but not limited to, vendor peer group criteria and the criteria used to identify vendors that are above-50-percent vendors or comparable to above-50-percent vendors;

4. the validity or appropriateness of the state agency's participant access criteria and the state agency's participant access determinations;

5. the state agency's determination to include or exclude an infant formula manufacturer, wholesaler, distributor, or retailer from the list of businesses from which an authorized vendor may purchase infant formula pursuant to selection criteria;

6. the validity or appropriateness of the state agency's prohibition of incentive items and the state agency's denial of an above-50-percent vendor's request to provide an incentive item to customers;

7. the state agency's determination whether to notify a vendor in writing when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction;

8. the state agency's determination whether a vendor had an effective policy and program in effect to prevent trafficking and that the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation;

9. denial of authorization if the state agency's vendor authorization is subject to the procurement procedures applicable to the state agency;

10. the expiration of a vendor's agreement;

11. disputes regarding food instrument or cash-value voucher payments and vendor claims (other than the opportunity to justify or correct a vendor overcharge or other error); and

12. disqualification of a vendor as a result of disqualification from SNAP.

G. A vendor that is permitted to continue program operations while its appeal is in process does not relieve such vendor from the responsibility of continued compliance with the terms of any written agreement with the Louisiana WIC program. Administrative review decisions of the Division of Administrative Law are the final action of the Louisiana WIC program. If the review decision upholds the adverse action against the vendor, the vendor may be able to pursue judicial review of the decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

§4513. Availability of Documents

A. The vendor application, the vendor agreement, and the WIC vendor guide shall be provided for review to any interested party by submission of an e-mail request to LAWICVendor@la.gov.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of *the Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, amendment or repeal. All Family Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No, this proposed Rule should not affect the stability of the family.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No, this proposed Rule has no effect on parents' living children.

3. Will the proposed Rule affect the functioning of the family? No, the proposed Rule will not affect the functioning of the family.

4. Will the proposed Rule affect family earnings and family budget? No, the proposed Rule will not affect family earnings and family budget.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No, the proposed Rule will not affect the behavior and personal responsibility of children.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? If applicable, the family and local government will be able to perform the function as contained in the proposed Rule.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No, the proposed Rule will not affect the household income, assets, or financial security.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No, the proposed Rule will not affect early childhood development or preschool through postsecondary education development.

3. Will the proposed Rule affect employment and workforce development? No, the proposed Rule will not affect employment or workforce development.

4. Will the proposed Rule affect taxes and tax credits? No, the proposed Rule will not affect taxes or tax credits.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No, the proposed Rule will not affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

In accordance with the Regulatory Flexibility Act (R.S. 49:965.2-965.8), the impact of the proposed Rule on small businesses as defined in the RFA has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on the:

1. staffing level requirements or qualifications required to provide the same level of service;
2. total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., December 27, 2016, to Bruce Boyea, Director, Bureau of Nutrition Services, Office of Public Health, 1450 Poydras Street, Suite 1906, New Orleans, LA 70112, or faxed to (504) 568-8232. He is responsible for responding to inquiries regarding this proposed Rule.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Special Supplemental Nutrition Program for Women, Infants and Children (WIC)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Subpart 15 [Supplemental Food Services for Women, Infants, and Children (WIC)] of Part V (Preventive Health Services) of Title 48 (Public Health−General) of the Louisiana Administrative Code (LAC). This proposed rule ensures that the state remains in compliance with applicable federal regulations of the United States Department of Agriculture (USDA), adds definitions, and corrects obsolete and typographical references. The following sections will be amended: Sections 4101 and 4103 of Chapter 41 – General Provisions; Sections 4301, 4303, 4305, 4307 and 4309 of Chapter 43 – Participant Eligibility and Certification; and Sections 4503, 4505, 4507, 4509, 4511 and 4513 of Chapter 45 – Vendor Selection, Participation and Sanctions.

In Chapter 41, Sections 4101 adds information to the purpose and scope regarding the implementation of federal Special Supplemental Nutrition Program for Women, Infants and Children (WIC program) within the state and its relationship to the Supplemental Nutrition Assistance Program (SNAP). Section 4103 proposes new, updates, and clarifies definitions.

In Chapter 43, the title of the section is amended. Section 4301 amends language to improve and streamline the certification and program intake procedures to increase program efficiency and participant convenience. Section 4303 sets forth eligibility criteria for applicants to participate in the WIC program including such things as residency, income, and nutritional risk determination. Section 4305 describes the timeframes for processing applications, eligiblity status, and issuance of the food instrument. Section 4307 describes the certification periods for infants, children, and women who are pregnant, postpartum, or breastfeeding. Section 4309 amends participants rights and responsibilities as well as notice of ineligibility, disqualification and procedures for a fair hearing.

In Chapter 45, Section 4503 describes the vendor selection criteria. Section 4505 amends information regarding the WIC vendor agreement including provisions for signing the agreement and accepting certain provisions with regard to the food instruction and claims for reimbursment. Section 4507 amends reimbursement of altered or bank rejected food instruments or cash-value vouchers. Section 4509 amends vendor sanctions for federal violations and the ensuing state responsibilities for remediation. Section 4511 changes to the administrative review of the state agency adverse actions. Section 4513 amends how interested parties can request access to review the vendor application, vender agreement, and the WIC vendor guide.

The proposed rule is not anticipated to result in any implementation costs to the Office of Public Health (OPH) or local governmental units. The proposed rule changes is estimated to cost $1,500 to publish the notice of intent and final rule in the Louisiana Register. The OPH has sufficient funds in its annual operating budget to implement the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no anticipated effects on revenue collections of local governmental units anticipated as a result of promulgating the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will not result in an economic cost to vendors nor participants who are currently enrolled in the WIC program the LDH OPH. As of November 9, 2016, there are 510 vendors enrolled to serve an average of 126,000 participants per month. However, vendors are anticipated to benefit from program efficiencies implemented in the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment anticipated as a result of these proposed rule changes.

Beth Scalco	John D. Carpenter
Assistant Secretary	Legislative Fiscal Officer
1611#053	Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance
Office of the Commissioner

Regulation 107—Homeowners and Fire/Commercial Insurance Policy Disclosure Forms
(LAC 37:XII.Chapter 153)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., R.S. 22:1319, and R.S. 22:1332, notice is hereby given that the Department of Insurance proposes to adopt Regulation 107. The purpose of this regulation is to promulgate the

Homeowner and Fire/Commercial Insurance Policy Disclosure forms developed by the Commissioner of Insurance for use by all property and casualty insurers issuing, delivering or renewing homeowner and fire/commercial insurance policies that provide coverage for damages to property in Louisiana.

The full text of this proposed Rule can be viewed in the Emergency Rule section of this *Louisiana Register*.

Family Impact Statement

1. Describe the effect of the proposed regulation on the stability of the family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the proposed regulation on the functioning of the family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed regulation on family earnings and budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed regulation on the behavior and personal responsibility of children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

Poverty Impact Statement

1. Describe the effect on household income, assets, and financial security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the effect on early childhood development and preschool through postsecondary education development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the effect on employment and workforce development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

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

1. Identification and estimate of the number of the small businesses subject to the proposed rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed amended regulation will have no effect.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed amended regulation will have no effect.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed amended regulation will have no effect.

Public Comments

Interested persons may submit written comments on the proposed promulgation of Regulation 107. Such comments must be received no later than December 20, 2016 by close of business, 4:30 p.m., and addressed to Lance C. Joseph, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214 or faxed to (225) 342-1632.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Homeowners and Fire/Commercial Insurance Policy Disclosure Forms

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule (Regulation 107) will not result in costs or savings to the Department of Insurance or any other state or local government units. The proposed rule promulgates provisions related to the Homeowners and Fire/Commercial Insurance Policy Disclosure Forms developed by the Commissioner of Insurance. These forms will be used by all property and casualty insurers issuing, delivering, or renewing homeowners and fire/commercial insurance policies that

provide coverage for damages to property in Louisiana. Appendix C of Regulation 107 includes the implementation of ACT 274 of the 2016 Louisiana Legislative Regular Session, which includes a deductible disclosure for Homeowners Insurance policy coverage.

The proposed rule implements procedures where any claim that does not exceed the policy deductible and that does not result in a claim payment to the policyholder may be used to increase the cost of the policyholder's premium in the future or as part of the basis for cancellation of their policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule (Regulation 107) will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule (Regulation 107) may have a cost to policyholders. The proposed regulation promulgates Homeowners and Fire/Commercial Insurance Policy Disclosure Forms. In the event claims do not exceed the policy deductible, the proposed Regulation 107 may increase consumer premiums or may result in policy cancellation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule (Regulation 107) will have no impact upon competition and employment in the state.

Denise Brignac	Greg V. Albrecht
Deputy Commissioner	Chief Economist
1611#075	Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance
Office of the Commissioner

Regulation 76—Privacy of Consumer
(LAC 37:XIII.9901 and 9913)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S.22:1 et seq. and in accordance with the Administrative Procedure Act, R.S.49:950 et seq., hereby gives notice of its intent to amend Regulation 76 – Privacy of Consumer.

The purpose of amending Regulation 76 is to comply with the passage of the Fixing America's Surface Transportation ("FAST") Act, which was passed by the United States Congress and signed into law (Public Law 114-94; December 4, 2015). The FAST Act amended the Gramm-Leach-Bliley Act to provide an exemption from the annual privacy notice requirements required under Gramm-Leach-Bliley. As Regulation 76 mirrors the duties and responsibilities of those in the business of insurance with regards to the privacy of insurance consumer's information, any amendments to Gramm-Leach-Bliley that were passed into law should likewise be incorporated as an amendment to Regulation 76. The FAST Act amendment serves the purpose, in both federal law and the proposed Regulation 76 amendment here, to relieve those in the business of insurance to whom it applies from duplicative privacy notice requirements, while at the same time continuing to preserve the privacy rights of insurance consumers.

The full text of this proposed Rule can be viewed in the Emergency Rule section of this *Louisiana Register*.

Family Impact Statement

1. Describe the effect of the proposed regulation on the stability of the family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the proposed regulation on the functioning of the family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed regulation on family earnings and budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed regulation on the behavior and personal responsibility of children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the effect on household income, assets, and financial security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the effect on early childhood development and preschool through postsecondary education development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the effect on employment and workforce development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

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

1. Identification and estimate of the number of the small businesses subject to the proposed rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed amended regulation will have no effect.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed amended regulation will have no effect.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed amended regulation will have no effect.

Public Comments

Interested persons may submit written comments on the proposed Regulation 76 until 5 p.m., December 20, 2016, to Barry Ingram, Division of Legal Services, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 76—Privacy of Consumer

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in costs or savings to the Department of Insurance or any other state or local governmental units. The proposed rule change amends Regulation 76 in order to comply with the Fixing America's Surface Transportation (FAST) Act, which was passed by the United States Congress and signed into law December 4, 2015. Under current state rules, licensees (licensed insurers or producers) are required to provide notice to individuals about its privacy policies and to disclose the conditions where a licensee may disclose nonpublic personal financial information about individuals to affiliates and nonaffiliated third parties.

The proposed rule change will continue to preserve the privacy rights of insurance consumers while complying with the FAST Act amendment by relieving insurance licensees from annual privacy notice requirements when the licensee has not changed its policies and practices that were disclosed in their most recent disclosure to consumers.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is not anticipated to have any costs to consumers. The proposed rule change continues to preserve the privacy rights of insurance consumers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no impact upon competition and employment in the state.

Denise Brignac
Deputy Commissioner
1611#076

Greg V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources
Office of Conservation

Financial Security for the Plug and Abandonment of Oil and Gas Wells and Determinations of Future Utility
(LAC 43:XIX.104)

The Department of Natural Resources, Office of Conservation proposes to amend LAC 43: XIX.Subpart 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The proposed amendment is made to implement the provisions of Act 634 of the 2016 Regular Session of the Louisiana Legislature. The Amendments will reduce the per foot cost of financial security for inland wells below 3000 feet to $2.00 per foot and exempt wells orphaned by the commissioner and subsequently transferred to another operator from financial security requirements.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation – General Operations
Subpart 1. Statewide Order No. 29-B
Chapter 1. General Provisions
§104. Financial Security

A. - B.4. …

C. Financial Security Amount

1. Land Location

a. Individual well financial security shall be provided in accordance with the following.

Measured Depth	Amount
< 3000'	$2 per foot
3001-10000'	$5 per foot
> 10001'	$4 per foot

C.1.b. - H. …

I. Financial security shall not be required for the following wells:

1. any well declared to be orphaned by the commissioner and subsequently transferred to another

operator, except as required by Act 583 of the 2016 Regular Session;

2. any well to be drilled by an operator who has an agreement with the office of conservation to plug a well that has been declared to be orphaned by the commissioner and that orphaned well is similar to the proposed well in terms of depth and location;

3. the provisions hereof shall not alter or affect the requirements for inactive wells given in LAC 43:XIX.137.A.

AUTHORITY NOTE: Promulgated in accordance with R. S. 30:4, et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation LR 26:1306 (June 2000), amended LR 27:1917 (November 2001), LR 42:

Family Impact Statement

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

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Small Business Analysis

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

Public Comments

All interested parties will be afforded the opportunity to submit data, views, or arguments, in writing. Written comments will be accepted by hand delivery or USPS only, until 4 p.m., December 12, 2016, at Office of Conservation, Executive Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Executive Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. Reference Docket No. R A 2016-02. All inquiries should be directed to John Adams at the above addresses or by phone to (225) 342-7889. No preamble was prepared.

Richard P. Ieyoub
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Financial Security for the Plug and Abandonment of Oil and Gas Wells and Determinations of Future Utility

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no implementation costs to the state or local governmental units. The proposed rule change will reduce the per foot cost of financial security for inland wells shallower than 3,000 feet from $7.00 to $2.00 per foot and exempt wells orphaned by the commissioner and subsequently transferred to another operator from financial security requirements. The reduction in the per-foot cost is a result of Act 634 of the 2016 Regular Legislative Session, which set the rate at $2.00 per foot. The previous rate of $7.00 per foot was codified into rule. There are no costs to the Office of Conservation since the financial security will be able to be documented using existing documentation and staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections of state and local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The group directly affected by the rule change will be certain Exploration and Production (E&P) companies that do not possess blanket financial security. These companies will need to provide smaller amounts of financial security if a new well is permitted or if an existing well is transferred and the well is drilled shallower than 3,000 feet and they choose to obtain financial security on a per footage basis. Additionally, wells orphaned by the commissioner and subsequently transferred to another operator will be exempted from financial security requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Richard P. Ieyoub	John D. Carpenter
Commissioner	Legislative Fiscal Officer
1611#045	Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development
Professional Engineering and Land Surveying Board

Graduates with Advanced Engineering Degrees and Preliminary Work Disclaimers (LAC 46:LXI.901 and 2701)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering and Land Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.901 and 2701.

This is a technical revision of existing rules under which LAPELS operates. The revision adds to the rule on the requirements for certification as an engineer intern through an advanced engineering degree a cross reference to the rule on acceptable engineering graduate programs and clarifies and expands the rule on the use of preliminary work disclaimers.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXI. Professional Engineers and Land Surveyors
Chapter 9. Requirements for Certification and Licensure of Individuals and Temporary Permit to Practice Engineering or Land Surveying

§901. Engineer Intern Certification

A. The requirements for certification as an engineer intern under the several alternatives provided in the licensure law are as follows.

1. …

2. Graduates with Advanced Engineering Degree. The applicant shall be a graduate of a non-EAC/ABET accredited

engineering or related science or engineering technology curriculum of four years or more approved by the board as being of satisfactory standing, who has obtained an engineering graduate degree in an engineering discipline or sub-discipline from a university having an undergraduate accredited engineering curriculum in the same discipline or sub-discipline, approved by the board as being of satisfactory standing and in accordance with §1105, who is of good character and reputation, who has passed the examination required by the board in the fundamentals of engineering, who was recommended for certification by a professional engineer holding a valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, who has submitted an application for certification in accordance with the requirements of R.S. 37:694, and who was duly certified as an engineer intern by the board.

A.3. - B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:352 (November 1976), amended LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1027 (July 2001), LR 30:1711(August 2004), LR 32:1618 (September 2006), LR 37:2412 (August 2011), LR 38:2563 (October 2012), LR 43:

Chapter 27. Use of Seals

§2701. Seal and Signature

A. The following rules for the use of seals to identify work performed by a professional engineer or professional land surveyor shall be binding on every licensee.

1. - 3.b.iii.(c). …

4. Seal Use

a. - a.v.(b). …

b. Preliminary Work

i. All preliminary documents shall be marked in large bold letters with one or more of the following statements:

(a). "Preliminary—Not For Construction";

(b). "Preliminary—For Permit Purposes Only";

(c). "Preliminary—For Review Only"; or

(d). "Preliminary—Not For Recordation, Conveyances or Sales".

ii. Preliminary documents are not required to have the licensee's seal, signature and date affixed, but must bear the name and license number of the licensee, and the name of the licensee's firm, if applicable.

4.c. - 5.b. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:192 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:287 (April 1996), LR 23:869 (July 1997), amended by the Louisiana Legislature, House Concurrent Resolution Number 2 of the 1998 First Extraordinary Session, LR 24:1207 (June 1998), repromulgated by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 25:1525 (August 1999), amended LR 27:1039 (July 2001), LR 30:1723 (August 2004), LR 33:2789 (December 2007), LR 34:2415 (November 2008), LR 35:1910 (September 2009), LR 38:1418 (June 2012), LR 39:1481 (June 2013), LR 42:443 (March 2016), LR 42:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known impact on family formation, stability or autonomy.

Poverty Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(ix) and 973, the following Poverty Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known impact on child, individual or family poverty in relation to individual or community asset development.

Provider Impact Statement

In accordance with HCR No. 170 of the 2014 Regular Session, the following Provider Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known effect on the staffing level requirements or qualifications required to provide the same level of service, the cost to the provider to provide the same level of service or the ability of the provider to provide the same level of service.

Public Comments

Interested parties are invited to submit written comments on the proposed Rule through December 12, 2016 at 4:30 p.m., to Donna D. Sentell, Executive Director, Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Donna D. Sentell
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Graduates with Advanced Engineering Degrees and Preliminary Work Disclaimers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units resulting from this proposed rule change. The proposed rule change adds a cross reference on acceptable engineering graduate programs to the rule regarding requirements for certification as an engineer intern through an advanced engineering degree. It also clarifies and expands the rule detailing the use of preliminary work disclaimers.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of this proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have no impact on costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment in the public and private sectors is anticipated.

Donna Sentell
Executive Director
1611#041

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Committee Reports

COMMITTEE REPORT

House of Representatives Insurance Committee

House Committee Report Upon Unacceptable Determination—Regulation 106
Replacement of Limited Benefit Insurance Policies
(LAC 37:XIII.Chapter 149)

Editor's Note: This Notice of Intent can be viewed in the August 20, 2016 edition of the Louisiana Register on pages 1430-1433.

October 31, 2016

Pursuant to the provisions of R.S. 49:968, the House of Representatives Insurance Committee met on October 31, 2016, to review proposed Regulation Number 106, Replacement of Limited Benefit Insurance Policies, submitted by the Department of Insurance.

There was lengthy testimony and discussion of the proposed regulation. The testimony and discussion focused primarily on the burdens the proposed regulation placed on both insurance producers and insurance companies, particularly the limited period of time for producers and insurers to provide the required notice and replacement policy to the insured to comply with the regulation. The committee also found that the information required by the proposed regulation to be provided to consumers is likely to confuse consumers and needs to be made more consumer-friendly.

In sum, the committee found that proposed Regulation 106 created too many regulatory burdens for both insurance producers and insurance companies and needed modification. The committee voted without objection to deem proposed Regulation Number 106, Replacement of Limited Benefit Insurance Policies, unacceptable.

Attached is a copy of proposed Regulation 106, Replacement of Limited Benefit Insurance Policies, submitted by the Department of Insurance.

Representative Kirk Talbot
Chairman

1611#033

Potpourri

POTPOURRI

Department of Environmental Quality
Office of the Secretary
Legal Division

Notice of Public Hearing—Substantive Changes to Proposed Rule AQ364—Work Practice Standards during Start-up and Shutdown (LAC 33:III.2201)(AQ364S)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that the department is seeking to incorporate substantive changes to LAC 33:III.2201.C, I, and K (AQ364S), which were originally noticed as AQ364 in the June 20, 2016, *Louisiana Register*. (1611Pot1)

The department has made the following substantive changes to address comments received on AQ364:

1. the report required by LAC 33:III.2201.I.2 should: address noncompliance with applicable work practice standards under LAC 33:III.2201.K.3;
2. set the effective date of the work practice standards as May 1, 2017;
3. require the department to incorporate into the applicable permit, for each affected facility, appropriate requirements describing the source-specific conditions or parameters identifying when operation of control devices, such as selective catalytic reduction (SCR) and selective non-catalytic reduction (SNCR), must commence;
4. clarify that the records required by LAC 33:III.2201.K.3.e and f must be maintained for at least five years; and
5. require the owner or operator of an affected facility to notify the department whether each affected point source will comply with numerical emission limitations or work practice standards during periods of start-up and shutdown.

In the interest of clarity and transparency, the department is providing public notice and an opportunity to comment on the proposed changes to the amendments of the regulations. The department is also providing an interim response to comments received on the initial regulation proposal.

A strikeout, underline, and shaded version of the proposed Rule that distinguishes original proposed language from language changed by this proposal and the interim response to comments are available at www.deq.louisiana.gov under Rules and Regulations.

Public Comments

All persons submitting written comments should reference the proposed regulation as AQ364S. Comments must be received no later than December 28, 2016, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, fax (225) 219-4068, or e-mail at deidra.johnson@la.gov. The comment period for the substantive changes ends on December 28, 2016. Copies of these substantive changes may be purchased by contacting the LDEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ364S. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing on the substantive changes will be held on December 28, 2016, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and make oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

AQ364S is available for inspection at the following LDEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; and 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
General Counsel

1611#029

POTPOURRI

Department of Environmental Quality
Office of the Secretary
Legal Division

State Implementation Plan for Regional Haze Program
Electrical Generating Units BART

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Services, Air Permits Division, will submit a proposed revision to the state implementation plan (SIP) for the Regional Haze Program as required under the Clean Air Act, Part C, section 169, and 40 CFR Part 51.308. Regional haze is visibility impairment caused by the cumulative air pollutant emissions from numerous sources over a wide geographic area. (1611Pot2)

On July 3, 2012, the Environmental Protection Agency (EPA) made final a partial limited approval and partial disapproval of the original SIP submitted on June 13, 2008. This revision answers the requirements for the electrical generating units (EGUs) at the Entergy Gulf States Louisiana, Roy S. Nelson facility, located in Westlake, Calcasieu Parish, Louisiana and the Entergy Louisiana LLC, Waterford 1 and 2 Generating Plant, St. Charles Parish, LA that were addressed under the best available retrofit

technology (BART) section and that is subject to the EPA partial disapproval.

All interested persons are invited to submit written comments concerning the SIP revision no later than 4:30 p.m., Wednesday December 30, 2016, to Vivian H. Aucoin, Office of Environmental Services, P.O. Box 4313, Baton Rouge, LA 70821-4314, fax (225) 219-3482, or e-mail at vivian.aucoin@la.gov. A public hearing will be held upon request. The deadline for requesting a public hearing is Friday, December 2, 2016.

A copy of the proposal may be viewed on the LDEQ website or at LDEQ headquarters at 602 North Fifth Street, Baton Rouge, LA 70802.

Herman Robinson
General Counsel

1611#030

POTPOURRI

Department of Health
Board of Veterinary Medicine

Examination Dates; Board Meetings and Nominations

Spring/Summer Examination Dates

The Louisiana Board of Veterinary Medicine will administer the state board examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

The board will accept applications to take the North American veterinary licensing examination (NAVLE) which will be administered through the National Board of Veterinary Medical Examiners (NBVME), formerly the National Board Examination Committee (NBEC), as follows.

Test Window Date	Deadline To Apply
April 10 through April 22, 2017	February 1, 2017

The board will also accept applications for the veterinary technician national examination (VTNE) for state registration of veterinary technicians which will be administered through the American Association of Veterinary State Boards (AAVSB), as follows.

Test Date	Deadline To Apply
March 15 through April 15, 2017	February 15, 2017
July 15 through August 15, 2017	June 15, 2017
November 15 through December 15, 2017	October 15, 2017

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 301 Main Street, Suite 1050, Baton Rouge, LA 70801, via telephone at (225) 342-2176, and by e-mail at admin@lsbvm.org; application forms and information are also available on the website at www.lsbvm.org.

Board Meeting Dates

The members of the Louisiana Board of Veterinary Medicine will meet at 8:30 a.m. on the following dates in 2017:

Thursday, February 3, 2017
Thursday, April 6, 2017
Thursday, June 1, 2017 (Annual Meeting)
Thursday, August 3, 2017
Thursday, October 5, 2017
Thursday, December 7, 2017

These dates are subject to change, so please contact the board office via telephone at (225) 342-2176 or email at admin@lsbvm.org to verify actual meeting dates.

Board Nominations

The Louisiana Board of Veterinary Medicine announces that nominations for the position of board member will be taken by the Louisiana Veterinary Medical Association (LVMA) at the annual winter meeting to be held in late January 2017. Interested persons should submit the names of nominees directly to the LVMA as per R.S. 37:1515. It is not necessary to be a member of the LVMA to be nominated. The LVMA may be contacted at (225) 928-5862.

Wendy D. Parrish
Executive Director

1611#006

POTPOURRI

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Public Hearing—Substantive Changes to Proposed Rule
Cervid Carcass Importation (LAC XIX.V.119)

The Wildlife and Fisheries Commission published a Notice of Intent to promulgate regulations for the Cervid carcass importation ban in the July 20, 2016 edition of the *Louisiana Register*. The notice solicited views, arguments, information, written comments and testimony. As a result of its consideration of the written comments and testimony received, the Wildlife and Fisheries Commission proposes to amend the proposed Rule so that, as amended, will read as set forth below.

Title 76
WILDLIFE AND FISHERIES
Part V. Wild Quadrupeds and Wild Birds
Chapter 1. Wild Quadrupeds
§119. Cervid Carcass Importation

A. Definitions

Cervid—any animal of the family *Cervidae* including, but not limited to, white-tailed deer, mule deer, elk, moose, caribou, fallow deer, axis deer, sika deer, red deer, and reindeer.

B. No person shall import, transport or possess any cervid carcass or part of a cervid carcass originating outside of Louisiana, except: for meat that is cut and wrapped; meat

that has been boned out; quarters or other portions of meat with no part of the spinal column or head attached, antlers, clean skull plates with antlers, cleaned skulls without tissue attached, capes, tanned hides, finished taxidermy mounts and cleaned cervid teeth. Any and all bones shall be disposed of in a manner where its final destination is at an approved landfill or equivalent. Said rule shall be effective March 1, 2017.

C. Approved parts or deboned meat transported from other states must be legally possessed from the state it was taken. Approved parts and deboned meat from other states must contain a possession tag with the hunter's name, out-of-state license number (if required), address, species, date and location (county and state) of harvest. All cervids transported into or through this state in violation of the provisions of this ban shall be seized and disposed of in accordance with Wildlife and Fisheries Commission and Department of Wildlife and Fisheries rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6(10), (13) and (15), R.S. 56:20, R.S. 56:112, R.S. 56:116.1 and R.S. 56:171 et seq.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 43:

Public Hearing

In accordance with R.S. 49:968(H)(2), a public hearing on proposed substantive changes will be held by the Wildlife and Fisheries Commission on Thursday, January 5, 2017, at 9:30 a.m. in the Louisiana Room at the Wildlife and Fisheries Headquarters Building located at 2000 Quail Drive, Baton Rouge, LA 70808.

Bart R. Yakupzack
Chairman

1611#018

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Executive Orders

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Emergency Suspension of Deadlines in Legal, Administrative, and Regulatory Proceedings
Amending Executive Orders JBE 2016-53 and JBE 2016-57

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, et seq., a state of emergency was declared in Proclamation No. 111 JBE 2016, which is currently in effect;

WHEREAS, Article I, Section 22 of the Louisiana Constitution provides that all courts shall be open, and every person shall have an adequate remedy by due process of law and justice, administered without denial, partiality, or unreasonable delay, for injury to him in his person, property, reputation, or other rights;

WHEREAS, because of the flooding disaster declared in Proclamation No. 111 JBE 2016, Executive Order Number JBE 2016-53 suspended deadlines in legal, administrative, and regulatory proceedings, and this Order was amended on August 17, 2016, with Executive Order JBE 16-57; and

WHEREAS, due to the continuing challenges faced by litigants, interested parties, and attorneys in the areas of the state affected by the disaster in Proclamation 111 JBE 2016, it is necessary to amend and extend Executive Orders JBE 2016-53 and JBE 2016-57.

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

SECTION 1: Executive Orders JBE 2016-53 and 2016-57 are hereby amended as follows:

A. Liberative prescription and peremptive periods continue to be and shall be suspended throughout the state until and through Friday, September 30, 2016.

B. Deadlines in legal proceedings in courts, administrative agencies and boards affected by the flooding event, defined as the following parishes: Acadia, Ascension, Assumption, Avoyelles, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, West Baton Rouge and West Feliciana, shall be suspended upon certification by any litigant, interested party, or attorney that they are unable to meet a legal deadline due to the declared disaster. Once the inability to meet a legal deadline is certified, the applicable legal deadline shall be suspended until and through Friday, September 30, 2016. Any such suspension shall apply to legal deadlines, including but not limited to, non-constitutionally mandated deadlines in criminal proceedings and any such deadlines as follows:

i. Louisiana Civil Code;

ii. Louisiana Code of Civil Procedure;

iii. Title 9 of Louisiana Revised Statutes, Civil Code Ancillaries;

iv. Title 13 of Louisiana Revised Statutes, Courts and Judicial Procedure;

v. Chapter 11 of Title 18 of Louisiana Revised Statutes, Election Campaign Financing;

vi. Chapter 10 of Title 23 of Louisiana Revised Statutes, Worker's Compensation;

vii. Chapter 5, Part XXI-A, of Title 40 of Louisiana Revised Statutes, Malpractice Liability for State Services;

viii. Chapter 5, Part XXIII, of Title 40 of Louisiana Revised Statutes, Medical Malpractice;

ix. Chapter 15 of Title 42 of Louisiana Revised Statutes;

x. Title 47 of Louisiana Revised Statutes, Revenue and Taxation; and

xi. Title 49, Chapter 13, Administrative Procedure.

C. Further, courts, administrative agencies, and boards throughout the state should use due diligence in accommodating requests for delays or continuances from any litigant, interested party, or attorney who may have been impacted by the declared disaster.

D. Paragraph B of this Section shall not be interpreted so as to prohibit an owner of immovable property from reclaiming leased property if abandoned as provided by law, or entering leased property to make necessary repairs as provided by law.

SECTION 2: This order is effective upon signature and shall be effective upon signature until Friday, September 30, 2016, unless amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law prior to such time.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 9th day of September, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1610#004

EXECUTIVE ORDER JBE 16-67

Emergency Suspension of Certain
Insurance Code Provisions—Amended

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721 et seq., confers upon the Governor of the State of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or manmade causes, in order to ensure that

preparations of this State will be adequate to deal with such emergencies or disasters and to preserve the lives and property of the people of the State of Louisiana;

WHEREAS, Proclamation No. 111 JBE 2016, issued on August 12, 2016, and continued by Proclamation No. 127 JBE 2016, declared a state of emergency for the State of Louisiana due to the heavy rain and flooding, which continues to threaten the safety and security of the citizens of Louisiana;

WHEREAS, Executive Order No. JBE 16-58, signed August 17, 2016, transferred to the Commissioner of Insurance limited authority to suspend provisions of any regulatory statute of Title 22 of the Louisiana Revised Statutes of 1950 concerning the cancellation, termination, nonrenewal and/or reinstatement provisions of Title 22;

WHEREAS, thousands of Louisiana citizens have suffered damage to their residential, commercial residential or commercial property due to the historic flooding, and many such properties have been severely damaged or destroyed;

WHEREAS, insurers have been working diligently to adjust and pay claims, however, due to a shortage in building materials, contractors, construction workers or delays in claim payments, many policyholders will be unable to repair and/or reconstruct their residential, commercial residential or commercial property within typical time frames;

WHEREAS, the extended time period to repair and/or reconstruct residential, commercial residential or commercial property continues to affect the ability of Louisiana insureds to maintain or obtain personal residential, commercial residential or commercial property insurance for residential property or commercial property and has created an immediate threat to the public health, safety and welfare of Louisiana citizens; and

WHEREAS, the Commissioner has requested and deemed it necessary to extend the time period for which he is extended the authority to suspend provisions of any regulatory statute of Title 22 of the Louisiana Revised Statutes of 1950 concerning the cancellation, termination, nonrenewal and/or reinstatement provisions of Title 22 due to the continued impact of the flooding.

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

SECTION 1: Section 3 of Executive Order JBE 2016-58, signed August 17, 2016, shall be amended as follows:

> This Order shall apply retroactively from Friday, August 12, 2016, and shall continue through Wednesday, October 12, 2016, unless amended, terminated, or rescinded by the Governor prior thereto.

SECTION 2: All other paragraphs, subsections, and sections of Executive Order JBE 2016-58 shall remain in full force and effect.

SECTION 3: This Order is effective upon signature and shall continue in effect through Wednesday, October 12, 2016, unless amended, terminated, or rescinded by the Governor prior thereto.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 12th day of September, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1610#006

EXECUTIVE ORDER JBE 16-68

Flags at Half-Staff
Representative Reed Stephen Henderson

WHEREAS, former State Representative Reed Stephen Henderson died on September 20, 2016, at the age of 63;

WHEREAS, known for commitment to community service and devotion to his church, he was elected to the House of Representatives in 2008, where he represented citizens in Orleans and St. Bernard parishes in District 103 until 2012;

WHEREAS, a graduate of the University of Louisiana at Lafayette and a commodity trader, Representative Henderson served as a member of the Democratic Caucus, the Louisiana Rural Caucus, and the Orleans Delegation;

WHEREAS, his committee service included serving as a member of the House Committee on Commerce, the House Committee on Natural Resources and Environment, the House Committee on Retirement, and the Select Committee on Hurricane Recovery;

WHEREAS, during his time in the House of Representatives, Representative Henderson advocated for citizens in Orleans and St. Bernard parishes, working on and supporting many important pieces of legislation; and

WHEREAS, Representative Henderson will be missed and remembered for serving the citizens of the State and his district with dignity and honor.

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

SECTION 1: As an expression of respect and to honor Representative Reed Stephen Henderson, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol on Monday, September 26, 2016.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Monday, September 26, 2016.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 26th day of September, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1610#013

EXECUTIVE ORDER JBE 16-69

Emergency Suspension of Fees
Office of Motor Vehicles and Department of Health

WHEREAS, Proclamation No. 111 JBE 2016, issued on August 12, 2016, and continued by Proclamation No. 127 JBE 2016, declared a state of emergency for the State of Louisiana due to the heavy rain and flooding, which continues to threaten the safety and security of the citizens of Louisiana;

WHEREAS, the federal government has issued an Emergency Declaration and Major Disaster Declaration pursuant to the Stafford Act due to the widespread damage caused by the flooding;

WHEREAS, more than 150,000 households in Louisiana have been affected by this flooding event, some citizens still displaced and many beginning to rebuild and recover from the loss caused by the event;

WHEREAS, the flooding damaged or destroyed documents important to many Louisiana citizens, including titles, registrations, identification and related documents necessary for the lawful operation of motor vehicles in the State of Louisiana, as well as birth and death certificates;

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721 et seq., confers upon the Governor of the State of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or manmade causes, in order to ensure that preparations of this State will be adequate to deal with such emergencies or disasters and to preserve the lives and property of the people of the State of Louisiana; and

WHEREAS, in response to the damage done to records due to the flooding resulting from the emergency conditions, the Commissioner of the Office of Motor Vehicles and the Secretary of the Department of Health have requested suspension of certain provisions of law related to fees and charges which would be incurred by those individuals who have been required to replace damaged or destroyed documents.

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

SECTION 1: The following specific provisions of the Louisiana Revised Statutes of 1950 related to the imposition of fees or charges related to transactions with the Office of Motor Vehicles, or their authorized agent, as qualified by this Order, are hereby suspended for transactions with an associated address located in the parishes of Acadia, Ascension, Assumption, Avoyelles, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, West Baton Rouge and West Feliciana when, as determined by any guidelines or directions issued by the Commissioner, the request is a result of the emergency conditions:

- La. R.S. 32:728, to the extent that it requires payment of a fee for production of a duplicate title;
- La. R.S. 47:472(A), to the extent that it requires payment of a fee for production of a duplicate number plate or a duplicate certification of registration;
- La. R.S. 32:412(D)(2), to the extent that it requires payment of late fees for renewal of a driver's license that expired on or after August 3, 2016;
- La. R.S. 32:413(B), to the extent that it requires payment of a fee for the issuance of a duplicate driver's license;
- La. R.S. 40:1321, to the extent that it requires payment of a fee for the issuance of a duplicate special identification card;
- La. R.S. 47:463.4(C)(1)(c), to the extent that it requires payment of a fee for the issuance of a duplicate mobility impairment hang tag when the originally issued hang tag is lost, destroyed, or mutilated; and
- La. R.S. 32:412.1, to the extent that it requires payment of handling charges for lost plates and stickers and transactions associated with the issuance of a duplicate: identification card, title, registration, and/or driver's license.

SECTION 2: The following specific provisions of the Louisiana Revised Statutes of 1950 related to the imposition of fees or charges related to transactions with the Department of Health, or their authorized agent, as qualified by this Order, are hereby suspended for transactions by individuals affected by flooding with an associated address located in the parishes of Acadia, Ascension, Assumption, Avoyelles, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Charles, St. Helena, St.

James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, West Baton Rouge and West Feliciana when, as determined by any guidelines or directions issued by the Secretary, the request is a result of the emergency conditions:

- La. R.S. 40:40(2), to the extent that it requires payment of a fee for production of a duplicate birth record; and
- La. R.S. 40:40(3), to the extent that it requires payment of a fee for production of a duplicate death certificate.

SECTION 3: This order shall be effective upon signature and shall apply retroactively from August 12, 2016, until September 30, 2016, unless amended, modified, or terminated prior to such time.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 27th day of September, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1610#017

Emergency Rules

DECLARATION OF EMERGENCY

Department of Children and Family Services
Economic Stability Section

Community Supervision Program
(LAC 67:III.5573)

The Department of Children and Family Services (DCFS), Economic Stability Section, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, Subpart 15, Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55, TANF Initiatives, Section 5573, Community Supervision Program. This declaration is necessary to extend the original Emergency Rule since it is effective for a maximum of 120 days and will expire before the Final Rule takes effect. This Emergency Rule extension is effective on October 28, 2016 and will remain in effect until the Final Rule becomes effective.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) block grant, amendment of Section 5573 is necessary to clarify the program's service period and financial eligibility criteria, which must mirror eligibility rules in effect as of August 21, 1996 under the Louisiana Aid to Families with Dependent Children (AFDC) Emergency Assistance Program.

The department considers emergency action necessary to facilitate the expenditure of TANF funds. The authorization to promulgate Emergency Rules to facilitate the expenditure of TANF funds is contained in Act 16 of the 2015 Regular Session of the Louisiana Legislature.

Title 67
SOCIAL SERVICES
Part III. Economic Stability
Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives
Chapter 55. TANF Initiatives
§5573. Community Supervision Program

A. The department has an agreement with the Department of Public Safety and Corrections, Office of Juvenile Justice (DPSC-OJJ), to provide services to youth and their families as a result of an adjudication and disposition by a court that orders (DPSC-OJJ) to supervise youth in their communities in an effort to prevent removal from the home.

B. OJJ will complete an intake/assessment and develop a case plan for addressing the needs of the youth. The case plan will contain goals for all need areas and when indicated, include referrals to community programs for both youth and parents. These referrals may include but are not limited to:

1. case management, counseling, and in-home services;
2. parenting education and training, either in-home or out-of-home;
3. diagnostic and evaluation services provided in an attempt to make the most appropriate out-of-home placement;
4. supervision or non-residential programs for youth who remain in the home.

C. TANF eligibility is limited within any 12-month period to a single episode of need with a maximum duration of 12 months. TANF eligibility is also limited to families with income less than twice the state median income (SMI).

D. These services are TANF-eligible based on inclusion in the state's approved AFDC Emergency Assistance Program that was in effect as of August 21, 1996.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474, amended Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:2511 (November 2003), amended LR 31:487 (February 2005), LR 34:697 (April 2008), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:

Marketa Garner Walters
Secretary

1610#026

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network (LAC 28:CLXVII.101, 103, 313, 503, 509, 511, 512, 513, 515, 517, 521, 703, 705, 707, 709, and 713)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement the revisions of *Bulletin 140—Louisiana Early Childhood Care and Education Network*: §101, Purpose; §103, Definitions; §313, Academic Approval for Type III Early Learning Centers; §503, Coordinated Observation Plan and Observation Requirements; §509, Performance Rating Calculations for Publicly-Funded Sites; §511, Performance Rating Calculations for Community Networks; §512, Performance Ratings for Publicly-funded Sites; §513, Informational Metrics of Best Practices; §515, Reporting for the Accountability System; §517, Data Verification; §521, Performance Profile Appeals Procedure; §703, Coordinated Enrollment Process; §705, Implementation Timeline; §707, Demonstrated Progress Toward Implementation; §709, Community Network Request for Funding for Publicly-Funded Programs; and §713, Request for Departmental Review. This Declaration of Emergency, effective June 22, 2016, is being extended beyond the initial period of 120 days and will remain in effect until the final Rule becomes effective.

R.S. 17:407.23 requires BESE to create a uniform assessment and accountability system for publicly- funded early childhood education programs that includes a letter grade indicative of student performance. In response to this law, the board adopted *Bulletin 140—Louisiana Early Childhood Care and Education Network*, to set forth regulations focused specifically on early childhood community networks. The networks ensure that:

- one organization within each local community network coordinates across early childhood programs (child care, Head Start, school-based pre-kindergarten);
- set clear expectations for implementation of coordinated enrollment as required by Act 717 of the 2014 Regular Legislative Session and establish processes to ensure fairness and equity for providers and families;
- establish a unified quality and improvement system;
- specify how programs and community networks will be evaluated in the 2015-2016 academic learning year, as required by state law; and
- establish processes for fairness and equity for programs.

The proposed revisions update *Bulletin 140—Louisiana Early Childhood Care and Education Network*, to communicate differences in quality, honor quality and improvement, address sites rated very low quality, increase observation accuracy and credibility, increase transparency, ensure parent choice, support coordinated enrollment, and extend the academic approval process beyond the learning year. State law and *Bulletin 140—Louisiana Early Childhood Care and Education Network*, call for such a system to take full effect beginning with the 2016-2017 school year, which is why BESE has exercised the emergency provision in the adoption of these policy revisions.

Title 28
EDUCATION
Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network

Chapter 1. General Provisions

§101. Purpose

A. The purpose of this Bulletin is to establish the duties and responsibilities of the early childhood care and education network, local community networks, community network lead agencies, and publicly-funded early childhood care and education programs; establish performance and academic standards for kindergarten readiness; define kindergarten readiness; and create a uniform assessment and accountability system for publicly-funded early childhood care and education sites and community networks that includes a performance profile indicative of performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2580 (December 2015), amended LR 42:

§103. Definitions

* * *

Assurances—see *program partner assurances*.

* * *

Program Partner Assurances—assurances that early childhood care and education programs must submit to the department in order to access their public funding.

* * *

School Year—for purposes of this Bulletin, July 1-June 30.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.23 and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2580 (December 2015), amended LR 42:

Chapter 3. Early Childhood Care and Education Network

§313. Academic Approval for Type III Early Learning Centers

A. All type III early learning centers shall meet the performance and academic standards of the early childhood care and education network regarding kindergarten readiness as provided in this Bulletin.

B. - C.2.b. …

D. Initial Academic Approval for an Applicant for a New Type III Early Learning Center License for Fiscal Years 2016-2017 and Beyond

1. In order to obtain the initial academic approval required to be licensed as a type III early learning center, a center applying for a new type III license must:

a. submit a signed copy of the current program partner assurances to the department, thereby agreeing to comply with the provisions of this Bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process as provided in Chapter 7.

2. An applicant for a new type III early learning center license who has held a type III early learning center license and received a corrective action plan as provided in §313 at any time during the current or preceding fiscal year shall not be allowed to apply for academic approval for the fiscal year in which the center received a corrective action plan and the following fiscal year.

E. Renewal of Academic Approval for Type III Early Learning Centers for the Fiscal Years 2016-2017 and 2017-2018

1. Academic approval shall be renewed annually for fiscal years 2016-2017 and 2017-2018 for any type III early learning center that:

a. has current academic approval;

b. is in compliance with the provisions of this Bulletin; and

c. has submitted a signed copy of the current annual program partner assurances to the department, and is thereby agreeing to comply with the provisions of this Bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. Type III early learning centers shall annually submit a signed copy of the annual program partner assurances to the department prior to July 1, or as requested by the department, whichever occurs earlier.

F. Renewal of Academic Approval for Existing Type III Early Learning Centers for Fiscal Year 2018-2019 and Beyond

1. Academic approval shall be renewed annually for fiscal years 2018-2019 and beyond for any type III early learning center that:

a. has current academic approval;

b. is in compliance with the provisions of this Bulletin;

c. has not had two unsatisfactory performance ratings within any consecutive three school years; and

d. has submitted a signed copy of the current annual program partner assurances to the department, and is thereby agreeing to comply with the provisions of this Bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. Early learning centers shall annually submit a signed copy of annual program partner assurances to the department prior to July 1, or as requested by the department, whichever is earlier.

G. A center that has its academic approval terminated may not apply for academic approval for the fiscal year in which academic approval was terminated or the following fiscal year.

H. Academic approval shall be valid for the fiscal year, July 1-June 30, for which it is granted.

I. Academic approval is granted to a specific owner and a specific location and is not transferable. If a type III early learning center changes owners or location, it is considered a new operation, and academic approval for the new owner or location must be obtained prior to beginning operations under new ownership or at the new location.

J. Upon a change of ownership or change of location, the academic approval granted to the original owner or at the original location becomes null and void.

K. Renewal

1. Prior to July 1 of each year, the department shall send notice to each type III early learning center that has academic approval providing one of the following:

a. renewal of academic approval for the center;

b. notice of the center's failure to comply with specific requirements in Subsection A of this Section and specific corrective actions that must be taken by a specified date in order for academic approval to be renewed; or

c. if an early learning center has received the notice outlined in Subparagraph L.2.a of this Section within the academic year and the center has not provided the required certifications and completed the stated corrective actions, the department may terminate the center's academic approval as provided in Subparagraph L.2.c of this Section and send notice of termination of the center's academic approval.

L. Denial, Termination or Refusal to Renew Academic Approval

1. The department may deny terminate, or refuse to renew academic approval for:

a. violations of any provisions of this bulletin;

b. failure to timely comply with a corrective action plan provided by the department;

c. any act of fraud, such as the submission of false or altered documents or information;

d. failure to timely submit a signed copy of the annual program partner assurances; or

e. two unsatisfactory performance ratings within any consecutive three school years.

2. Notice

a. If a type III early learning center is in violation of any provision of this bulletin, the department shall notify the center in writing and may specify any corrective actions in a corrective action plan that shall be required to retain academic approval.

b. Within 30 calendar days of receiving such notice, the center shall submit certification in writing to the department that the corrective actions specified in the corrective action plan have been taken or are in the process of being taken in compliance with the schedule provided in the corrective action plan and certification that the center will remain in compliance with the corrective action plan and all applicable regulations.

c. If the type III early learning center does not respond in a timely or satisfactory manner to the notice and corrective action plan or adhere to the implementation schedule required in the corrective actions plan, the department may terminate or refuse to renew the center's academic approval.

d. The department shall provide written notice of denial, termination or refusal to renew academic approval to the center.

e. The denial, termination or refusal to renew a center's academic approval shall be effective when notice of the denial, termination, or refusal to renew is given.

M. Appeal Procedure

1. BESE shall have the authority to grant an appeal of the denial, termination or refusal to renew academic approval for a type III early learning center.

2. The appeal procedure shall be used when needed to address unforeseen and aberrant factors impacting type III early learning centers or when needed to address issues that arise when the literal application of the academic approval regulations does not consider certain unforeseen and unusual circumstances.

3. A type III early learning center may request an appeal of the denial, termination, or refusal to renew its academic approval by submitting a written request for an appeal to the department within 15 calendar days of being given notice of the denial, termination, or refusal to renew its academic approval.

4. All appeal requests shall clearly state the specific reasons for requesting the appeal and the reasons why the appeal should be granted and shall include any necessary supporting documentation.

5. The department shall review all timely submitted appeal requests and make recommendations to BESE during the first regularly scheduled BESE meeting following receipt of the appeal requests, or during the second regularly scheduled BESE meeting if an appeal request is received within 10 working days of the next regularly scheduled BESE meeting. Within this interval, the department shall notify the center of its recommendation and allow the center to respond in writing. The department's recommendation and the center's response shall be submitted to BESE for final disposition.

6. An early learning center that appeals the termination or refusal to renew its academic approval shall retain its academic approval during the appeal process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.36(C) and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2584 (December 2015), amended LR 42:

Chapter 5. Early Childhood Care and Education Accountability System

§503. Coordinated Observation Plan and Observation Requirements

A. - B.4.c. …

5. The department shall monitor observer accuracy within each observation period by comparing the domain level results from classroom observations conducted by the department's third-party contractors to the domain level results from classroom observations conducted by the community network for each observer.

a. Within each observation period, for observations conducted by a community network observer that have been compared to domain level results conducted by the department's third-party contractors, if more than 20 percent of the domain level results are different by more than one point for the community network observer, that observer and lead agency shall be issued a notice in writing by the state regarding their level of accuracy.

b. Within each observation period, for observations conducted by a community network observer that have been compared to domain level results conducted by the department's third-party contractors, if more than 33 percent of the domain level results are different by more than one point for the community network observer, that observer shall be shadow scored by another community network observer in the next observation period.

c. Within each observation period, for observations conducted by a community network observer that have been compared to domain level results conducted by the department's third-party contractors, if 50 percent or more of the domain level results are different by more than one point for the community network observer, the department shall determine that the community network observer shall not be able to conduct observations for that community network for the next observation period.

i. If the observer is no longer able to conduct observations for the community network, the department shall notify the observer and the lead agency that the observer shall not be able to conduct observations for that community network for the next observation period.

ii. A lead agency or community network observer may request in writing that the department review its decision in Subparagraph 5.c of this Subsection within 15 calendar days of receiving the decision.

iii. All requests for departmental review shall clearly state the specific reasons for requesting the review and the action being sought, and shall include all necessary supporting documentation.

iv. The department shall respond to the request for departmental review within 30 calendar days after receiving it.

v. The department may waive the action in Subparagraph 5.c of this Subsection in cases of extenuating circumstances or if the action would result in no other assessor being available to conduct required observations.

d. Observers who are receive notification from the department under Clause 5.c.i of this Subsection must meet the reliability requirements of 80 percent accuracy through annual recertification prior to being permitted to complete observations for the community network.

C. Coordinated Observation Plan

1. Each community network shall develop and maintain no later than September 30 of each year a written annual plan for coordinated observation using *CLASS*® that at a minimum includes:

a. - d.ii. …

iii. the community network conducts inter-rater reliability observation checks for 10 percent of all classrooms observed during the fall observation period and for 10 percent of all classrooms observed during the spring observation period, and that these reliability observation checks include every observer for the community network at least once annually; and

C.1.d.iv. - D.3. …

E. The department shall publicly release the reliability requirements for third-party contractors hired by the department annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2586 (December 2015, amended LR 42:

§509. Performance Rating Calculations for Publicly-Funded Sites

A. The performance rating for each publicly-funded site shall be based on the average of the dimension-level toddler and PreK observation results from the fall and spring observation periods for all toddler and PreK classrooms within the site, excluding the negative climate dimension.

1. BESE may include a weight for improvement beginning with the 2016-2017 school year.

2. Sites that have classrooms that receive a score of 3.5 or above for the negative climate dimension shall receive a notice in writing at the end of the observation period in which they received that score. If a site receives a notice for two consecutive observation periods, an indicator of high negative climate may be reported on the performance profile.

B. Any classroom in a publicly-funded site that does not have the observations required in §503 or does not have all results reported, shall have third-party scores for that classroom reported when available. If no third-party scores are available for that classroom, but there are observation scores for comparable classrooms within the site as required

in §503, the department shall assign the average domain score for the comparable classrooms to each missing CLASS score. The department may assign a score of 1 to each missing CLASS domain score if no comparable local or third-party scores are available. If this occurs, the score of one for missing or not-reported observation results shall be included in the performance rating calculation for that site. In these circumstances, the number of missing or not-reported observation results shall be reported on the performance profile.

B.1. - C.2. …

a. For the 2015-2016 learning year, if the observation results conducted by community networks are consistently different by more than one point from observation results conducted by the department's third-party contractors, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractors, including those results that do not differ by at least one point.

b. Beginning with the 2016-2017 school year, if observation results conducted by community networks are consistently different by more than one point from observation results conducted by the department's third-party contractors, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractors, including those results that do not differ by at least one point.

D. The performance rating for each site shall be based on the following numerical scale:

1. 6.0-7.0—excellent;
2. 4.50-5.99—proficient;
3. 3.0 – 4.49—approaching proficient;
4. 1.0-2.99—unsatisfactory.

E. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2587 (December 2015) , amended LR 42:

§511. Performance Rating Calculations for Community Networks

A. Community networks shall receive two performance ratings which shall be calculated as follows.

1. *CLASS*® observation results shall be one of the community network performance ratings.

2. An equitable access score for four-year-olds shall be one of the community network performance ratings.

3. BESE may include a weight for improvement on equitable access beginning with the 2017-2018 school year.

B. The *CLASS*® observation results shall be determined by averaging the results of all fall and spring dimension-level toddler and PreK observation results for all toddler and PreK classrooms within the community network excluding negative climate.

1. Any classroom in a site that does not have the observations required in §503, or has not had all observation results reported, shall have third-party scores for that classroom reported when available. If no third-party scores are available for that classroom, but there are observation scores for comparable classrooms within that site as required in §503, the department shall assign the average domain score for the comparable classrooms to each missing CLASS domain score. The department may assign a score of 1 to each missing CLASS domain score if no comparable local or third-party score are available. If this occurs, the score of one for missing observation or not-reported results shall be included in the performance rating calculation for the community network. In these circumstances the number of missing or not-reported observation results shall be reported on the community network's performance profile.

1.a - 2.b.i. …

ii. For every year after the 2015-2016 school year, if the observation results conducted by a community network are consistently different by more than one point from observation results conducted by the department's third-party contractor, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractor for that site, including those results that do not differ by at least one point.

C. The equitable access score performance rating shall be determined by calculating the access achieved by the community network for all at-risk four-year-old children in the community network coverage area. Points are earned on a four level rating scale according to:

Percentage of At-Risk Four-Year-Olds Served	Rating
90-100 percent	Excellent
80-89.99 percent	Proficient
70-79.99 percent	Approaching Proficient
0-69.99 percent	Unsatisfactory

D. The *CLASS* observation results performance rating for each community network shall be based on the following numerical scale:

1. 6.0-7.0—excellent;
2. 4.5-5.99—proficient;
3. 3.0-4.49—approaching proficient;
4. 1.0-2.99—unsatisfactory.

E. - G. …

H. Prior to the start of the 2017-2018 school year, a workgroup of Early Childhood Care and Education Advisory Council members shall be formed to study the inclusion of additional metrics in the performance rating calculations and review R.S. 17:407.21 et seq. for potential statutory changes, and shall make recommendations regarding the use of any additional performance rating calculation metrics in §509.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015) , amended LR 42:

§512. Performance Ratings for Publicly-Funded Sites

A. Unsatisfactory Publicly-funded Sites

1. Beginning with the 2016-2017 school year, publicly-funded sites rated as unsatisfactory, as defined in §509, for two school years in any consecutive three school year period, shall lose their public funding and have their academic approval terminated.

2. The state superintendent may grant exception to Paragraph A.1 of this Section if the publicly-funded site serves a special population, or if taking the required action in

Subsection A would create an extraordinary burden for families or place children at risk of harm.

3. The department shall conduct an annual needs analysis for families in regions that may be impacted by publicly-funded sites losing their public funding to support access to early childhood programs.

B. Rewards and Recognition

1. Beginning in the 2016-2017 school year, sites and community networks that are rated "excellent" shall be included in an annual honor roll published by the department and be eligible for financial rewards, as funds are available and as determined by the department.

2. No later than the 2017-2018 school year, sites and community networks that demonstrate significant improvement in their overall score or rating shall be labeled "top gains" on their performance profile and be eligible for financial rewards, as funds are available and as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§513. Informational Metrics of Best Practices

A. Informational metrics are measures of a publicly-funded site and a community network's use of the following early childhood care and education best practices. The performance profile shall report the publicly-funded site and community network's use of the best practices identified as investment in quality measures, which shall include but is not limited to:

1. teacher/child ratios. Publicly-funded sites maintain teacher/child ratios based on the age of children that are at or better than the minimum standards required in BESE *Bulletin 137—The Louisiana Licensing Early Learning Center Licensing Regulations*.

a. to achieve gold level ratios, publicly-funded sites use the following teacher/child ratios and group sizes.

Age	Teacher/Child Ratio	Maximum Group Size
Birth to 1 year	1:4	8
1 year to 2 years	1:4	8
2 years to 3 years	1:6	12
3 years to 4 years	1:8	16
4 years to 5 years	1:10	20

b. to achieve silver level ratios, publicly-funded sites use the following teacher/child ratios and group sizes.

Age	Teacher/Child Ratio	Maximum Group Size
Birth to 1 year	1:4	8
1 year to 2 years	1:6	12
2 years to 3 years	1:8	16
3 years to 4 years	1:10	20
4 years to 5 years	1:12	24

c. to achieve bronze level ratios, publicly-funded sites use the minimum ratio standards required in BESE *Bulletin 137—The Louisiana Licensing Early Learning Center Licensing Regulations*.

2. teacher preparation. Publicly-funded sites ensure lead teachers meet or exceed credential requirements for publicly-funded classrooms provided in BESE *Bulletin 746—Louisiana Standards for State Certification of School Personnel*;

3. Standards-Based Curriculum. Publicly-funded sites use a curriculum that is aligned to BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care* and Education Programs Serving Children Birth-Five Years.

B. The performance profile may report informational metrics in the following categories:

1. child assessment that informs instruction;

2. investment in quality measures;

3. family engagement and supports; and

4. community network supports (reported at the community network level only):

a. the number of children served in new publicly-funded early childhood seats

b. the percent of publicly-funded early childhood seats that are filled.

C. Each year and in collaboration with the Early Childhood Care and Education Advisory Council, the department shall review the results of the accountability system, including but not limited to the performance of programs on each domain of the *CLASS*, how the performance profile ratings are calculated, and the observer reliability substitution rates, and recommend any improvements for this Bulletin. To develop these recommendations, the department shall work collaboratively with the Early Childhood Care and Education Advisory Council, which shall establish a workgroup for this purpose. The department, with assent shown by vote of the Advisory Council, can decide in a given year that no review is needed.

D. Contingent on available funding, the department shall conduct an external implementation evaluation of Louisiana's Early Childhood Care and Education Network to answer questions that include but are not limited to whether the system:

1. is based on performance ratings that are valid and reliable;

2. meaningfully differentiates between levels of program quality; and

3. delivers a robust set of quality improvement supports and incentives for improvement, as well as consequences for failure to improve. The results of the study shall be shared with the Early Childhood Care and Education Advisory Council and BESE.

E. The LDE is required to collect data designed to strengthen the state's ability to track and monitor implementation of new and ongoing policies and supports, program quality, and child outcomes, positioning Louisiana to (1) provide targeted supports to teachers, programs, and schools, and (2) be evaluation-ready when funds and evaluators become available. The LDE shall explore critical data elements being collected by other states, seek recommendations from the Early Childhood Advisory Council on critical data elements and present a report on the findings to BESE no later than January 2017.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:

§515. Reporting for the Accountability System

A. Lead agencies shall report to the department, in the manner specified by the department, the following:

1. classroom counts:

a. by October 1, the number of classrooms serving infant, toddler and PreK children in each publicly-funded site on October 1;

b. by February 1, the number of classrooms serving infant, toddler, and PreK children in each publicly-funded site on February 1; and

c. by February 1, the number of classrooms in the February 1 count that have been added or removed since the October 1 count;

A.2. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2589 (December 2015), amended LR 42:

§517. Data Verification

A. The department shall provide all non-survey data contributing to the performance profile for publicly-funded sites and community networks to each lead agency prior to publishing the performance rating.

B. In 2015-2016, the department shall provide lead agencies 30 calendar days for final review, correction, and verification of data for the performance profiles. For all subsequent years, the department shall provide lead agencies 10 calendar days for final review, correction, and verification of data for performance profiles.

1. The lead agency shall create and implement a community network data certification procedure that requires review of all performance profile data for each site during the data certification period.

2. The department may request the certification procedure from each lead agency.

3. Data corrections shall not be grounds for an appeal or waiver request as all data corrections shall be made prior to the release of profiles regardless of the source of any errors.

4. Data corrections may only be submitted for the following reasons:

a. *CLASS*® observations results have been reported incorrectly; or

b. *CLASS*® observation results were not reported.

5. The department shall review all data corrections and grant approval of those corrections that are proven valid.

6. The department may request additional documentation to support the validity of the changes.

C. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2590 (December 2015), amended LR 42:

§521. Performance Profile Appeals Procedure

A. BESE shall have the authority to grant an appeal of a publicly-funded site or community network's performance profile.

B. The appeal procedure shall be used when needed to address unforeseen and aberrant factors impacting publicly-funded sites and community networks or when needed to address issues that arise when the literal application of the accountability system regulations does not consider certain unforeseen and unusual circumstances. Failure to complete observations or use of third-party scores are not sufficient reasons for requesting an appeal. Data corrections shall not be grounds for an appeal or waiver request as all data corrections shall be made prior to the release of profiles regardless of the source of any errors.

C. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2590 (December 2015), amended LR 42:

Chapter 7. Coordinated Enrollment

§703. Coordinated Enrollment Process

A. - B.4. …

C. In collaboration with representatives of providers of child care, Head Start, and prekindergarten services, the lead agency shall develop policies and procedures for how the requirements of §703.B will be implemented. These policies and procedures shall be submitted to the department prior to initiation of the enrollment process, and shall include training for providers and parents on the eligibility criteria for different programs, the matching process for the network, and the complaint process for providers and parents as needed.

D. - F. …

G. Request for Departmental Review

1. Any parent or caregiver may request that the department review the placement of his or her child resulting from the coordinated enrollment process.

2. A request for departmental review shall be submitted in writing to the department within 30 calendar days of placement of the child or of the event upon which the request for review is based.

3. All requests for departmental review shall clearly state the specific reasons for requesting the review and the action being sought, and shall include all necessary supporting documentation.

4. The department shall respond to the request for departmental review within 30 calendar days after receiving it.

5. Written notice of the process in outlined in §703.G.2, as well of the complaint process described in §311.A-F. and the appropriate contact information for the department, shall be made available to any parent or caregiver at the time they receive the decision of their child's placement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2591 (December 2015), amended LR 42:

§705. Implementation Timeline

A. - D. ...

E. Prior to the start of the school year, BESE shall review this Chapter and revise as necessary based on learnings from the previous year. A work group of the Early Childhood Care and Education Advisory Council shall be formed to study the effectiveness of the coordinated enrollment process and make recommendations to the council and BESE for changes for implementation in the following school year. This research may include, but not be limited to, defining key indicators of effectiveness, conducting focus groups of all provider types, reviewing data on the placement of new early childhood seats opened statewide, and reviewing other available information. The

department, with assent shown by vote of the Advisory Council, may decide in a given year that no review is needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2592 (December 2015), amended LR 42:

§707. Demonstrated Progress Toward Implementation

A. …

B. The department may require community networks to complete an enrollment self-assessment each year. This self-assessment shall include, but is not limited to, the outcomes of the prior year's coordinated enrollment process, specifically how family choice resulted in these outcomes.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2592 (December 2015), amended LR 42:

§709. Community Network Request for Funding for Publicly-Funded Programs

A. By December 1 of each fiscal year, the lead agency shall develop, in collaboration with representatives of providers of child care, Head Start, and prekindergarten services, and submit a funding request for the following fiscal year to the department on behalf of the community network that is based on the coordinated enrollment results, which shall include the following:

1. the number of applications received for each age of at-risk children;

2. the number of seats requested at each publicly-funded site;

3. the number of seats recommended by the lead agency to receive funding with a prioritization by site and age of children served by funding source;

4. the criteria and process used to develop the community network request;

5. the recommended plan to maximize all funding sources to increase service to at-risk children;

6. the number of seats being requested in a mixed delivery setting; and

7. The number of eligible children served in the network by specific program type.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2592 (December 2015), amended LR 42:

§713. Request for Departmental Review

A. Any publicly-funded program may request that the department review an enrollment decision or funding request of its lead agency or local enrollment coordinator. All programs shall be given written notice of the opportunity to request a departmental review of a lead agency or local enrollment coordinator's enrollment decision or funding request, as well as the complaint process described in §311.A-F. and the appropriate contact information for the department.

B. A request for departmental review shall be submitted in writing to the department no later than 30 calendar days after the day on which community networks must submit funding requests to the department or the day in which the community network submitted the funding request to the department, whichever is later.

C. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2593 (December 2015), amended LR 42:

James D. Garvey, Jr.
President

1610#005

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Louisiana Low-Income Academic Hospitals
(LAC 50:V.2501 and Chapter 31)

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.2501 and adopts LAC 50:V.Chapter 31 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated Emergency Rules which amended the provisions governing disproportionate share hospital (DSH) payments to hospitals participating in public-private partnerships in the south and north Louisiana areas (*Louisiana Register*, Volume 39, Numbers 7 and 10). As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the corresponding State Plan amendments, the department determined that it was necessary to repeal the provisions of the July 6, 2013 and October 1, 2013 Emergency Rules governing DSH payments to the hospitals participating in the south and north Louisiana area public-private partnerships.

The department promulgated an Emergency Rule which amended the provisions governing DSH payments in order to establish payments to Louisiana low-income academic hospitals (*Louisiana Register,* Volume 40, Number 6). The department subsequently promulgated an Emergency Rule which amended the provisions of the May 24, 2014 Emergency Rule to clarify the provisions governing the payment methodology to Louisiana low-income academic hospitals (*Louisiana Register*, Volume 40, Number 9). The department promulgated an Emergency Rule which amended the provisions of the September 20, 2014 Emergency Rule in order to clarify qualifying criteria for Louisiana low-income

academic hospitals and revise the reimbursement and DSH payment methodology (*Louisiana Register*, Volume 42, Number 6).

The department subsequently promulgated an Emergency Rule which amended the provisions governing DSH payments in order to revise the reimbursement schedule for the payments (*Louisiana Register,* Volume 42, Number 10). The department has now determined that it is necessary to amend the provisions of the October 1, 2016 Emergency Rule to revise the provisions governing DSH payments in order to return to the reimbursement schedule in effect on June 20, 2016. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective October 20, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions of the October 1, 2016 Emergency Rule governing DSH payments to low-income academic hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 25. Disproportionate Share Hospital Payment Methodologies

§2501. General Provisions

A. - C. ...

D. - E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:657 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:790 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

Chapter 31. Louisiana Low-Income Academic Hospitals

§3101. Qualifying Criteria

A. Hospitals Located Outside of the Baton Rouge and New Orleans Metropolitan Statistical Area

1. Effective for dates of service on or after July 1, 2016, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located outside of the Baton Rouge and New Orleans metropolitan statistical area (MSA) which:

i. entered into a cooperative endeavor agreement with the state of Louisiana to increase its provision of inpatient Medicaid and uninsured services by providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

ii. is formerly a state owned and operated hospital whose ownership change to non-state privately owned and operated prior to July 1, 2014;

b. has Medicaid inpatient days utilization greater than 18.9 percent. Qualification shall be calculated by dividing the Medicaid inpatient days by the total inpatient days reported on the Medicaid as filed cost report ending during state fiscal year 2015 received by April 30, 2016, and shall include traditional, shared, and managed care Medicaid days per the worksheet S-3 part I, lines 1 through 18. Column 7 shall be used to determine allowable Medicaid days and column 8 shall be used to determine total inpatient days; and

c. has a ratio of intern and resident full time equivalents (FTEs) to total inpatient beds that is greater than .08. Qualification shall be based on the total inpatient beds and intern and resident FTEs reported on the Medicare/Medicaid cost report ending during state fiscal year 2015. The ratio of interns and resident FTEs shall be calculated by dividing the unweighted intern and resident FTEs reported on the Medicare Cost Report Worksheet E-4, line 6 by the total inpatient beds, excluding nursery and Medicare designated distinct part psychiatric unit beds, reported on worksheet S-3, column 2, lines 1 through 18.

B. Hospitals Located In the New Orleans Metropolitan Statistical Area

1. Effective for dates of service on or after July 1, 2016, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located in the New Orleans MSA which:

i. entered into a cooperative endeavor agreement with the state of Louisiana to increase its provision of inpatient Medicaid and uninsured services by providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

ii. is formerly a state owned and operated hospital whose ownership changed to non-state privately owned and operated prior to July 1, 2014;

b. has Medicaid inpatient days utilization greater than 45 percent. Qualification shall be calculated by dividing the Medicaid inpatient days by the total inpatient days reported on the Medicaid as filed cost report ending during state fiscal year 2015 received by April 30, 2016, and shall include traditional, shared, and managed care Medicaid days per the worksheet S-3 part I, lines 1 through 18. Column 7 shall be used to determine allowable Medicaid days and column 8 shall be used to determine total inpatient days; and

c. has a ratio of intern and resident FTEs to total inpatient beds that is greater than 1.25. Qualification shall be based on the total inpatient beds and intern and resident FTEs reported on the Medicare/Medicaid cost report ending during state fiscal year 2015. The ratio of interns and resident FTEs shall be calculated by dividing the unweighted intern and resident FTEs reported on the Medicare Cost Report Worksheet E-4, line 6 by the total inpatient beds, excluding nursery and Medicare designated distinct part psychiatric unit beds, reported on worksheet S-3, column 2, lines 1 through 18.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§3103. Payment Methodology

A. Each qualifying hospital shall be paid DSH adjustment payments equal to 100 percent of allowable hospital specific uncompensated care costs.

1. Costs, patient-specific data and documentation that qualifying criteria is met shall be submitted in a format specified by the department.

2. Costs and lengths of stay shall be reviewed by the department for reasonableness before payments are made.

B. Payment Calculation

1. For the initial year's payment calculation, each qualifying hospital shall submit interim actual cost data calculated utilizing Medicaid allowable cost report

principles, along with actual Medicaid and uninsured patient charge data. Annual Medicaid costs shortfalls and unreimbursed uninsured patient costs are determined based on review and analysis of these submissions.

2. For subsequent year's payment calculations, the most recent Medicaid filed cost report along with actual Medicaid and uninsured patient charge data annualized from the most recent calendar year completed quarter is utilized to calculate hospital-specific uncompensated care costs.

C. The department shall review cost data, charge data, lengths of stay and Medicaid claims data per the Medicaid Management and Information Systems (MMIS) for reasonableness before payments are made.

D. The first payment of each fiscal year will be made by October 15 and will be 80 percent of the annual calculated uncompensated care costs. The remainder of the payment will be made by June 30 of each year.

1. Reconciliation of these payments to actual hospital specific uncompensated care costs will be made when the cost report(s) covering the actual dates of service from the state fiscal year are filed and reviewed.

2. Additional payments or recoupments, as needed, shall be made after the finalization of the Centers for Medicare and Medicaid Services (CMS) mandated DSH audit for the state fiscal year.

3. - 4. Repealed.

E. No payment under this Section is dependent on any agreement or arrangement for providers or related entities to donate money or services to a governmental entity.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

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

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1610#058

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Louisiana Low-Income Academic Hospitals
(LAC 50:V.2501 and Chapter 31)

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.2501 and adopts LAC 50:V.Chapter 31 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated Emergency Rules which amended the provisions governing disproportionate share hospital (DSH) payments to hospitals participating in public-private partnerships in the south and north Louisiana areas (*Louisiana Register*, Volume 39, Numbers 7 and 10). As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the corresponding State Plan amendments, the department determined that it was necessary to repeal the provisions of the July 6, 2013 and October 1, 2013 Emergency Rules governing DSH payments to the hospitals participating in the south and north Louisiana area public-private partnerships.

The department promulgated an Emergency Rule which amended the provisions governing DSH payments in order to establish payments to Louisiana low-income academic hospitals (*Louisiana Register,* Volume 40, Number 6). The department subsequently promulgated an Emergency Rule which amended the provisions of the May 24, 2014 Emergency Rule to clarify the provisions governing the payment methodology to Louisiana low-income academic hospitals (*Louisiana Register*, Volume 40, Number 9). The department promulgated an Emergency Rule which amended the provisions of the September 20, 2014 Emergency Rule in order to clarify qualifying criteria for Louisiana low-income academic hospitals and revise the reimbursement and DSH payment methodology (*Louisiana Register*, Volume 42, Number 6).

The department now proposes to amend the provisions governing DSH payments in order to revise the reimbursement schedule for the payments. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective October 1, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions of the June 20, 2016 Emergency Rule governing DSH payments to low-income academic hospitals.

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

§2501. General Provisions

A. - C. ...

D. - E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:657 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:790 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

Chapter 31. Louisiana Low-Income Academic Hospitals

§3101. Qualifying Criteria

A. Hospitals Located Outside of the Baton Rouge and New Orleans Metropolitan Statistical Area

1. Effective for dates of service on or after July 1, 2016, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located outside of the Baton Rouge and New Orleans metropolitan statistical area (MSA) which:

i. entered into a cooperative endeavor agreement with the State of Louisiana to increase its provision of inpatient Medicaid and uninsured services by providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

ii. is formerly a state owned and operated hospital whose ownership change to non-state privately owned and operated prior to July 1, 2014;

b. has Medicaid inpatient days utilization greater than 18.9 percent. Qualification shall be calculated by dividing the Medicaid inpatient days by the total inpatient days reported on the Medicaid as filed cost report ending during state fiscal year 2015 received by April 30, 2016, and shall include traditional, shared, and managed care Medicaid days per the worksheet S-3 part I, lines 1 through 18. Column 7 shall be used to determine allowable Medicaid days and column 8 shall be used to determine total inpatient days; and

c. has a ratio of intern and resident full-time equivalents (FTEs) to total inpatient beds that is greater than .08. Qualification shall be based on the total inpatient beds and intern and resident FTEs reported on the Medicare/Medicaid cost report ending during state fiscal year 2015. The ratio of interns and resident FTEs shall be calculated by dividing the unweighted intern and resident FTEs reported on the Medicare Cost Report Worksheet E-4, line 6 by the total inpatient beds, excluding nursery and Medicare designated distinct part psychiatric unit beds, reported on worksheet S-3, column 2, lines 1 through 18.

B. Hospitals Located In the New Orleans Metropolitan Statistical Area

1. Effective for dates of service on or after July 1, 2016, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located in the New Orleans MSA which:

i. entered into a cooperative endeavor agreement with the State of Louisiana to increase its provision of inpatient Medicaid and uninsured services by providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

ii. is formerly a state owned and operated hospital whose ownership changed to non-state privately owned and operated prior to July 1, 2014;

b. has Medicaid inpatient days utilization greater than 45 percent. Qualification shall be calculated by dividing the Medicaid inpatient days by the total inpatient days reported on the Medicaid as filed cost report ending during state fiscal year 2015 received by April 30, 2016, and shall include traditional, shared, and managed care Medicaid days per the worksheet S-3 part I, lines 1 through 18. Column 7 shall be used to determine allowable Medicaid days and column 8 shall be used to determine total inpatient days; and

c. has a ratio of intern and resident FTEs to total inpatient beds that is greater than 1.25. Qualification shall be based on the total inpatient beds and intern and resident FTEs reported on the Medicare/Medicaid cost report ending during state fiscal year 2015. The ratio of interns and resident FTEs shall be calculated by dividing the unweighted intern and resident FTEs reported on the Medicare Cost Report Worksheet E-4, line 6 by the total inpatient beds, excluding nursery and Medicare designated distinct part psychiatric unit beds, reported on worksheet S-3, column 2, lines 1 through 18.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§3103. Payment Methodology

A. Each qualifying hospital shall be paid DSH adjustment payments equal to 100 percent of allowable hospital specific uncompensated care costs.

1. Costs, patient specific data and documentation that qualifying criteria is met shall be submitted in a format specified by the department.

2. Costs and lengths of stay shall be reviewed by the department for reasonableness before payments are made.

B. Payment Calculation

1. For the initial year's payment calculation, each qualifying hospital shall submit interim actual cost data calculated utilizing Medicaid allowable cost report principles, along with actual Medicaid and uninsured patient charge data. Annual Medicaid costs shortfalls and unreimbursed uninsured patient costs are determined based on review and analysis of these submissions.

2. For subsequent year's payment calculations, the most recent Medicaid filed cost report along with actual Medicaid and uninsured patient charge data annualized from the most recent calendar year completed quarter is utilized to calculate hospital specific uncompensated care costs.

C. The department shall review cost data, charge data, lengths of stay and Medicaid claims data per the Medicaid management and information systems (MMIS) for reasonableness before payments are made.

D. Reimbursement Methodology

1. Payments for Hospitals Outside of the Shreveport Area. The first payment of each fiscal year will be made by October 15 and will be 80 percent of the annual calculated uncompensated care costs. The remainder of the payment will be made by June 30 of each year.

2. Payments for Hospitals in the Shreveport Area. The first payment of each fiscal year will be made after October 1 and will be 25 percent of the annual calculated uncompensated care costs. The remainder of the payments due will be made as monthly payments from November through June of each year.

3. Reconciliation of these payments to actual hospital specific uncompensated care costs will be made when the cost report(s) covering the actual dates of service from the state fiscal year are filed and reviewed.

4. Additional payments or recoupments, as needed, shall be made after the finalization of the Centers for Medicare and Medicaid Services (CMS) mandated DSH audit for the state fiscal year.

E. No payment under this Section is dependent on any agreement or arrangement for providers or related entities to donate money or services to a governmental entity.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

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

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1610#008

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Major Medical Centers
(LAC 50:V.2715)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.2715 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing disproportionate share hospital (DSH) payments in order to re-establish the provisions governing payments to public, non-rural community hospitals (*Louisiana Register*, Volume 40, Number 10). The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions to establish a qualification criteria and DSH payment methodology for major medical centers located in the central and northern areas of Louisiana (*Louisiana Register*, Volume 42, Number 7). This Emergency Rule is being promulgated to continue the provisions of the June 30, 2016 Emergency Rule.

This action is being taken to promote the public health and welfare of uninsured individuals, and ensure their continued access to health services by assuring that hospitals are adequately reimbursed for furnishing uncompensated care.

Effective October 29, 2016, the Department of Health, Bureau of Health Services Financing adopts provisions governing DSH payments to major medical centers located in the central and northern areas of Louisiana.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 3. Disproportionate Share Hospital Payments
Chapter 27. Qualifying Hospitals
§2715. Major Medical Centers Located in Central and Northern Areas of the State

A. Effective for dates of service on or after June 30, 2016, hospitals qualifying for payments as major medical centers located in the central and northern areas of the state shall meet the following criteria:

1. be a private, non-rural hospital located in Department of Health administrative regions 6, 7, or 8;

2. have at least 200 inpatient beds as reported on the Medicare/Medicaid cost report, Worksheet S-3, column 2, lines 1-18, for the state fiscal year ending June 30, 2015. For qualification purposes, inpatient beds shall exclude nursery and Medicare designated distinct part psychiatric unit beds;

3. does not qualify as a Louisiana low-income academic hospital under the provisions of §3101; and

4. such qualifying hospital (or its affiliate) does have a memorandum of understanding executed on or after June 30, 2016 with Louisiana State University, School of Medicine, the purpose of which is to maintain and improve access to quality care for Medicaid patients in connection with the expansion of Medicaid in the state through the promotion, expansion, and support of graduate medical education and training.

B. Payment Methodology. Effective for dates of service on or after June 30, 2016, each qualifying hospital shall be paid a DSH adjustment payment which is the pro rata amount calculated by dividing their hospital specific allowable uncompensated care costs by the total allowable uncompensated care costs for all hospitals qualifying under this category and multiplying by the funding appropriated by the Louisiana Legislature in the applicable state fiscal year for this category of hospitals.

1. Costs, patient-specific data and documentation that qualifying criteria is met shall be submitted in a format specified by the department.

2. Costs and lengths of stay shall be reviewed by the department for reasonableness before payments are made.

3. Aggregate DSH payments for hospitals that receive payment from this category, and any other DSH category, shall not exceed the hospital's specific DSH limit. If payments calculated under this methodology would cause a hospital's aggregate DSH payment to exceed the limit, the payment from this category shall be capped at the hospital's specific DSH limit.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

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

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1610#059

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Intermediate Care Facilities for Persons
with Intellectual Disabilities
Evacuation and Temporary Sheltering Costs
(LAC 50:VII.33103 and 33105)

The Department of Health, Bureau of Health Services Financing amends LAC 50:VII.33103 and adopts §33105 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with intellectual disabilities (ICFs/ID) to establish reimbursement for complex care services provided to Medicaid recipients residing in non-state ICFs/ID (*Louisiana Register*, Volume 42, Number 2).

The Department of Health, Bureau of Health Services Financing now proposes to amend the provisions governing the reimbursement methodology for ICFs/ID to establish provisions governing evacuation and temporary sheltering costs incurred during a declared disaster or emergency event to ensure evacuating ICFs/ID continue to receive vendor payments while providing essential care and services to residents at a host site when they are displaced. This action is being taken to avoid imminent peril to the public health, safety or welfare of ICF/ID residents by ensuring continued access to services during declared disasters. It is estimated that implementation of this Emergency Rule will have no fiscal impact to the Medicaid Program in state fiscal year 2016-2017.

Effective October 13, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions governing intermediate care facilities for persons with intellectual disabilities to establish provisions governing evacuation and temporary sheltering costs during a declared disaster or emergency event.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part VII. Long-Term Care Services
Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities
Chapter 331. Vendor Payments
§33103. Payment Limitations

A. Temporary Absence of the Client. A client's temporary absence from an ICF/ID will not interrupt the monthly vendor payment to the ICF/ID, provided the following conditions are met:

1. the ICF/ID keeps a bed available for the client's return; and

2. the absence is for one of the following reasons:

a. …

b. leave of absence. A temporary stay outside the ICF/ID provided for in the client's written individual habilitation plan. A leave of absence will not exceed 45 days per fiscal year (July 1 through June 30) and will not exceed 30 consecutive days in any single occurrence. Certain leaves of absence will be excluded from the annual 45-day limit as long as the leave does not exceed the 30-consecutive day limit and is included in the written individual habilitation plan. These exceptions are as follows:

i.-v. …

NOTE: Elopements and unauthorized absences under the individual habilitation plan count against allowable leave days. However, title XIX eligibility is not affected if the absence does not exceed 30 consecutive days and if the ICF/ID has not discharged the client.

3. …

4. a period of 24 continuous hours or more shall be considered an absence. Likewise, a temporary leave of absence for hospitalization or a home visit is broken only if the client returns to the ICF/ID for 24 hours or longer;

5. upon admission, a client must remain in the ICF/ID at least 24 continuous hours in order for the ICF/ID to submit a payment claim for a day of service or reserve a bed;

EXAMPLE: A client admitted to an ICF/ID in the morning and transferred to the hospital that afternoon would not be eligible for any vendor payment for ICF/ID services.

6. …

7. the ICF/ID shall promptly notify DHH of absences beyond the applicable 30- or 7-day limitations. Payment to the ICF/MR shall be terminated from the thirty-first or eighth day, depending upon the leave of absence. Payment will commence after the individual has been determined eligible for title XIX benefits and has remained in the ICF/ID for 30 consecutive days;

8. the limit on title XIX payment for leave days does not mean that further leave days are prohibited when provided for in the individual habilitation plan. After the title XIX payment limit is met, further leave days may be arranged between the ICF/ID and the client, family or responsible party. Such arrangements may include the following options.

a. The ICF/ID may charge the client, family or responsible party an amount not to exceed the title XIX daily rate.

b. The ICF/ID may charge the client, family or responsible party a portion of the title XIX daily rate.

c. The ICF/ID may absorb the cost into its operation costs.

B. Temporary Absence of the Client Due to Evacuations. When local conditions require evacuation of ICF/ID residents, the following procedures apply.

1. When clients are evacuated to a family's or friend's home at the ICF/ID's request, the ICF/MR shall not submit a claim for a day of service or leave day, and the client's liability shall not be collected.

2. When clients go home at the family's request or on their own initiative, a leave day shall be charged.

3. When clients are admitted to the hospital for the purpose of evacuation of the ICF/ID, Medicaid payment shall not be made for hospital charges.

4. - 5. Repealed.

C. Payment Policy in regard to Date of Admission, Discharge, or Death

1. Medicaid (title XIX) payments shall be made effective as of the admission date to the ICF/ID. If the client is medically certified as of that date and if either of the following conditions is met:

a. the client is eligible for Medicaid benefits in the ICF/ID (excluding the medically needy); or

b. the client was in a continuous institutional living arrangement (nursing home, hospital, ICF/ID, or a combination of these institutional living arrangements) for 30 consecutive days; the client must also be determined financially eligible for medical assistance.

2. The continuous stay requirement is:

a. ...

b. not interrupted by the client's absence from the ICF/ID when the absence is for hospitalization or leave of absence which is part of the written individual habilitation plan.

3. The client's applicable income is applied toward the ICF/ID fee effective with the date Medicaid payment is to begin.

4. - 5. ...

NOTE: The ICF/ID shall promptly notify LDH/BHSF of admissions, death, and/or all discharges.

D. Advance Deposits

1. An ICF/ID shall neither require nor accept an advance deposit from an individual whose Medicaid (title XIX) eligibility has been established.

EXCEPTION: An ICF/ID may require an advance deposit for the current month only on that part of the total payment which is the client's liability.

2. ...

E. Retroactive Payment. When individuals enter an ICF/ID before their Medicaid (title XIX) eligibility has been established payment for ICF/ID services is made retroactive to the first day of eligibility after admission.

F. Timely Filing for Reimbursements. Vendor payments cannot be made if more than 12 months have elapsed between the month of initial services and submittal of a claim for these services. Exceptions for payments of claims over 12 months old can be made with authorization from LDH/BHSF only.

G. Refunds to Clients

1. When the ICF/ID receives vendor payments, it shall refund any fees for services collected from clients, family or responsible party by the end of the month in which vendor payment is received.

2. Advance payments for a client's liability (applicable income) shall be refunded promptly if he/she leaves the ICF/ID.

3. The ICF/ID shall adhere to the following procedures for refunds.

a. The proportionate amount for the remaining days of the month shall be refunded to the client, family, or the responsible party no later than 30 days following the date of discharge. If the client has not yet been certified, the procedures spelled out in §33103.G.1 above shall apply.

b. No penalty shall be charged to the client, family, or responsible party even if the circumstances surrounding the discharge occurred as follows:

i. - ii. ...

iii. within some other "minimum stay" period established by the ICF/ID.

c. ...

H. ICF/ID Refunds to the Department

1. Nonparticipating ICF/ID. Vendor payments made for services performed while an ICF/ID is in a nonparticipating status with the Medicaid Program shall be refunded to the department.

2. Participating ICF/ID. A currently participating title XIX, ICF/ID shall correct billing or payment errors by use of appropriate adjustment void or patient liability (PLI) adjustment forms.

I. Sitters. An ICF/ID will neither expect nor require a client to have a sitter. However, the ICF/ID shall permit clients, families, or responsible parties directly to employ and pay sitters when indicated, subject to the following limitations.

1. The use of sitters will be entirely at the client's, family's, or responsible party's discretion. However, the ICF/ID shall have the right to approve the selection of a sitter. If the ICF/ID disapproves the selection of the sitter, the ICF/ID will provide written notification to the client, family, and/or responsible party, and to the department stating the reasons for disapproval.

2. – NOTE. ...

3. Payment to sitters is the direct responsibility of the ICF/ID facility when:

a. - c. ...

4. A sitter will be expected to abide by the ICF/ID's rules, including health standards and professional ethics.

5. The presence of a sitter does not absolve the ICF/ID of its full responsibility for the client's care.

6. The ICF/ID is not responsible for providing a sitter if one is required while the resident is on home leave.

J. Tips. The ICF/ID shall not permit tips for services rendered by its employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and

Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:682 (April 1999), LR 31:1082 (May 2005), repromulgated LR 31:2257 (September 2005), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

§33105. Evacuation and Temporary Sheltering Costs

A. Intermediate care facilities for persons with intellectual disabilities required to participate in an evacuation, as directed by the appropriate parish or state official, or which act as a host shelter site may be entitled to reimbursement of its documented and allowable evacuation and temporary sheltering costs.

1. The expense incurred must be in excess of any existing or anticipated reimbursement from any other sources, including the Federal Emergency Management Agency (FEMA) or its successor.

2. ICFs/ID must first apply for evacuation or sheltering reimbursement from all other sources and request that the department apply for FEMA assistance on their behalf.

3. ICFs/ID must submit expense and reimbursement documentation directly related to the evacuation or temporary sheltering of Medicaid residents to the department.

B. Eligible Expenses. Expenses eligible for reimbursement must occur as a result of an evacuation and be reasonable, necessary, and proper. Eligible expenses are subject to audit at the department's discretion and may include the following.

1. Evacuation Expenses. Evacuation expenses include expenses from the date of evacuation to the date of arrival at a temporary shelter or another ICF/ID. Evacuation expenses include:

a. resident transportation and lodging expenses during travel;

b. nursing staff expenses when accompanying residents, including:

i. transportation;

ii. lodging; and

iii. additional direct care expenses, when a direct care expense increase of 10 percent or more is documented:

(a). the direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department;

c. any additional allowable costs that are directly related to the evacuation and that would normally be allowed under the ICF/ID rate methodology.

2. Non-ICF/ID Facility Temporary Sheltering Expenses. Non-ICF/ID facility temporary sheltering expenses include expenses from the date the Medicaid residents arrive at a non-ICF/ID facility temporary shelter to the date all Medicaid residents leave the shelter. A non-ICF/ID facility temporary shelter includes shelters that are not part of a licensed ICF/ID and are not billing for the residents under the ICF/ID reimbursement methodology or any other Medicaid reimbursement system. Non-ICF/ID facility temporary sheltering expenses may include:

a. additional nursing staff expenses including:

i. lodging; and

ii. additional direct care expenses, when a direct care expense increase of 10 percent or more is documented:

(a). the direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department;

b. care-related expenses incurred in excess of care-related expenses prior to the evacuation;

c. additional medically necessary equipment such as beds and portable ventilators that are not available from the evacuating nursing facility and are rented or purchased specifically for the temporary sheltered residents; and

i. these expenses will be capped at a daily rental fee not to exceed the total purchase price of the item;

ii. the allowable daily rental fee will be determined by the department;

d. any additional allowable costs as determined by the department and that are directly related to the temporary sheltering and that would normally be allowed under the ICF/ID reimbursement methodology.

3. Host ICF/ID Temporary Sheltering Expenses. Host ICF/ID temporary sheltering expenses include expenses from the date the Medicaid residents are admitted to a licensed ICF/ID to the date all temporary sheltered Medicaid residents are discharged from the ICF/ID, not to exceed a six-month period.

a. The host ICF/ID shall bill for the residents under Medicaid's ICF/ID reimbursement methodology.

b. Additional direct care expenses may be submitted when a direct care expense increase of 10 percent or more is documented.

i. The direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department.

C. Payment of Eligible Expenses

1. For payment purposes, total eligible Medicaid expenses will be the sum of nonresident-specific eligible expenses multiplied by the facility's Medicaid occupancy percentage plus Medicaid resident-specific expenses.

a. If Medicaid occupancy is not easily verified using the evacuation resident listing, the Medicaid occupancy from the most recently filed cost report will be used.

2. Payments shall be made as quarterly lump-sum payments until all eligible expenses have been submitted and paid. Eligible expense documentation must be submitted to the department by the end of each calendar quarter.

3. All eligible expenses documented and allowed under §33105 will be removed from allowable expenses when the ICF/ID's Medicaid cost report is filed. These expenses will not be included in the allowable cost used to set ICF/ID reimbursement rates in future years.

a. Equipment purchases that are reimbursed on a rental rate under §33105.B.2.c may have their remaining basis included as allowable cost on future costs reports provided that the equipment is in the ICF/ID and being used. If the remaining basis requires capitalization then depreciation will be recognized.

4. Payments shall remain under the upper payment limit cap for ICFs/ID.

D. When an ICF/ID resident is evacuated to a temporary sheltering site (an unlicensed sheltering site or a licensed

ICF/ID) for less than 24 hours, the Medicaid vendor payment to the evacuating facility will not be interrupted.

E. When an ICF/ID resident is evacuated to a temporary sheltering site (an unlicensed sheltering site or a licensed NF) for greater than 24 hours, the evacuating ICF/ID may submit the claim for Medicaid vendor payment for a maximum of five days, provided that the evacuating ICF/ID provides sufficient staff and resources to ensure the delivery of essential care and services to the resident at the temporary shelter site.

F. When an ICF/ID resident is evacuated to a temporary shelter site, which is an unlicensed sheltering site, for greater than five days, the evacuating ICF/ID may submit the claim for Medicaid vendor payment for up to an additional 15 days, provided that the evacuating ICF/ID:

1. has received an extension to stay at the unlicensed shelter site; and

2. provides sufficient staff and resources to ensure the delivery of essential care and services to the resident, and to ensure the needs of the resident are met.

G. When an ICF/ID resident is evacuated to a temporary shelter site, which is a licensed ICF/ID, for greater than five days, the evacuating ICF/ID may submit the claim for Medicaid vendor payment for an additional period, not to exceed 55 days, provided that:

1. the host/receiving ICF/ID has sufficient licensed and certified bed capacity for the resident, or the host/receiving ICF/ID has received departmental and/or CMS approval to exceed the licensed and certified bed capacity for a specified period; and

2. the evacuating ICF/ID provides sufficient staff and resources to ensure the delivery of essential care and services to the resident, and to ensure the needs of the resident are met.

H. If an ICF/ID resident is evacuated to a temporary shelter site which is a licensed ICF/ID, the receiving/host ICF/ID may submit claims for Medicaid vendor payment under the following conditions:

1. beginning day two and continuing during the "sheltering period" and any extension period, if the evacuating nursing home does not provide sufficient staff and resources to ensure the delivery of essential care and services to the resident and to ensure the needs of the residents are met;

2. upon admission of the evacuated residents to the host/receiving ICF/ID; or

3. upon obtaining approval of a temporary hardship exception from the department, if the evacuating ICF/ID is not submitting claims for Medicaid vendor payment.

I. Only one ICF/ID may submit the claims and be reimbursed by the Medicaid Program for each Medicaid resident for the same date of service.

J. An ICF/ID may not submit claims for Medicaid vendor payment for non-admitted residents beyond the expiration of its extension to exceed licensed (and/or certified) bed capacity or expiration of its temporary hardship exception.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

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

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1610#034

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Nursing Facilities—Evacuation and
Temporary Sheltering Costs (LAC 50:II.20019)

The Department of Health, Bureau of Health Services Financing amends LAC 50:II.20019 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In compliance with the directives of Act 540 of the 2006 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for nursing facilities to provide for the facility-specific reimbursement of documented and allowable evacuation and temporary sheltering costs of Medicaid-certified nursing facilities (*Louisiana Register,* Volume 38, Number 5).

The Department of Health, Bureau of Health Services Financing now proposes to amend the provisions of the May 20, 2008 Rule governing the reimbursement methodology for nursing facilities to amend the provisions governing evacuation and temporary sheltering costs in order to ensure that an evacuating nursing facility continues to receive vendor payments while providing essential care and services to residents at a host site when they are displaced. This action is being taken to avoid imminent peril to the public health, safety or welfare of nursing facility residents by ensuring continued access to services during declared disasters. It is estimated that implementation of this Emergency Rule will have no fiscal impact to the Medicaid Program in state fiscal year 2016-2017.

Effective October 13, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities to revise the provisions governing evacuation and

temporary sheltering costs during a declared disaster or emergency event.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement
Chapter 200. Reimbursement Methodology
§20019. Evacuation and Temporary Sheltering Costs
[Formerly LAC 50:VII.1319]

A. - B.1.b.iii.(a). …

c. any additional allowable costs as defined in the *CMS Publication 15-1-21*, last modified 9/28/2012, that are directly related to the evacuation and that would normally be allowed under the nursing facility case-mix rate.

2. - 2.a.ii.(a). …

b. care-related expenses as defined in LAC 50:II.20005 and incurred in excess of care-related expenses prior to the evacuation;

c. - c.ii. …

d. any additional allowable costs as defined in the *CMS Publication 15-1-21*, last modified 9/28/2012, that are directly related to the temporary sheltering and that would normally be allowed under the nursing facility case-mix rate.

3. - 3.b.i. …

C. Payment of Eligible Expenses

1. - 2. …

3. All eligible expenses documented and allowed under §20019 will be removed from allowable expenses when the nursing facility's Medicaid cost report is filed. These expenses will not be included in the allowable cost used to set case-mix reimbursement rates in future years.

a. Equipment purchases that are reimbursed on a rental rate under §20019.B.2.c may have their remaining basis included as allowable cost on future costs reports provided that the equipment is in the nursing facility and being used. If the remaining basis requires capitalization under *CMS Publication 15-1-21* guidelines, last modified 9/28/2012, then depreciation will be recognized.

4. …

D. When a nursing facility (NF) resident is evacuated to a temporary sheltering site (an unlicensed sheltering site or a licensed NF) for less than 24 hours, the Medicaid vendor payment to the evacuating facility will not be interrupted.

E. When an NF resident is evacuated to a temporary shelter site (an unlicensed sheltering site or a licensed NF) for greater than 24 hours, the evacuating nursing facility may submit the claim for Medicaid vendor payment for a maximum of five days, provided that the evacuating nursing facility provides sufficient staff and resources to ensure the delivery of essential care and services to the resident at the temporary shelter site.

F. When an NF resident is evacuated to a temporary shelter site, which is an unlicensed sheltering site, for greater than five days, the evacuating nursing facility may submit the claim for Medicaid vendor payment for up to an additional 15 days, provided that the evacuating nursing facility:

1. has received an extension to stay at the unlicensed shelter site; and

2. provides sufficient staff and resources to ensure the delivery of essential care and services to the resident, and to ensure the needs of the resident are met.

G. When an NF resident is evacuated to a temporary shelter site, which is a licensed nursing home, for greater than five days, the evacuating nursing facility may submit the claim for Medicaid vendor payment for an additional period, not to exceed 55 days, provided that:

1. the host/receiving nursing home has sufficient licensed and certified bed capacity for the resident, or the host/receiving nursing home has received departmental and/or CMS approval to exceed the licensed and certified bed capacity for a specified period; and

2. the evacuating nursing facility provides sufficient staff and resources to ensure the delivery of essential care and services to the resident, and to ensure the needs of the resident are met.

H. If an NF resident is evacuated to a temporary shelter site which is a licensed NF, the receiving/host nursing home may submit claims for Medicaid vendor payment under the following conditions:

1. beginning day two and continuing during the "sheltering period" and any extension period, if the evacuating nursing home does not provide sufficient staff and resources to ensure the delivery of essential care and services to the resident and to ensure the needs of the residents are met;

2. upon admission of the evacuated residents to the host/receiving nursing facility; or

3. upon obtaining approval of a temporary hardship exception from the department, if the evacuating NF is not submitting claims for Medicaid vendor payment.

I. Only one nursing facility may submit the claims and be reimbursed by the Medicaid Program for each Medicaid resident for the same date of service.

J. A nursing facility may not submit claims for Medicaid vendor payment for non-admitted residents beyond the expiration of its extension to exceed licensed (and/or certified) bed capacity or expiration of its temporary hardship exception.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:879 (May 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

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

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1610#035

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Recovery Audit Contractor Program
(LAC 50:I.Chapter 85)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:I.Chapter 85 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Patient Protection and Affordable Care Act (PPACA), U.S. Public Law 111-148, and 111-152 directed states to establish a Recovery Audit Contractor (RAC) program to audit payments to Medicaid providers. Act 568 of the 2014 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals to implement a Recovery Audit Contractor program. In compliance with the Patient Protection and Affordable Care Act (PPACA) and Act 568, the department promulgated an Emergency Rule which adopted provisions to establish the RAC program (*Louisiana Register*, Volume 40, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2014 Emergency Rule. This action is being taken to avoid federal sanctions.

Effective November 15, 2016, the Department of Health, Bureau of Health Services Financing adopts provisions establishing the Recovery Audit Contractor program.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 9. Recovery

Chapter 85. Recovery Audit Contractor

§8501. General Provisions

A. Pursuant to the provisions of the Patient Protection and Affordable Care Act (PPACA), Public Law 111-148, 111-152, and Act 562 of the Regular Session of the Louisiana Legislature, the Medicaid Program adopts provisions to establish a Recovery Audit Contractor (RAC) program.

B. These provisions do not prohibit or restrict any other audit functions that may be performed by the department or its contractors. This Rule shall only apply to Medicaid RACs as they are defined in applicable federal law.

C. This Rule shall apply to RAC audits that begin on or after November 20, 2014, regardless of dates of claims reviewed.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§8503. Definitions

Adverse Determination—any decision rendered by the recovery audit contractor that results in a payment to a provider for a claim or service being reduced either partially or completely.

Department—Department of Health (LDH) or any of its sections, bureaus, offices, or its contracted designee.

Provider—any healthcare entity enrolled with the department as a provider in the Medicaid program.

Recovery Audit Contractor (RAC)—a Medicaid recovery audit contractor selected by the department to perform audits for the purpose of ensuring Medicaid program integrity in accordance with the provisions of 42 CFR 455 et seq.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§8505. Contractor Functions

A. Notwithstanding any law to the contrary, the RAC shall perform all of the following functions.

1. The RAC shall ensure it is reviewing claims within three years of the date of its initial payment. For purposes of this requirement, the three-year look back period shall commence from the beginning date of the relevant audit.

2. The RAC shall send a determination letter concluding an audit within 60 days of receipt of all requested materials from a provider.

3. For any records which are requested from a provider, the RAC shall ensure proper identification of which records it is seeking. Information shall include, but is not limited to:

a. recipient name;
b. claim number;
c. medical record number (if known); and
d. date(s) of service.

B. Pursuant to applicable statute, the RAC program's scope of review shall exclude the following:

1. all claims processed or paid within 90 days of implementation of any Medicaid managed care program that relates to said claims. This shall not preclude review of claims not related to any Medicaid managed care program implementation;

2. claims processed or paid through a capitated Medicaid managed care program. This scope restriction shall not prohibit any audits of per member per month payments from the department to any capitated Medicaid managed care plan utilizing such claims; and

3. medical necessity reviews in which the provider has obtained prior authorization for the service.

C. The RAC shall refer claims it suspects to be fraudulent directly to the department for investigation.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§8507. Reimbursement and Recoupment

A. The department has in place, and shall retain, a process to ensure that providers receive or retain the appropriate reimbursement amount for claims within any look back period in which the RAC determines that services delivered have been improperly billed, but reasonable and necessary. It shall be the provider's responsibility to provide documentation to support and justify any recalculation.

B. The RAC and the department shall not recoup any overpayments identified by the RAC until all informal and formal appeals processes have been completed. For purposes of this Section, a final decision by the Division of

Administrative Law shall be the conclusion of all formal appeals processes. This does not prohibit the provider from seeking judicial review and any remedies afforded thereunder.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§8509. Provider Notification

A. The RAC shall provide a detailed explanation in writing to a provider for any adverse determination as defined by state statute. This notification shall include, but not be limited to the following:

1. the reason(s) for the adverse determination;

2. the specific medical criteria on which the determination was based, if applicable;

3. an explanation of any provider appeal rights; and

4. an explanation of the appropriate reimbursement determined in accordance with §8507, if applicable.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§8511. Records Requests

A. The RAC shall limit records requests to not more than 1 percent of the number of claims filed by the provider for the specific service being reviewed in the previous state fiscal year during a 90 day period. The 1 percent shall be further limited to 200 records. For purposes of this Chapter, each specific service identified for review within the requested time period will be considered a separate and distinct audit.

B. The provider shall have 45 calendar days to comply with any records request unless an extension is mutually agreed upon. The 45 days shall begin on the date of receipt of any request.

1. *Date of Receipt*—two business days from the date of the request as confirmed by the post office date stamp.

C. If the RAC demonstrates a significant provider error rate relative to an audit of records, the RAC may make a request to the department to initiate an additional records request relative to the issue being reviewed for the purposes of further review and validation.

1. The provider shall be given an opportunity to provide written objections to the secretary or his/her designee of any subsequent records request. Decisions by the secretary or his/her designee in this area are final and not subject to further appeal or review.

2. This shall not be an adverse determination subject to the Administrative Procedure Act process.

3. A *significant provider error rate* shall be defined as 25 percent.

4. The RAC shall not make any requests allowed above until the time period for the informal appeals process has expired.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§8513. Audits and Records Submission

A. The RAC shall utilize provider self-audits only if mutually agreed to by the provider and the RAC.

B. If the provider is determined to be a low-risk provider, the RAC shall schedule any on-site audits with advance notice of not less than 10 business days. The RAC shall make a reasonable good-faith effort to establish a mutually agreed upon date and time, and shall document such efforts.

C. In association with an audit, providers shall be allowed to submit records in electronic format for their convenience. If the RAC requires a provider to produce records in any non-electronic format, the RAC shall make reasonable efforts to reimburse the provider for the reasonable cost of medical records reproduction consistent with 42 CFR 476.78.

1. The cost for medical record production shall be at the current federal rate at the time of reimbursement to the provider. This rate may be updated periodically, but in no circumstance shall it exceed the rate applicable under Louisiana statutes for public records requests.

2. Any costs associated with medical record production may be applied by the RAC as a credit against any overpayment or as a reduction against any underpayment. A tender of this amount shall be deemed a reasonable effort.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§8515. Appeals Process

A. A provider shall have a right to an informal and formal appeals process for adverse determinations made by the RAC.

B. The informal appeals process shall be conducted as follows.

1. Beginning on the date of issuance of any initial findings letter by the RAC, there shall be an informal discussion and consultation period. During this period the provider and RAC may communicate regarding any audit determinations.

2. Within 45 calendar days of receipt of written notification of an adverse determination from the RAC, a provider shall have the right to request an informal hearing relative to such determination. The department's Program Integrity Section shall be involved in this hearing. Any such request shall be in writing and the date of receipt shall be deemed to be two days after the date of the adverse determination letter.

3. The informal hearing shall occur within 30 days of receipt of the provider's request.

4. At the informal hearing the provider shall have the right to present information orally and in writing, the right to present documents, and the right to have the department and the RAC address any inquiry the provider may make concerning the reason for the adverse determination. A provider may be represented by an attorney or authorized representative, but any such individual must provide written

notice of representation along with the request for informal hearing.

5. The RAC and the Program Integrity Section shall issue a final written decision related to the informal hearing within 15 calendar days of the hearing closure.

C. Within 30 days of issuance of an adverse determination of the RAC, if an informal hearing is not requested or there is a determination pursuant to an informal hearing, a provider may request an administrative appeal of the final decision by requesting a hearing before the Division of Administrative Law. A copy of any request for an administrative appeal shall be filed contemporaneously with the Program Integrity Section. The date of issuance of a final decision or determination pursuant to an informal hearing shall be two days from the date of such decision or determination.

D. The department shall report on its website the number of adverse determinations overturned on informal or formal appeals at the end of the month for the previous month.

E. If the department or the Division of Administrative Law hearing officer finds that the RAC determination was unreasonable, frivolous or without merit, then the RAC shall reimburse the provider for its reasonable costs associated with the appeals process. Reasonable costs include, but are not limited to, cost of reasonable attorney's costs and other reasonable expenses incurred to appeal the RAC's determination. The fact that a decision has been overturned or partially overturned via the appeals process shall not mean the determination was without merit.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§8517. Penalties and Sanctions

A. If the department determines that the RAC inappropriately denied a claim(s), the department may impose a penalty or sanction. A claim has been inappropriately denied when the:

1. adverse determination is not substantiated by applicable department policy or guidance and the RAC fails to utilize guidance provided by the department; or

2. RAC fails to follow any programmatic or statutory rules.

B. If more than 25 percent of the RAC's adverse determinations are overturned on informal or formal appeal, the department may impose a monetary penalty up to 10 percent of the cost of the claims to be awarded to the providers of the claims inappropriately determined, or a monetary penalty up to 5 percent of the RAC's total collections to the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1610#060

DECLARATION OF EMERGENCY

Department of Health
Office of Public Health

Added Controlled Dangerous Substances
(LAC 46:LIII.2704)

The Department of Health, Office of Public Health (LDH/OPH), pursuant to the rulemaking authority granted to the secretary of LDH by R.S. 40:962(C) and (H), hereby adopts the following Emergency Rule for the protection of public health. This Emergency Rule is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) and shall remain in effect for the maximum period allowed under the Act or until adoption of a final Rule, whichever occurs first.

Based on the criteria, factors, and guidance set forth in R.S. 40:962(C) and 40:963, the secretary, under this rulemaking, has determined that the below listed substances have a high potential for abuse and should be scheduled as controlled dangerous substances to avoid an imminent peril to the public health, safety, or welfare. In reaching the decision to designate the below listed substances as controlled dangerous substances under schedule I, the secretary has considered the criteria provided under R.S. 40:963 and the specific factors listed under R.S. 40:962(C). The secretary has determined that schedule I is the most appropriate due to her findings that the substances added herein have a high potential for abuse, the substances have no currently accepted medical use for treatment in the United States, and there is a lack of accepted safety for use of the substances under medical supervision. This Emergency Rule is effective on September 27, 2016.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 27. Controlled Dangerous Substances
Subchapter A. General Provisions
§2704. Added Controlled Dangerous Substances

A. The following drugs or substances are added to Schedule I of the Louisiana Uniform Controlled Dangerous Substances Law, R.S. 40:961 et seq.:

1. …

2. U-477003,4-dichloro-N-[2-(dimethylamino) cyclohexyl]-N-methylbenzamide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:962, R.S. 40:963, and R.S. 49:953(B).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 42:

Rebecca E. Gee, MD, MPH
Secretary

1610#009

DECLARATION OF EMERGENCY

Department of Health
Office of Public Health

Special Supplemental Nutrition Program for
Women, Infants and Children (WIC)
(LAC 48:V.Chapters 41, 43 and 45)

Under the authority of R.S. 46:972 and in accordance with the emergency rulemaking provisions of R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Louisiana Department of Health, Office of Public Health (LDH-OPH), amends Subpart 15 [Special Supplemental Food Services for Women, Infants, and Children (WIC)] of Part V (Preventive Health Services) of Title 48 (*Public Health—General*) of the *Louisiana Administrative Code* (LAC).

These amendments are necessary to ensure that the state of Louisiana remains in compliance with applicable federal regulations of the United States Department of Agriculture (USDA). Failure to timely adopt such amendments may cause federal monetary sanctions to be imposed against the Louisiana WIC program. The effective date of this Emergency Rule is October 1, 2016 and, unless terminated earlier, it shall remain in effect for the maximum time period allowed under law. At this time, the Louisiana WIC program intends to publish a Notice of Intent under regular rulemaking procedures in the November 20, 2016 *Louisiana Register*.

Title 48
PUBLIC HEALTH—GENERAL
Part V. Preventive Health Services
Subpart 15. Special Supplemental Nutrition Program for Women, Infants and Children (WIC)
Chapter 41. General Provisions
§4101. Purpose and Scope

A. The purpose of LAC 48:V.Subpart 15 is to adopt applicable and corresponding state regulations enacted under the authority of the federal secretary of agriculture in order to implement the federal Special Supplemental Nutrition Program for Women, Infants and Children (WIC program) within the state of Louisiana. section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), as amended, states in part that "Congress finds that substantial numbers of pregnant, postpartum, and breastfeeding women, infants, and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. It is, therefore, the purpose of the program to provide supplemental foods and nutrition education, including breastfeeding promotion and support, through any eligible local agency that applies for participation in the program. The program shall serve as an adjunct to good health care, during critical times of growth and development, to prevent the occurrence of health problems, including drug abuse, and improve the health status of these persons." The program shall be supplementary to the Supplemental Nutrition Assistance Program (SNAP); any program under which foods are distributed to needy families in lieu of SNAP benefits; and, receipt of food or meals from soup kitchens, or shelters, or other forms of emergency food assistance.

B. The Special Supplemental Nutrition Program for Women, Infants and Children (WIC), also hereinafter known as "program" or "the program", provides supplemental foods and nutrition education, including breastfeeding promotion and support, for women, infants and children. It is federally funded through the U.S. Department of Agriculture via cash grants to state agencies which administer the program. The Louisiana Department of Health, Office of Public Health, Center for Community and Preventive Health, Bureau of Nutrition Services, shall be responsible for the administration of the program in Louisiana. Extensive regulations have been published by the Food and Nutrition Service (FNS) of the U.S. Department of Agriculture in 7 CFR part 246. Federal regulations stipulate participation requirements, length of certifications, certification processes and standards, participant responsibilities and participant grievance rights. If there is a conflict with any portion of LAC 48:V.Subpart 15 and 7 CFR part 246, the provisions of 7 CFR part 246 shall supersede the provisions of LAC 48:V.Subpart 15.

C. The annual Louisiana WIC program state plan, including a comprehensive policy and procedure manual, is available for review by any interested party at both of the Bureau of Nutrition Services offices in Louisiana, as follows: Room 828, 628 North Fourth Street, Baton Rouge, LA 70802 and Suite 1906, 1450 Poydras Street, New Orleans, LA 70112.

D. As described in 7 CFR part 246, the agency is to provide supplemental foods and nutrition education, including breastfeeding promotion and support, to categorically eligible participants who are income eligible and found to be at nutritional risk. The program shall serve as an adjunct to good health care during critical times of growth and development, in order to prevent the occurrence of health problems, including drug and other harmful substance abuse, and to improve the health status of these persons. The WIC state agency is responsible for providing services to as many eligible participants as funding allows.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR Part 246, P. L. 95-627, and 41 USC 1786. Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

§4103. Definitions

A. The following words and terms are defined for the purposes of this Subpart and for all contracts, guidelines, instructions, forms and other documents related hereto.

Above-50-Percent (A50) Vendors—vendors that derive more than 50 percent of their annual food sales revenue from WIC food instruments, and new vendor applicants expected to meet this criterion under guidelines approved by FNS. A50 vendors are subject to payment limitations that ensure that the prices of A50 vendors do not result in higher total food costs if program participants transact their food instruments at A50 vendors rather than at non-A50 ("regular") vendors.

Administrative Review—a procedure by which a vendor may appeal an adverse action by the state agency.

Applicants—pregnant women, breastfeeding women, postpartum women, infants, and children who are applying to receive WIC benefits, and the breastfed infants of

applicant breastfeeding women. Applicants include individuals who are currently participating in the program but are re-applying because their certification period is about to expire.

Authorized Supplemental Foods/WIC-Approved Foods—those supplemental foods authorized by the state agency for issuance to participants.

Authorized WIC Vendor (Vendor)—a retail grocery store that has submitted a complete WIC vendor application and any required supporting documentation, passed a pre-authorization on-site review, completed a training program, signed a formal vendor agreement binding the vendor to follow all WIC rules and policies upon authorization, and received a signed authorization letter from the Louisiana WIC program. Only authorized WIC vendors may transact WIC food instruments (FIs)/cash-value vouchers (CVVs).

Breastfeeding—the practice of feeding a mother's breastmilk to her infant(s) on an average frequency of at least once a day.

Breastfeeding Women—women up to one year postpartum who are breastfeeding their infants.

CMP—civil money penalty.

CSFP—the Commodity Supplemental Food Program administered by the U.S. Department of Agriculture, authorized by section 4 of the Agriculture and Consumer Protection Act of 1973 [7 U.S.C. 1431(a)], as amended, and governed by 7 CFR part 247.

Cash-Value Voucher (CVV)—a fixed-dollar amount check, voucher, electronic benefit transfer (EBT) card or other document which is used by a participant to obtain authorized fruits and vegetables.

Categorical Eligibility—persons who meet the definitions of pregnant women, breastfeeding women, postpartum women, infants or children.

Certification—the implementation of criteria and procedures to assess and document each applicant's eligibility for the program.

Change of Location—the move of a WIC vendor from one physical address to another address.

Change of Ownership—a change that results when all of the assets of the store are sold or transferred to a new owner or business entity. This includes adding a new partner(s).

Children—persons who have had their first birthday but have not yet attained their fifth birthday.

Clinic—a facility where applicants are certified.

Competent Professional Authority—an individual on the staff of the local agency authorized to determine nutritional risk and prescribe supplemental foods. The following persons are the only persons the state agency may authorize to serve as a competent professional authority: physicians, nutritionists (bachelor's or master's degree in nutritional sciences, community nutrition, clinical nutrition, dietetics, public health nutrition or home economics with emphasis in nutrition), dieticians, registered nurses, physician's assistants (certified by the National Committee on Certification of Physician's Assistants or certified by the state medical certifying authority), or state or local medically-trained health officials. This definition also applies to an individual who is not on the staff of the local agency but who is qualified to provide data upon which nutritional risk determinations are made by a competent professional authority on the staff of the local agency.

Competitive Price Criteria (*CPC*)—price level at or below which WIC-approved foods shall be priced in order for a vendor applicant to be considered for authorization. The state agency determines CPC for each WIC-approved food item based on shelf prices for vendors within each peer group of regular vendors. CPC varies by vendor peer group. All vendors are subject to the CPC at all times in order to ensure that vendors do not raise prices, subsequent to selection, to a level that would make such vendors ineligible for authorization.

Confidentiality—in the context of the WIC program, not using or disclosing any confidential applicant, participant or vendor information gathered as a result of participation in the WIC program. Confidential applicant and participant information is any information about an applicant or participant, whether it is obtained from the applicant or participant, another source, or generated as a result of WIC application, certification, or participation, that individually identifies an applicant or participant and/or family member(s). Applicant or participant information is confidential, regardless of the original source. Vendors are required to keep confidential the customer's eligibility for and receipt of WIC benefits. Confidential vendor information is any information about a vendor (whether it is obtained from the vendor or another source) that individually identifies the vendor, except for vendor's name, address, telephone number, web site/e-mail address, store type, and authorization status.

Corrective Action Plan (CAP)—any plan developed by the state agency, or by a vendor and approved by the state agency, to correct deficiencies identified by the state agency in a vendor's compliance with WIC rules, regulations, policies, and/or procedures. Vendors shall implement CAPs when required by the state agency. CAPs may include, but are not limited to, requirements to provide store personnel or stock rotation training and/or to correct inappropriate WIC FI/CVV processing procedures used by the vendor.

Days—calendar days.

Disqualification—the act of ending the program participation of a participant, or authorized state or local agency, whether as a punitive sanction or for administrative reasons and the act of ending program participation of an authorized WIC vendor for violations of the vendor agreement and/or federal or state rules, regulations or policy governing the WIC program.

Documentation—the presentation of written documents which substantiate oral, written, or electronic statements made by an applicant or participant or a person applying on behalf of an applicant or a vendor.

Drug—

a. beverage containing alcohol;

b. controlled substance (having the meaning given it in section 102 of the Controlled Substances Act of 1970 (21 U.S.C. 802(6)), as amended; or

c. controlled substance analogue (having the meaning given it in section 102 of the Controlled Substances Act of 1970 [21 U.S.C. 802(32)], as amended.

Dual Participation—simultaneous participation in the program in more than one WIC clinic, or participation in the program and in the CSFP during the same period of time.

Electronic Signature—an electronic sound, symbol, or process, attached to or associated with an application or

other record and executed and or adopted by a person with the intent to sign the record.

FNS—the Food and Nutrition Service of the U.S. Department of Agriculture.

Family—a group of related or nonrelated individuals who are living together as one economic unit, except that residents of a homeless facility or an institution shall not all be considered as members of a single family.

Food Costs—the costs of supplemental foods, determined in accordance with 7 CFR §246.14(b).

Food Delivery System—the method used by state and local agencies to provide supplemental foods to participants.

Food Instrument (FI)—a voucher, check, electronic benefits transfer (EBT) card, coupon or other document that is used by a participant to obtain WIC-approved foods.

Food Package—WIC-eligible food items listed on WIC food instruments in designated quantities.

Food Sales—sales of all SNAP-eligible foods intended for home preparation and consumption, including meat, fish, and poultry; bread and cereal products; dairy products; and fruits and vegetables. Food items such as condiments and spices, coffee, tea, cocoa, and carbonated and noncarbonated drinks may be included in food sales when offered for sale along with foods in the categories identified above. Food sales do not include sales of any items that cannot be purchased with SNAP benefits, such as hot foods or food that will be eaten in the store.

Fraud and Abuse—conduct that violates WIC program rules, regulations, policies, and/or procedures, including, but not limited to, those violations leading to disqualification, as identified in the sanction schedule.

Full-Line Grocery Store—a *retail food store/market* (as defined under LAC 51:XXIII.101.A) that stocks, and has on hand at all times, at least:

a. 5 varieties of cereal with 5 or more units of each variety;

b. 3 varieties of bread or tortillas with 5 or more units of each variety;

c. 4 varieties of fresh fruits with at least 5 units of each variety;

d. 4 varieties of fresh vegetables with at least 5 units of each variety; and

e. 4 varieties of fresh or frozen meat, poultry or fish with at least 5 units of each variety;

f. 2 varieties of rice with 6 or more units of each variety.

Health Services—ongoing, routine pediatric and obstetric care (such as infant and child care and prenatal and postpartum examinations) or referral for treatment.

Homeless Facility—the following types of facilities which provide meal service:

a. a supervised publicly or privately operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;

b. a facility that provides a temporary residence for individuals intended to be institutionalized; or

c. a public or private place not designed for, or normally used as, a regular sleeping accommodation for human beings.

Homeless Individual—a woman, infant or child:

a. who lacks a fixed and regular nighttime residence; or

b. whose primary nighttime residence is:

i. a supervised publicly- or privately-operated shelter (including a welfare hotel, a congregate shelter, or a shelter for victims of domestic violence) designated to provide temporary living accommodations;

ii. an institution that provides a temporary residence for individuals intended to be institutionalized;

iii. a temporary accommodation of not more than 365 days in the residence of another individual; or

iv. a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Incentive Items/Incentives—any goods or services provided as inducements to shop in a grocery store or recruit customers.

Infant Formula—a food that meets the definition of an infant formula in section 201of the Federal Food, Drug, and Cosmetic Act of 1938 (21 U.S.C. 321(z)), as amended, and that meets the requirements for an infant formula under section 412 of the Federal Food, Drug, and Cosmetic Act of 1938 (21 U.S.C. 350a), as amended, and the regulations at 21 CFR Parts 106 and 107.

Infants—persons under 1 year of age.

Institution—any residential accommodation which provides meal service, except private residences and homeless facilities.

Judicial Review—the procedure by which a vendor may appeal a decision rendered at an administrative review, or a participant may appeal a decision rendered at a fair hearing.

Local Agency—a public or private, nonprofit or human service agency which provides health services, either directly or through contract, in accordance with 7 CFR §246.5.

Maximum Allowable Reimbursement Level (MARL)—the highest reimbursement amount for each FI for each peer group that the state agency may pay. The state agency determines a MARL for every WIC FI. Any FI that is submitted with a price higher than MARL shall be reduced through the automated clearing house (ACH) process.

Migrant Farmworker—an individual whose principal employment is in agriculture on a seasonal basis, who has been so employed within the last 24 months, and who establishes, for the purposes of such employment, a temporary abode.

Non-A50 Vendors−see *regular vendors* (*non-A50*).

Nonprofit Agency—a private agency which is exempt from federal income tax under the *Internal Revenue Code* of 1954, (title 26 of the U.S.C.), as amended.

Nutrition Education—individual and group sessions and the provision of materials that are designed to improve health status and achieve positive change in dietary and physical activity habits, and that emphasize the relationship between nutrition, physical activity, and health, all in keeping with the personal and cultural preferences of the individual.

Nutritional Risk—

a. detrimental abnormal nutritional conditions detectable by biochemical or anthropometric measurements;

b. other documented nutritionally-related medical conditions;

c. dietary deficiencies that impair or endanger health;

d. conditions that directly affect the nutritional health of a person, including alcoholism or drug abuse; or

e. conditions that predispose persons to inadequate nutritional patterns or nutritionally-related medical conditions, including, but not limited to, homelessness and migrancy.

Other Harmful Substances—other substances such as tobacco, prescription drugs and over-the-counter medications that can be harmful to the health of the WIC population, especially the pregnant woman and her fetus.

Participant Access—the ability of a WIC participant to adequately access WIC-approved foods through the state agency's selection and authorization of an appropriate number and distribution of vendors consistent with ensuring effective state agency management, oversight, and review of its authorized vendors. The state agency has established participant access criteria in accordance with WIC regulations at 7 CFR part 246.

Participant Violation—any intentional or unintentional action of a participant, caregiver or a proxy that violates federal or state statutes, regulations, policies or procedures governing the program.

Participants—pregnant women, breastfeeding women, postpartum women, infants and children up to their fifth birthday who are currently enrolled in the WIC program and are receiving supplemental foods under the program, and the breastfed infants of participant breastfeeding women.

Participation—the sum of the number of:

a. persons who received supplemental foods or food instruments during the reporting period;

b. infants who did not receive supplemental foods or food instruments but whose breastfeeding mother received supplemental foods or food instruments during the report period; and

c. breastfeeding women who did not receive supplemental foods or food instruments but whose infant received supplemental foods or food instruments during the report period.

Peer Group—a group of vendors that is based on common characteristics or criteria that affect food prices. Vendors are grouped for management and cost containment purposes including, but not limited to, establishing and applying appropriate competitive price criteria (CPC) and MARLs to vendors.

Postpartum Women—usually, women up to six months after termination of pregnancy; however, this term shall also be apply to breastfeeding women up to one year after termination of pregnancy.

Pregnant Women—women determined to have one or more embryos or fetuses *in utero*.

Price Adjustment—an adjustment made by the state agency, in accordance with the vendor agreement, to the purchase price on a food instrument after it has been submitted by a vendor for redemption. Price adjustments are made to ensure that the payment to the vendor for the food instrument complies with the state agency's price limitations.

Program—WIC (unless the context in which this word is used in this Subpart clearly indicates otherwise).

Proxy—any person designated by a woman participant, or by a parent or caretaker of an infant or child participant, to obtain and transact FIs and CVVs and/ or to obtain WIC-approved foods on behalf of a participant. The proxy shall be designated consistent with the state agency's procedures established pursuant to 7 CFR §246.12(r)(1). Parents or caretakers applying on behalf of child and infant participants are not proxies.

Regular Vendors (*Non-A50*)—vendors that do not meet the above-50-percent (A50) vendor's criterion, as defined elsewhere in this Subsection.

Reimbursement—the payment received by vendors after completing the routine process of depositing an FI or CVV into the banking system and the payment that may be received through the procedure an authorized vendor may use to request payment from the state agency when an FI or CVV has been refused by the bank or state agency. The state agency only reimburses vendors up to the applicable maximum allowable reimbursement level (MARL) for valid FIs and CVVs.

Sanctions—actions taken by the state agency when an authorized vendor fails to comply with WIC program rules, regulations, policies and/or procedures. Actions include, but are not limited to, CAPs, training requirements, termination of agreements, disqualifications or civil money penalties (CMPs), and fines.

Secretary—the secretary of the United States Department of Agriculture.

Sign or *Signature*—a handwritten signature on paper or an electronic signature. If the state agency chooses to use electronic signatures, the state agency shall ensure the reliability and integrity of the technology used and the security and confidentiality of electronic signatures collected in accordance with sound management practices, and applicable Federal law and policy, and the confidentiality provisions at 7 CFR §246.26.

State—the state of Louisiana.

State Agency—the state of Louisiana, Louisiana Department of Health, Office of Public Health, Center for Community and Preventive Health.

State Plan—a plan of program operation and administration that describes the manner in which the state agency intends to implement and operate all aspects of program administration within its jurisdiction in accordance with 7 CFR §246.4.

Supplemental Foods—those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding and postpartum women, infants, and children, and foods that promote the health of the population served by the WIC program as indicated by relevant nutrition science, public health concerns, and cultural eating patterns, as prescribed by the secretary in 7 CFR §246.10.

Supplemental Nutrition Assistance Program (SNAP)—the program authorized by the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), in which eligible households receive benefits that can be used to purchase food items

from authorized retail stores and farmers' markets (formerly known as the Food Stamp Program).

Termination—the ending of a vendor agreement by the state agency for administrative reasons.

USDA—the United States Department of Agriculture.

Vendor—a sole proprietorship, partnership, cooperative association, corporation, or other business entity operating one or more stores authorized by the state agency to provide authorized supplemental foods to participants under a retail food delivery system. Each store operated by a business entity constitutes a separate vendor and shall be authorized separately from other stores operated by the business entity. Each store shall have a single, fixed location, except when the authorization of mobile stores is necessary to meet the special needs described in the state agency's state plan in accordance with 7 CFR §246.4(a)(14)(xiv).

Vendor Agreement—a document that is a legally binding agreement between an authorized vendor and the WIC program.

Vendor Authorization—the process by which the state agency assesses, selects, and enters into agreements with stores that apply or subsequently reapply to be authorized as vendors.

Vendor Limiting Criteria—criteria established by the state agency to determine the maximum number and distribution of vendors it authorizes pursuant to 7 CFR §246.12(g)(2).

Vendor Number—a distinctive five digit number assigned to each authorized vendor.

Vendor Overcharge—any intentional or unintentional charge for supplemental foods to the state agency for more than is permitted under the vendor agreement. It is not a vendor overcharge when a vendor submits a food instrument for redemption in accordance with the vendor agreement and the state agency makes a price adjustment to the food instrument.

Vendor Portal—a web-based application maintained by the state agency that serves as the primary point of contact for all Louisiana vendors and contains the WIC vendor price reporting system.

Vendor Selection Criteria—the criteria established by the state agency to select individual vendors for authorization consistent with the requirements in 7 CFR §246.12(g)(3) and (g)(4) and found in Section 4503 of this Subpart.

Vendor Violation—any intentional or unintentional action of a vendor's current owners, officers, managers, agents, or employees (with or without the knowledge of management) that violates the vendor agreement or federal or state statutes, regulations, policies, or procedures governing the program.

WIC—WIC program.

WIC-Approved Foods (*Authorized Supplemental Foods*)—those supplemental foods authorized by the state agency for issuance to participants.

WIC Program—the Special Supplemental Nutrition Program for Women, Infants and Children authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR12:869 (December 1988), amended by the Department of Health, Office of Public Health, LR 42:

Chapter 43. Participant Eligibility

§4301. Integration with Health Services

A. To lend administrative efficiency and participant convenience to the certification process, whenever possible, program intake procedures shall be combined with intake procedures for other health programs or services administered by the state and local agencies. Such merging may include verification procedures, certification interviews, and income computations. Local agencies shall maintain and make available for distribution to all pregnant, postpartum, and breastfeeding women, and to parents or caretakers of infants and children, any of whom are applying for and participating in the program, a list of local counseling and treatment resources for drug and other harmful substance abuse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

§4303. Eligibility Criteria

A. To be certified as eligible for the WIC program, applicants shall:

1. reside within the jurisdiction of the state; however, length of residency is not an eligibility requirement;

2. meet the income requirement as described in Subsection B of this Section; and

3. meet nutritional risk criteria as described in Subparagraph C.3.d (priority IV) of this Section and in the state plan.

B. Income Criteria and Income Eligibility Determination

1. Income criteria for the program is established at 185 percent of poverty level (U.S. Department of Health and Human Services) as issued annually by the Louisiana Department of Health, Office of Public Health, Bureau of Nutrition Services. This shall have an effective date of no later than July 1 annually.

2. The state agency shall ensure that WIC clinics and local agencies determine income through the use of a clear and simple application form provided or approved by the state agency. Routine verification of income and/or a random selection to verify participant income is at the discretion of the state agency. Documentation of an applicant's participation in other agency-administered programs which routinely verify income, such as Medicaid, Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF) may be accepted provided those programs have income guidelines at or below the WIC program guidelines.

C. Nutritional Risk. A competent professional authority shall determine if a participant is at nutritional risk through a medical and/or nutritional assessment. This determination may be based on referral data by an applicant or participant's medical provider.

1. Determination of Nutritional Risk. At a minimum, height or length and weight of the participant shall be measured, and a hematological test for anemia such as a hemoglobin, hematocrit or free erythrocyte protoporphyrin

test shall be performed. However, such tests are not required for infants under 9 months of age.

2. Appropriate nutritional risk codes, as specified in the state plan and as summarized in Paragraph 3 of this Subsection, shall be documented at each certification/recertification visit.

3. Nutritional Risk Priority System. The state agency shall, in the event that statewide participation has reached the maximum level, fill vacancies according to the federally-mandated priority system. In the event a priority level must be partially closed, subpriorities are described in the state plan as approved by the USDA. Priority levels are identified as follows.

a. Priority I consists of pregnant women, breastfeeding women and infants at nutritional risk as demonstrated by hematological or anthropometric measurements, or other documented nutritionally-related medical conditions which demonstrate the need for supplemental foods.

b. Priority II consists of (except those infants who qualify for priority I) infants up to 6 months of age born of women who participated in the program during pregnancy, and infants up to 6 months of age born of women who were not program participants during pregnancy but whose medical records document that they were at nutritional risk during pregnancy due to nutritional conditions detectable by biochemical or anthropometric measurements or other documented nutritionally related medical conditions which demonstrated the person's need for supplemental foods.

c. Priority III consists of children at nutritional risk as demonstrated by hematological or anthropometric measurements or other documented medical conditions which demonstrate the child's need for supplemental foods.

d. Priority IV consists of pregnant women, breastfeeding women, and infants at nutritional risk because of an inadequate dietary pattern.

e. Priority V consists of children at nutritional risk because of an inadequate dietary pattern.

f. Priority VI consists of postpartum women at nutritional risk.

g. Priority VII consists of individuals certified for WIC solely due to homelessness or migrancy and, at state agency option, previously certified participants who might regress in nutritional status without continued provision of supplemental foods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR 12:869 (December 1988), amended by the Department of Health, Office of Public Health, LR 42:

§4305. Timeframes for Processing Applicants

A. When the WIC clinic or local agency is not serving its maximum caseload, the local agency shall accept applications, make eligibility determinations, notify the applicants of the decisions made and, if the applicants are to be enrolled, issue food, cash-value vouchers or food instruments. All of these actions shall be accomplished within the timeframes set forth below.

1. The processing timeframes shall begin when the individual visits the local agency during clinic office hours to make an oral or written request for benefits.

2. Special nutritional risk applicants shall be notified of their eligibility or ineligibility within 10 days of the date of the first request for program benefits; except that state agencies may provide an extension of the notification period to a maximum of 15 days for those local agencies which make written request, including a justification of the need for an extension. The state agency shall establish criteria for identifying categories of persons at special nutritional risk who require expedited services. At a minimum, however, these categories shall include pregnant women eligible as priority I participants, and migrant farmworkers and their family members who soon plan to leave the jurisdiction of the local agency.

3. All other applicants shall be notified of their eligibility or ineligibility within 20 days of the first date of the request for program benefits.

4. Each WIC clinic or local agency using a retail purchase system shall issue a food instrument(s) and if applicable a cash-value voucher(s) to the participant at the same time as notification of certification. Such food instrument(s) and cash-value voucher(s) shall provide benefits for the current month or the remaining portion thereof and shall be redeemable immediately upon receipt by the participant. Local agencies may mail the initial food instrument(s) and, if applicable, cash-value voucher(s) with the notification of certification to those participants who meet the criteria for the receipt of food instruments through the mail, as provided in 7 CFR §246.12(r)(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

§4307. Certification Periods

A. Program benefits shall be based upon certifications established in accordance with the following timeframes.

1. Pregnant women shall be certified for the duration of their pregnancy and for up to six weeks postpartum.

2. Postpartum women shall be certified for up to six months postpartum.

3. Breastfeeding women shall be certified at intervals of approximately six months and ending with the breastfed infant's first birthday.

4. Infants shall be certified up until their first birthday.

5. Children shall be certified at intervals of approximately six months and ending with the end of the month in which a child reaches its fifth birthday.

B. Upon request, participants shall receive verification of certification when transferring to another WIC program out of state.

C. If the nutritional risk determination is based on data taken before the time of entrance into the program, the certification period for breastfeeding women and children shall be based upon the date when the data was first taken.

D. Participants receiving program benefits may be disqualified during a certification period for the following reasons:

1. participant violation including, but not limited to:

a. intentionally making false or misleading statements or intentionally misrepresenting, concealing, or withholding facts to obtain benefits;

b. exchanging CVVs, FIs, or WIC-approved foods for cash, credit, non-food items, or unauthorized food items, including WIC-approved foods in excess of those listed on the participant's FI;

c. threatening to harm or physically harming vendor staff; or

d. making a written, electronic, or verbal offer to sell WIC benefits, including WIC-approved foods, FIs, CVVs, and/or EBT cards, or allowing someone else to do so;

2. if the state agency experiences funding shortages, it may be necessary to discontinue program benefits to a number of certified and participating participants. The state agency shall not enroll new participants during the period when currently participating participants, those who have received benefits during a current certification, are denied remaining benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

§4309. Participant Rights and Responsibilities/Notification/Fair Hearing

A. Participant Rights and Responsibilities. All applicants shall read or have read to them the programs' rights and responsibilities statement, including the restriction of dual participation in the program or between the program and CSFP. After reviewing the statement, all applicants shall sign attesting to have reviewed the statement.

B. Notification of Ineligibility. Participants found ineligible during a certification period shall be advised in writing of the ineligibility, the reasons for the ineligibility and of the right to a fair hearing.

C. Notification of Disqualification. Participants who are about to be disqualified from program participation during a certification period shall be advised in writing not less than 15 days before the effective date of disqualification, of the reasons for the disqualification and the right to a fair hearing.

D. Fair Hearing Procedures for Participants. The state agency provides a hearing procedure through which any individual may appeal, within 60 days of the date of notification by the state agency, an action which results in the denial of participation or the disqualification from the program.

1. The hearing process is governed by the procedures set forth in the Administrative Procedure Act, R.S. 49:950 et seq., and as mandated by federal regulations, 7 CFR part 246.

2. The state agency shall not summarily deny or dismiss an appeal unless:

a. the request is withdrawn in writing by the appellant or legal representative of the appellant;

b. the appellant or legal representative fails, without good cause, to appear at the scheduled hearing; or

c. the appellant has been denied participation by a previous decision following a hearing and does not allege in the request for appeal that circumstances relevant to program eligibility have changed in such a way as to justify a new hearing.

3. The state agency shall continue program benefits for a participant whose participation has been terminated during a certification period if a request for an appeal is received within the 15-days advance notification of disqualification. Benefits shall continue until the hearing officer reaches a decision or the certification period expires, whichever occurs first. Applicants who are denied benefits at initial certification or because of the expiration of their certification may appeal the denial, but shall not receive benefits while pending the hearing and decision of the hearing officer.

4. A participant or representative may appeal the fair hearing decision through judicial review as provided for in the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

Chapter 45. Vendor Selection, Participation and Sanctions

§4501. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), repealed by the Department of Health, Office of Public Health, LR 42:

§4503. Vendor Selection Criteria

A. As outlined in the *Federal Register*, 7 CFR Part 246, the state agency has the responsibility to maximize the use of available funds by providing supplemental foods to participants at the most reasonable prices and to have an agreement with enough vendors to ensure adequate participant access. The state agency reserves the right to implement limiting criteria on vendors statewide by peer group in order to meet this responsibility. If the state agency elects to implement such limiting criteria, the criteria shall be made available to all vendors and applied equally to all vendors within peer groups.

B. Vendor Selection Criteria. In order to be eligible to participate in the Louisiana WIC program, the applicant vendor and/or authorized vendors shall:

1. submit a complete and notarized application, including any required supporting documentation, to the WIC state agency within applicable timeframes set by the WIC state agency;

2. be currently authorized and participating in the USDA Supplemental Nutrition Assistance Program (SNAP) and cannot have received a SNAP civil money penalty (CMP) for which the disqualification period, if it had been imposed, would not yet have expired;

3. have a grocery class permit to operate issued under the Bureau of Sanitarian Services of the Office of Public Health for the current state fiscal year;

4. maintain the establishment in a clean, orderly and safe condition, with no current sanctions for violations of the Louisiana state *Sanitary Code* (LAC 51), the *International Plumbing Code* as amended by the Louisiana state Uniform

Construction Code Council (LAC 17:I.111), or local health code ordinances;

5. be open a minimum of 6 days, and at least 48 hours, per week;

6. have prices that are competitive with other vendors in the vendor's state agency designated peer group, as determined by the state agency's competitive price criteria (CPC). Applying vendors, whose prices are higher than the CPC applicable to their peer groups, shall be informed and given one opportunity to lower their prices to meet the CPC;

7. display prices for WIC-approved foods on the foods or on the shelves/display area in immediate proximity to the foods;

8. stock and maintain sufficient quantities and varieties of all WIC-approved foods in accordance with Louisiana WIC's minimum stock requirements, which can be found in the minimum stock requirements section of the vendor guide;

9. purchase infant formula only from vendors included on Louisiana WIC's list of infant formula manufacturers registered with the Food and Drug Administration (FDA) that provide infant formula, and licensed infant formula wholesalers, distributors, and retailers. This list can be found at http://new.dhh.louisiana.gov/index.cfm/newsroom/detail/2328;

10. not have been denied WIC authorization or had a prior WIC authorization terminated by the state agency within the past year for any reason other than the expiration of the vendor agreement, store closing, or store relocation;

11. ensure that the vendor, vendor applicant or any of the vendor's or vendor applicant's current owners, officers, or managers shall not have been formerly employed by any vendor that was disqualified from any USDA food program within the prior six years;

12. ensure that the vendor, vendor applicant or any of the vendor's or vendor applicant's current owners, officers, or managers shall not have been convicted of any felony within the prior six years;

13. ensure that the vendor, vendor applicant or any of the vendor's or vendor applicant's current owners, officers, or managers shall not have been convicted of any federal, state or local tax violations within the prior six years;

14. ensure that the vendor, vendor applicant or any of the vendor's or vendor applicant's current owners, officers, or managers shall not have a civil judgment entered against them within the prior six years for any activity indicating a lack of business integrity (including but not limited to fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, and obstruction of justice);

15. be in good standing with no unpaid or overdue balances owed to the Louisiana WIC program;

16. not have had any WIC vendor agreement terminated due to false or inaccurate information provided to the WIC program within the past six years;

17. have access to a computer, with internet access, and shall have an email account that can be used to send messages to and receive messages from the Louisiana WIC program, and shall be able to download and upload electronic documents sent/received via email or posted/requested on the vendor portal or any other online application used by the WIC program;

18. utilize a cash register system that performs split tender transactions and produces itemized receipts showing date of purchase, items purchased, price of items purchased, and the total sale amount, at a minimum;

19. redeem or expect to redeem at least 50 WIC FIs per month;

20. agree to be placed in a vendor peer group with other above-50-percent vendors when deriving or expecting to derive more than 50 percent of their annual food sales revenue from WIC FI transactions. Vendors within this peer group shall maintain WIC-approved food prices at a level such that the average payments per FI for above-50-percent vendors does not exceed average payments per FI to regular vendors;

21. agree to neither provide nor advertise nor indicate an intent to provide customers with any incentive items, when deriving or expecting to derive more than 50 percent of their annual food sales revenue from WIC FI transactions. The state agency shall make a determination on what constitutes a violation of the intent of the previous sentence; however, incentive items definitively prohibited include, but are not necessary limited to:

a. services which result in a conflict of interest or the appearance of such conflict for the above-50-percent vendor, such as assistance with applying for WIC benefits;

b. lottery tickets at no charge or below face value;

c. cash gifts in any amount for any reason;

d. anything made available in a public area as a complimentary gift which may be consumed or taken without charge;

e. food, merchandise or services of any value provided to the customer;

f. food, merchandise sold to customers below cost, or services purchased by customers below fair market value;

g. any kind of incentive item which incurs a liability for the WIC program; and

h. any kind of incentive item which violates any federal, state, or local law or regulations;

22. not derive or expect to derive more than 50 percent of annual food sales revenue from WIC FI transactions; and

23. be a full-line grocery store, as defined by the state agency. The Louisiana WIC definition of a *full-line grocery store* can be found in Section 4103 of this Subpart.

C. After authorization, all WIC vendors shall continue to meet the criteria of this Section, and any changes thereto, at all times. A WIC vendor found to be out of compliance with the WIC regulations, vendor agreement, or WIC vendor selection criteria, at any time during the authorization period is subject to termination of the WIC authorization and vendor agreement and possible disqualification. Disqualification from WIC may result in disqualification from the Supplemental Nutrition Assistance Program (SNAP) and such SNAP disqualification is not subject to administrative or judicial review under the SNAP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

§4505. Agreement

A. The authorized vendor shall sign and agree to the conditions enumerated and/or referenced in the WIC vendor application and vendor agreement.

B. The authorized vendor shall accept state agency adjustments to WIC FI and CVV claims for reimbursement. The state agency may make adjustments to ensure that payments to the authorized vendor do not exceed the maximum allowable reimbursement level for the vendor's assigned peer group.

C. No request for reimbursement submitted by the vendor shall be paid by the state agency unless the claim is in accordance with the terms of the vendor agreement.

D. Unauthorized vendors that accept FIs or CVVs may be held liable for repayment of any funds received.

E. Terms of Agreement. An agreement shall be for a period not exceeding three years. The agreement is null and void if ownership changes. Neither party has an obligation to renew the agreement. Fifteen days written notice shall be given prior to the expiration of an agreement. Expiration of an agreement is not subject to appeal.

F. Termination of Agreement. The agreement may be terminated by 15 days written notice to the other party or by the mutual agreement to terminate of both parties. The 15 days written notice does not apply when the state agency terminates the agreement or disqualifies a vendor as a result of violation(s) of the terms of the agreement.

1. The state agency shall terminate an authorized vendor agreement for failure of the vendor to meet the selection criteria found in Section 4503.B of this Subpart

2. The state agency shall immediately terminate the agreement if it determines that the vendor has provided false information in connection with its application for authorization. Violations of the WIC program regulations shall result in termination of the agreement, disqualification, and/or possible referral for criminal prosecution.

G. A vendor may be subject to announced and unannounced monitoring visits and inventory audits by authorized personnel to determine compliance with the vendor agreement and/or federal or state rules, regulations or policy governing the WIC program.

H. WIC vendors agree to provide any records requested by authorized parties pursuant to their vendor agreement by established due dates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

§4507. Reimbursement of Altered or Bank Rejected Food Instruments or Cash-Value Vouchers

A. If a vendor has an FI or CVV that has been rejected or has had the payment amount adjusted by the Louisiana WIC contracted bank and the vendor feels that the rejection or adjustment was made in error, the vendor may request reimbursement from the state agency.

B. The vendor shall submit to the state agency, in a format specified by the state agency, any bank-rejected FIs or CVVs within 60 days from the last day of the valid period. Any FIs or CVVs submitted thereafter shall not be considered.

C. In determining whether or not to reimburse vendors for FI(s) or CVV(s) rejected by the bank due to errors on the vendors' part, the state agency may consider the following criteria in making its determination:

1. the prior record of the same repeated errors;

2. the vendor's reported food costs versus the amount requested for reimbursement; and

3. the level of documented inventory on hand.

D. Vendors shall be notified of adverse reimbursement decisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

§4509. Vendor Sanctions for Violations

A. Federal Mandatory Vendor Sanctions

1. The state agency shall permanently disqualify a vendor convicted of trafficking in food instruments (FIs) or cash value vouchers (CVVs) or selling firearms, ammunition, explosives, or controlled substances [as defined in section 102 of the Controlled Substances Act of 1970 (21 U.S.C. 802), as amended] in exchange for FIs or CVVs.

2. The state agency shall disqualify a vendor for six years for:

a. one incidence of buying or selling a WIC FI or CVV for cash (trafficking); or

b. one incidence of selling firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, as amended, in exchange for a WIC FI or CVV.

3. The state agency shall disqualify a vendor for three years for:

a. one incidence of the sale of alcohol, alcoholic beverages, or tobacco products in exchange for a WIC FI or CVV;

b. a pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item that exceeds the store's documented inventory of that supplemental food item for a specific period of time;

c. a pattern of vendor overcharges;

d. a pattern of receiving, transacting and/or redeeming FIs or CVVs outside of authorized channels, including the use of an unauthorized vendor and/or an unauthorized person;

e. a pattern of charging for supplemental foods not received by the participant; or

f. a pattern of providing credit or non-food items (not including alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, as amended) in exchange for FIs or CVVs.

4. The state agency shall disqualify a vendor for one year for:

a. a pattern of providing unauthorized food items in exchange for FIs or CVVs, including charging for supplemental foods provided in excess of those listed on the FI; or

b. a pattern of an above-50-percent vendor providing prohibited incentive items to participants as set forth in federal regulations at 7 CFR 246.12(g)(3)(iv).

B. Second Federal Mandatory Vendor Sanction. When a vendor has previously been assessed a sanction for any of the federal mandatory vendor sanctions and then receives a second sanction for any of the federal mandatory vendor sanctions, the state agency shall double the second sanction. The total amount assessed in civil money penalties (CMPs) for a second sanction may not exceed the maximum limits allowed under federal regulations.

C. Third or Subsequent Federal Mandatory Vendor Sanction. When a vendor who previously has been assessed two or more sanctions for any of the federal mandatory vendor sanctions and then receives another sanction for any of the federal mandatory vendor sanctions, the state agency shall double the third sanction and all subsequent sanctions. The state agency may not impose a civil money penalty (CMP) in lieu of disqualification for third or subsequent sanctions for federal mandatory vendor sanctions.

D. State Agency Vendor Sanctions. The state agency identifies violations contained in Paragraphs 1 through 7 and 9 of this Subsection as actions subject to a corrective action plan for an initial violation. Corrective action plans shall be implemented in full by vendors when required by the state agency and can include, but are not limited to, store employee training, stock rotation training, and/or training on WIC FI/CVV processing procedures. If the vendor fails to implement a corrective action plan for failure to adhere to selection criteria, the state agency shall terminate the vendor agreement. The state agency may disqualify a vendor from participation in WIC for one year for a pattern of any of the following state agency violations:

1. providing cash for returned WIC-approved foods purchased with WIC FIs/CVVs;
2. failing to comply with FI and CVV processing and redemption procedures;
3. stocking or selling WIC-approved foods that are expired or otherwise not fresh, as determined by the state agency;
4. failing to participate in and complete training, as scheduled and required by the state agency;
5. failing to maintain or provide the state agency with required information by the due date identified by the state agency;
6. failing to notify the state agency of instances in which a participant or proxy has failed to comply with WIC program requirements;
7. failing to provide to WIC participants or proxies the same courtesies as offered to other customers;
8. failing to implement a corrective action plan imposed by the state agency; or
9. failing to adhere to any other requirements of the vendor agreement or vendor guide except those for which a longer disqualification period is required as specifically identified within Subsection A-A.2.f of this Section.

E. Civil Money Penalty. Except where prohibited by federal regulation or in those cases of permanent vendor disqualification pursuant to the application of Subsection A of this Section, if the state agency determines in its sole discretion that disqualification of the authorized vendor would result in inadequate participant access, the state agency shall impose a civil money penalty (CMP) in lieu of disqualification. Such CMP shall be calculated in accordance with federal regulations. If a vendor does not pay the CMP, only partially pays the CMP, or fails to make timely payment of the CMP in lieu of disqualification, the state agency shall disqualify the vendor for the length of the disqualification corresponding to the violation for which the CMP was assessed.

F. Recoupment of Excess Payment. The state agency shall recoup excess payments made to the authorized vendor resulting from the vendor's violation of the vendor agreement.

G. SNAP Disqualification. The state agency shall disqualify from the WIC program a vendor who is disqualified from SNAP. The disqualification shall be for the same length of time as SNAP disqualification, may begin at a later date than SNAP disqualification, and is not subject to administrative or judicial review under the WIC program.

H. SNAP CMP. The state agency shall disqualify a vendor who receives a CMP for hardship by SNAP. The length of such disqualification shall correspond to the period for which the vendor would otherwise have been disqualified in SNAP.

I. Mandatory Sanction by another WIC State Agency. The state agency shall disqualify a vendor that has been disqualified or assessed a CMP in lieu of disqualification by another WIC state agency for a federal mandatory vendor sanction under the provisions of Subsection A.1-A.4.b of this Section. The length of the disqualification shall be for the same length of time as the disqualification by the other WIC state agency or, in the case of a CMP in lieu of disqualification assessed by the other WIC state agency, for the same length of time for which the vendor would otherwise have been disqualified. The disqualification may begin at a later date than the sanction imposed by the other WIC state agency.

J. Voluntary Withdrawal Not Accepted. Voluntary withdrawal of a vendor and non-renewal of the vendor agreement as alternatives to WIC disqualifications shall not be accepted, and the disqualification shall be entered on the record.

K. Comprehensive Inclusion of Violations of Vendor Document Requirements (including the WIC vendor guide and the WIC vendor agreement which is not covered elsewhere in this Section). Vendor sanctions for violations of vendor document requirements (including the WIC vendor guide and the WIC vendor agreement not covered elsewhere in this Section) may result in termination or disqualification, following provision to the vendor of reasonable notice and opportunity to correct, where permitted by WIC regulations. Violations may give rise to the state agency's assessment of vendor claims, fines, and penalties. Termination of the vendor agreement does not relieve the vendor of the obligation to pay such assessments.

L. State Agency Actions. The state agency shall determine the action to be taken whenever vendor fraud, abuse, or administrative violations are discovered. If the state agency determines that the vendor has violated WIC rules or regulations, the vendor may be required to develop and submit a corrective action plan, the vendor agreement may be terminated and/or the vendor may be disqualified from participation in the WIC program for a period of time no more than the maximum period of time allowed under federal regulations at 7 CFR part 246. To obtain reauthorization, vendors who are disqualified or whose

vendor agreement has been terminated shall reapply and meet all current requirements for authorization.

M. Vendor Notification. The state agency shall notify a vendor in writing when an investigation reveals an initial incidence of a violation for which a pattern of incidences must be established in order to impose a sanction, before another such incidence is documented, unless the state agency determines, in its discretion, on a case-by-case basis, that notifying the vendor would compromise an investigation. Notification shall not be provided for a pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item that exceeds documented inventory.

N. Effect on Other Stores under Same Ownership. If an individual, partnership, corporation, limited liability company, or other business structure is convicted of a criminal offense involving WIC, SNAP, or any other program funded and administered by the Food and Nutrition Service of the U.S. Department of Agriculture, all grocery stores wholly or partially owned or managed by the convicted individual, partnership, corporation, limited liability company, other business structure, or by a partner of a convicted partnership or an officer, of a convicted corporation or a convicted limited liability company, shall be terminated from vendor authorization and shall be ineligible for future vendor authorization for the maximum period of time allowed by federal law and regulations. This termination and period of ineligibility shall occur whether or not the grocery store was the location at which the crime occurred, and regardless of whether or not a penalty was imposed upon the convicted party by the court of competent jurisdiction.

O. Legal Remedies not Precluded by Sanction. The state agency sanctions for vendor violations or program abuse shall not be construed as excluding or replacing any criminal or civil sanctions or other remedies that may be applicable under any federal or state statute or local ordinance. A vendor who commits fraud or abuse of the program is liable to prosecution under applicable federal, state or local laws. Those vendors who have willfully misapplied, stolen or fraudulently obtained program funds shall be subject to a fine of not more than $25,000 or imprisonment for not more than five years or both, if the value of the funds is $100 or more. If the value of the funds is less than $100, such vendors shall be subject to a fine of not more than $1,000 or imprisonment for not more than one year, or both.

P. Prosecution Referral. The state agency shall, where appropriate, refer vendors who abuse the program to federal, state and/or local authorities for prosecution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

§4511. Administrative Review of State Agency Adverse Actions

A. Adverse actions taken by the Louisiana WIC program that affect vendors or vendor applicants may be subject to administrative review, if appealed.

B. The Louisiana WIC program shall provide written notification of the adverse action, the procedures to follow to request an administrative review, and the cause(s) for and the effective date of the action. If the vendor is disqualified due in whole or in part to violations of Subsection A of Section 4509 of this Subpart, such notification shall include the following statement: "This disqualification from WIC may result in disqualification as a retailer in SNAP. Such disqualification is not subject to administrative or judicial review under SNAP." If the WIC-authorized vendor or applicant vendor wishes to appeal the decision, the vendor or applicant vendor shall submit a request for appeal stating the reason for the appeal. The request shall be submitted in writing and mailed to the Louisiana WIC program within 15 calendar days after the receipt of the state agency's written notification of the adverse action. Within the notice of adverse action, the Louisiana WIC program shall include an appropriate return mailing address, along with a staff member's contact name, so that an aggrieved party may properly submit a request for appeal.

C. The adverse action shall be imposed on the effective date noted in the written notification and shall remain in place during the administrative review unless the Louisiana WIC program determines, at its sole discretion, that the adverse action would result in inadequate participant access to supplemental foods.

D. Adverse actions subject to administrative review include the following:

1. denial of authorization based on the application of the vendor selection criteria for minimum variety and quantity of approved foods;
2. denial of authorization based on a determination that the vendor is attempting to circumvent a sanction;
3. termination of an agreement for cause;
4. disqualification, except as a result of a disqualification from SNAP;
5. imposition of a fine or a civil money penalty in lieu of disqualification;
6. denial of authorization based on the vendor selection criteria for business integrity;
7. denial of authorization based on the selection criteria for a current SNAP disqualification or civil money penalty for hardship;
8. denial of authorization based on the application of the vendor selection criteria for competitive price;
9. the application of the state agency's vendor peer group criteria and the criteria used to identify vendors that are above-50-percent vendors or comparable to above-50-percent vendors;
10. denial of authorization based on a state agency-established vendor selection criterion if the basis of the denial is a WIC vendor sanction or a SNAP withdrawal of authorization or disqualification;
11. denial of authorization based on the state agency's limiting criteria, if any;
12. denial of authorization because a vendor submitted its application outside the timeframes during which applications are being accepted and processed, as established by the state agency;
13. termination of an agreement because of a change in ownership or location or cessation of operations;
14. a civil money penalty imposed in lieu of disqualification based on a SNAP disqualification; and

15. denial of an application based on a determination of whether an applicant vendor is currently authorized by SNAP.

E. A WIC authorized vendor or vendor applicant who files a proper appeal request for those actions subject to administrative review shall be provided:

1. adequate advance notice of the time and place of the administrative review to provide all parties involved sufficient time to prepare for the review and at least one opportunity to reschedule the administrative review date upon specific request;

2. the opportunity to examine, prior to the review, the evidence upon which the Louisiana WIC program's action is based;

3. the opportunity to be represented by counsel;

4. the opportunity to cross-examine adverse witnesses (when necessary to protect the identity of witnesses, they may be cross-examined behind a protective screen or other device);

5. the opportunity to present its case;

6. an impartial decision-maker, whose determination is based solely on whether the Louisiana WIC program has correctly applied federal and state statutes, regulations, policies, and procedures governing the program, according to the evidence presented at the review; and

7. written notification of the review decision, including the basis for the decision, within 90 days from the date of receipt of a vendor's request for an administrative review; however, this timeframe is only an administrative goal for the Louisiana WIC program and, should a decision of the appeal review not be made within the specified timeframe, such delay shall not provide a basis to overturn the adverse action.

F. Actions not subject to administrative review include:

1. the validity or appropriateness of the Louisiana vendor limiting criteria, if any;

2. the validity or appropriateness of Louisiana's vendor selection criteria for the minimum variety and quantity of supplemental foods, business integrity, current SNAP disqualification, or civil money penalty for hardship;

3. the validity or appropriateness of the Louisiana selection criteria for a competitive price including, but not limited to, vendor peer group criteria and the criteria used to identify vendors that are above-50-percent vendors or comparable to above-50-percent vendors;

4. the validity or appropriateness of the state agency's participant access criteria and the state agency's participant access determinations;

5. the state agency's determination to include or exclude an infant formula manufacturer, wholesaler, distributor, or retailer from the list of businesses from which an authorized vendor may purchase infant formula pursuant to selection criteria;

6. the validity or appropriateness of the state agency's prohibition of incentive items and the state agency's denial of an above-50-percent vendor's request to provide an incentive item to customers;

7. the state agency's determination whether to notify a vendor in writing when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction;

8. the state agency's determination whether a vendor had an effective policy and program in effect to prevent trafficking and that the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation;

9. denial of authorization if the state agency's vendor authorization is subject to the procurement procedures applicable to the state agency;

10. the expiration of a vendor's agreement;

11. disputes regarding food instrument or cash-value voucher payments and vendor claims (other than the opportunity to justify or correct a vendor overcharge or other error); and

12. disqualification of a vendor as a result of disqualification from SNAP.

G. A vendor that is permitted to continue program operations while its appeal is in process does not relieve such vendor from the responsibility of continued compliance with the terms of any written agreement with the Louisiana WIC program. Administrative review decisions of the Division of Administrative Law are the final action of the Louisiana WIC program. If the review decision upholds the adverse action against the vendor, the vendor may be able to pursue judicial review of the decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

§4513. Availability of Documents

A. The vendor application, the vendor agreement, and the WIC vendor guide shall be provided for review to any interested party by submission of an email request to LAWICVendor@la.gov.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

Public Comments

Interested persons may submit written comments to Bruce Boyea, Director, Bureau of Nutrition Services, Office of Public Health, 1450 Poydras Street, Suite 1906, New Orleans, LA 70112, or faxed to (504) 568-8232. He is responsible for responding to inquiries regarding this Emergency Rule.

Rebecca E. Gee, MD, MPH
Secretary

1610#011

DECLARATION OF EMERGENCY

Department of Insurance
Office of the Commissioner

Emergency Rule 28—Suspension of Right to Cancel or Nonrenew Residential, Commercial Residential, or Commercial Property Insurance Due To Historic Flooding
(LAC 37:XI.Chapter 51)

The Department of Insurance hereby exercises the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted by *Louisiana Revised Statutes* 22:1 et seq., adopts Emergency Rule 28. Emergency Rule 28 shall be effective upon adoption and shall remain effective through Wednesday, October 12, 2016.

Emergency Rule 28 is issued pursuant to the transfer of authority to suspend provisions of regulatory statutes and implementing regulations from the governor to the commissioner of Insurance in Executive Order No. JBE 2016-58, signed by Governor John Bel Edwards on August 17, 2016 and amended on September 12, 2016, by Executive Order No. JBE 2016-67. The transfer of authority in Executive Order No. JBE 2016-58 is authorized in the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721 et seq., and rules promulgated by the commissioner relative to the *Louisiana Insurance Code* are authorized in R.S. 22:11 and are promulgated through the aforementioned Administrative Procedure Act.

On August 12, 2016, Governor John Bel Edwards declared a State of Emergency within the state of Louisiana in response to historic flooding in Louisiana. This State of Emergency, declared pursuant to Proclamation No. 111 JBE 2016, extends from Friday, August 12, 2016, to Monday, September 12, 2016. Louisiana citizens have suffered damage due to this historic flooding. In some places, it could be several weeks before electricity is restored. The homes of many Louisiana citizens were destroyed, precluding habitation. The damage caused by this historic flooding has resulted in the closing of businesses and financial institutions, the temporary suspension of mail service, interruption of communication services, the temporary displacement of persons from their homes, loss of personal belongings, and temporary loss of employment. This disruption has affected the ability of these citizens to timely pay their insurance premiums, access their insurance policies, and communicate with insurance agents and their respective insurance companies for insurance-related matters. This historic flooding has created a mass disruption to the normalcy previously enjoyed by Louisianans and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens.

Insurers have been working diligently to adjust and pay claims. However, due to a shortage of building materials, contractors, and construction workers, many policyholders who have received, or will soon receive, claim payments from insurers will find that they are unable to repair or reconstruct their residential, commercial residential, or commercial property within normal time frames. In many places, it could be months before residential, commercial residential, or commercial property damaged by the historic flood can be repaired or reconstructed. This inordinate time period to repair or reconstruct residential, commercial residential, or commercial property continues to affect the ability of Louisiana insureds to maintain or obtain personal residential, commercial residential, or commercial property insurance. For these reasons, Executive Order No. JBE 2016-58, amended by Executive Order No. JBE 2016-67 signed by Governor John Bel Edwards on September 12, 2016, remains in effect through Wednesday, October 12, 2016.

The commissioner will be hindered in the proper performance of his duties and responsibilities under the *Louisiana Insurance Code*, as well as his duties and responsibilities regarding the referenced State of Emergency, without the authority to suspend certain statutes in the *Louisiana Insurance Code* and the rules and regulations that implement the *Louisiana Insurance Code* and without the adoption of Emergency Rule 28, which relates to the cancellation and nonrenewal of all personal residential, commercial residential, or commercial property insurance subject to the *Louisiana Insurance Code*.

Therefore, Emergency Rule 28 is issued and shall apply to all insurers, property and casualty insurers, surplus lines insurers, and any and all other entities doing business in Louisiana and/or regulated by the commissioner, regarding any and all types of homeowners insurance and/or residential property insurance, commercial insurance, fire and extended coverage insurance, credit property and casualty insurance, property and casualty insurance, all surplus lines insurance, and any and all other insurance regulated entities doing business in Louisiana and/or regulated by the commissioner.

Emergency Rule 28 is applicable to insureds who, as of 12:01 a.m. on August 12, 2016, had a personal residential, commercial residential, or commercial property insurance policy covering a dwelling, residential property, or commercial property located in one of the following parishes: Acadia, Ascension, Assumption, Avoyelles, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, West Baton Rouge, and West Feliciana, and any such parishes that may receive a major disaster declaration by the President of the United States or such officer acting under his authority.

Emergency Rule 28 is available on the internet at www.ldi.state.la.us and is available for inspection between the hours of 8 a.m. until 4:30 p.m. at the Louisiana Department of Insurance, 1702 North Third Street, Baton Rouge, LA 70802.

Title 37
INSURANCE
Part XI. Rules

Chapter 51. Emergency Rule 28—Suspension of Right to Cancel or Nonrenew Residential, Commercial Residential, or Commercial Property Insurance Due To Historic Flooding

§5101. Benefits, Entitlements, and Protections

A. The benefits, entitlements, and protections of Emergency Rule 28 shall be applicable to insureds who, as of 12:01 a.m. on August 12, 2016, had a personal residential,

commercial residential, or commercial property insurance policy covering a dwelling, residential property, or commercial property located in one of the following parishes: Acadia, Ascension, Assumption, Avoyelles, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, West Baton Rouge, and West Feliciana, and any such parishes that may receive a major disaster declaration by the President of the United States or such officer acting under his authority.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5103. Applicability

A. Emergency Rule 28 shall apply to any and all types of personal residential, commercial residential, or commercial property insurance covering a dwelling, residential property, or commercial property located in one of the parishes set forth in Section 5101.A that sustained damage as a result of the August 2016 historic flood or its aftermath, including but not limited to, any and all types of homeowners insurance and/or residential property insurance, commercial insurance, fire and extended coverage insurance, credit property and casualty insurance, property and casualty insurance, and any and all other insurance regulated by the commissioner that falls within the intent and purpose of Emergency Rule 28.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5105. Cancellation or Nonrenewal Suspended

A. Any statutory or regulatory provision, or any policy provisions contained in any and all policies of insurance set forth in Section 5103.A above, that authorizes any insurer, surplus lines insurer, or any other entity regulated by the commissioner to cancel or nonrenew, on the grounds of a material change in the risk being insured, any personal residential, commercial residential, or commercial property insurance policy covering a dwelling, residential property, or commercial property located in Louisiana that sustained damages as a result of the August 2016 historic flood or its aftermath, is suspended and unenforceable, and such cancellations or nonrenewals shall be prohibited through Wednesday, October 12, 2016, unless extended by the commissioner. Any such notice of cancellation or nonrenewal issued on or after August 12, 2016, through October 12, 2016, shall be null and void and have no force or effect. Furthermore, any such notice shall be reissued *de novo* to the insured in accordance with existing statutory requirements, and any such notice shall not be issued prior to October 13, 2016.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5107. Insured's Obligation

A. The insured is obligated to exercise good faith with regard to undertaking the repairs or reconstruction of the dwelling or residential property.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5109. Insurer's Obligation

A. The insurer or surplus lines insurer or any other entity regulated by the commissioner is obligated to provide the insured with sufficient time to effectuate the repairs or reconstruction to the dwelling or residential property and to recognize the inordinate conditions that exist in the state of Louisiana with regard to the ability of the insured to engage a contractor, engage construction workers, obtain materials, and otherwise undertake to accomplish the necessary repairs or reconstruction of the dwelling, residential property, or commercial property.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5111. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 28 upon the written request by the insurer if the commissioner determines that compliance with Emergency Rule 28 may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5113. Purpose and Intent

A. The provisions of Emergency Rule 28 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana who desire to maintain or obtain personal residential, commercial residential, or commercial property.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5115. Authority

A. The commissioner reserves the right to amend, modify, alter, or rescind all or any portion of Emergency Rule 28. Additionally, the commissioner reserves the right to extend Emergency Rule 28.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5117. Severability

A. If any section or provision of Emergency Rule 28 is held invalid, such invalidity or determination shall not affect other sections or provisions or the application of Emergency Rule 28 to any persons or circumstances to which provisions can be given effect without the invalid sections or provisions, and the application to any such person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5119. Effective Date

Emergency Rule 28 shall be effective upon promulgation and shall remain effective through Wednesday, October 12, 2016.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

James J. Donelon
Commissioner of Insurance

1610#003

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections
Office of the State Fire Marshal
Uniform Construction Code Council

Uniform Construction Code (LAC 17:I.Chapter 1)

The Department of Public Safety and Corrections, Office of the State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) has exercised the emergency provision in accordance with R.S. 49:953(B) of the Administrative Procedure Act to amend, supplement and expand portions of and readopt LAC 17:I.Chapter 1 in the state *Uniform Construction Code* as authorized by R.S. 40:1730.26 and R.S. 40:1730.28. Furthermore, the LSUCCC has found an immediate need to adopt amendments of the current plumbing provisions in the *International Building Code*, *International Residential Code*, and the *International Plumbing Code* regarding health and safety for the public. This Emergency Rule was adopted and became effective September 12, 2016 and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The LSUCCC is promulgating this Rule adoption and amendments to provide greater health and safety for the public and those providing installation and maintenance on plumbing systems. This Rule was first adopted on December 9, 2015 and published in the December 2015 edition of the *Louisiana Register* (Vol. 41, No. 12). The Rule became effective on January 1, 2016.

The Emergency Rule was re-adopted on May 10, 2016 to continue those provisions. At that time, the Rule was amended to add standards for repairs to drainage systems via reroutes and trap seals. It also amended definitions and made technical changes within the aforementioned international codes.

Prior to this publication, a notice for a public hearing was published in the "Potpourri" section of the *Louisiana Register* on July 20, 2016 (Vol. 42, No. 07). The notice included proposed substantial changes to the Rule. The public hearing was held August 23, 2016 at 10 a.m. at the Office of the State Fire Marshal. There were no comments to the proposed changes. Therefore, the changes were adopted and the Emergency Rule became effective September 12, 2016.

Act 836 of the 2014 Regular Session of the Louisiana Legislature mandates the adoption of the plumbing provisions in the *International Plumbing Code, International Building Code and* the *International Residential Code.* This Emergency Rule addresses this mandate by providing for necessary amendments to the codes. These amendments will also allow new technology and methods to be used that were not allowed in the previous Louisiana state *Plumbing Code*.

The public welfare dictates that these changes be implemented immediately through the adoption of this Emergency Rule to promote greater safety to existing plumbing systems and those providing maintenance and installation on plumbing systems thus allowing new and existing facilities to incorporate designs which provided for greater public safety while providing more cost-effective new methods and technology.

The public welfare further dictates that these changes are implemented immediately through the adoption of this Emergency Rule because of the health risks these amendments address. Adoption of this Emergency Rule will allow owners and developers to immediately use these new standards in expanding existing facilities and/or constructing new facilities.

Adoption of this Emergency Rule will also provide proven methods for plumbing systems and new technology in the plumbing codes which will ensure the health, safety and welfare of not only plumbers, installers and maintenance workers, but for the public as well.

Title 17
CONSTRUCTION
Part I. Uniform Construction Code
Chapter 1. Uniform Construction Code

§101. Louisiana State Uniform Construction Code (Formerly LAC 55:VI.301.A)

A. In accordance with the requirements set forth in R.S. 40:1730.28, effective January 1, 2016 the following is hereby adopted as an amendment to the Louisiana state Uniform Construction Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire

Marshal, LR 41:2380 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:

§107. *International Residential Code*
(Formerly LAC 55:VI.301.A.3.a)

A.1. - A.8.d. …

A.8.d.i. The potable water supply to lawn irrigation systems shall be protected against backflow by an atmospheric vacuum breaker, a pressure vacuum breaker assembly or a reduced pressure principle backflow prevention assembly. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker. When an irrigation/lawn sprinkler system is provided with separate zones, the potable water supply shall be protected by a pressure vacuum breaker or reduced pressure principal backflow prevention assembly. Atmospheric vacuum breakers shall be installed at least 6 inches (152 mm) above the highest point of usage (i.e., 6 inches (152 mm) above all downstream piping and highest sprinkler head). Pressure type vacuum breakers shall be installed at least 12 inches (305 mm) above the highest point of usage (i.e., 12 inches (305 mm) above all downstream piping and the highest sprinkler head). Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow prevention assembly.

A.8.e. - A.9.r. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2383 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:

§111. The International Plumbing Code
(Formerly LAC 55:VI.301.A.5)

A. The *International Plumbing Code*, 2012 Edition. The appendices of that code may be adopted as needed, but the specific appendix or appendices shall be referenced by name or letter designation at the time of adoption. (per R.S. 40:1730.28 eff. 1/1/16)

1. Amend Chapter One.

a. Amend section [A] 101.2, Scope.

i. Section [A] 101.2 Scope. The provisions of this code shall apply to the erection, installation, alteration, repairs, relocation, replacement, addition to, use or maintenance of plumbing systems within this jurisdiction. This code shall also regulate nonflammable medical gas, inhalation anesthetic, vacuum piping, nonmedical oxygen systems and sanitary and condensate vacuum collection systems. The installation of fuel gas distribution piping and equipment, fuel-gas-fired water heaters and water heater venting systems shall be regulated by the *International Fuel Gas Code*. Provisions in the appendices shall not apply unless specifically adopted.

(a). Nothing in this Part or any provision adopted pursuant to this Part shall prohibit the Department of Health and Hospitals from the following:

(i). regulating stored water temperatures through enforcement of the *Sanitary Code*;

(ii). regulating medical gas and medical vacuum systems.

[a]. Exception:

[i]. detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the *International Residential Code*.

B. Amend Chapter Two Definitions.

Adult Day Care Center—any place or facility, operated by any person for the primary purpose of providing care, supervision and guidance of 10 or more people 18 years and older, not related to the caregiver and unaccompanied by parent or guardian, on a regular basis, for a total of at least 20 hours in a continuous seven-day week in a place other than the person's home.

Air Break (*Drainage System*)—a piping arrangement in which a drain from a fixture, appliance or device discharges indirectly into another fixture, or receptacle at a point below the flood level rim and above the trap seal. An unobstructed horizontal distance of free atmosphere between the outside of the indirect waste pipe and the inside of the waster receptor must exist so as to allow a back-flow of sewage to spill over the flood level rim of the receiving sink or other receptor to prevent such back-flow from reaching the fixture, device, appliance or apparatus served by the indirect waste pipe.

Barometric Loop—a fabricated piping arrangement rising at least 35 feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against backsiphonage backflow.

Building Drain—that part of the lowest piping of a drainage system that receives the discharge from soil, waste and other drainage pipes in side and that extends 30 inches (762 mm) in developed length of pipe beyond the exterior walls of the building and conveys the drainage to the building sewer.

NOTE: Delete definition Combined—a building drain that conveys both sewage and storm water or other drainage.

a. *Sanitary*—a building drain that conveys sewage only.

b. *Storm*—a building drain that conveys storm water or other drainage, but not sewage.

Building Sewer—that part of the drainage system that extends from the end of the building drain and conveys the discharge to a community sewerage system, commercial treatment facility, or individual sewerage system or other point of disposal.

NOTE: Delete definition Combined—a building sewer that conveys both sewage and storm water or other drainage.

a. *Sanitary*—a building drain that conveys sewage only.

b. *Storm*—a building drain that conveys storm water or other drainage, but not sewage.

By-Pass—any system of piping or other arrangement whereby the water may be diverted around any part or

portion of the water supply system including, but not limited to, around an installed backflow preventer.

Child Day Care Center—any place or facility, operated by any person for the primary purpose of providing care, supervision and guidance of seven or more children under the age of 18, not related to the care giver and supervision and guidance of seven or more children under the age of 18, not related to the care giver and unaccompanied by parent or guardian, on a regular basis, for a total of at least 20 hours in a continuous seven-day week in a place other than the children's home. A day care center that remains open for more than 20 hours in a continuous seven-day week, and in which no individual child remains for more than 24 hours in one continuous stay shall be known as a full-time day care center.

NOTE: Delete definition Combined Building Drain—"See building drain, combined"

NOTE: Delete definition Combined Building Sewer—"See Building sewer, combined"

Commercial Treatment Facility—any treatment facility which is required by the state health officer whenever the use of an individual sewerage system is unfeasible or not authorized.

Community Sewerage System—any sewerage system which serves multiple connections and consists of a collection and/or pumping system/transport system and treatment facility.

Containment—a method of backflow prevention which requires a backflow prevention device or method on the water service pipe to isolate the customer from the water main.

Continuous Water Pressure—a condition when a backflow preventer is continuously subjected to the spill over the flood level rim of the receiving sink or other receptor to prevent such back-flow from reaching the fixture, device, appliance or apparatus served by the indirect waste pipe.

NOTE: Delete definition Lead Free Pipe and Fittings—Containing not more than 8.0 percent lead

NOTE: Delete definition Lead Free Solder and Flux—Containing not more than 0.2 percent lead

Day Care Centers—includes adult and child day care centers.

Degree of Hazard—an evaluation of the potential risk to public health if the public were to be exposed to contaminated water caused by an unprotected or inadequately protected cross connection.

Domestic Well—a water well used exclusively to supply the household needs of the owner/lessee and his family. Uses may include human consumption, sanitary purposes, lawn and garden watering and caring for pets.

Dual Check Valve—a device having two spring loaded, independently operated check valves without tightly closing shut-off valves and test cocks. Generally employed immediately downstream of the water meter. Not an approved backflow prevention device.

Fixture Isolation—a method of backflow prevention in which a backflow preventer is located to protect the potable water of a water supply system against a cross connection at a fixture located within the structure or premises itself.

Human Consumption—the use of water by humans for drinking, cooking, bathing, showering, hand washing, dishwashing, or maintaining oral hygiene.

Indirect Waste Pipe—a waste pipe that does not connect directly with the drainage system, but that discharges into the drainage system through an *air break* or *air gap* into a trap, fixture, or *waste receptor*.

Delete definition *Individual water supply*—A water supply that serves one or more families, and that is not an approved public water supply.

Individual Sewerage System—any system of piping (excluding the building drain and building sewer), and/or collection and/or transport system which serves one or more connections, and/or pumping facility, and treatment facility, all located on the property where the sewage originates; and which utilizes the individual sewerage system technology which is set forth in LAC 51:XIII.Chapter 7, Subchapter B, or a commercial treatment facility which is specifically authorized for use by the state health officer.

Infant—any child under the age of 12 months.

Lead Free—

a. in general:

i. not containing more than 0.2 percent lead when used with respect to solder and flux; and

ii. not more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures;

b. calculation:

i. the weighted average lead content of a pipe, pipe fitting, plumbing fitting, or fixture shall be calculated by using the following formula:

(a). for each wetted component, the percentage of lead in the component shall be multiplied by the ratio of the wetted surface area of that component to the total wetted surface area of the entire product to arrive at the weighted percentage of lead of the component. The weighted percentage of lead of each wetted component shall be added together, and the sum of these weighted percentages shall constitute the weighted average lead content of the product. The lead content of the material used to produce wetted components shall be used to determine compliance with Clause a.ii above. For lead content of materials that are provided as a range, the maximum content of the range shall be used.

NOTE: Delete definition Lead Free Pipe and Fittings—Containing not more than 8.0 percent lead

NOTE: Delete definition Lead Free Solder and Flux—Containing not more than 0.2 percent lead.

Master Meter—a water meter serving multiple residential dwelling units or multiple commercial units. Individual units may or may not be sub-metered.

Plumbing—the practice, materials and fixtures utilized in the installation, maintenance, extension and alteration of all piping, fixtures, plumbing appliances and plumbing appurtenances, within or adjacent to any structure, in connection with sanitary drainage or storm drainage facilities; venting systems; and public or private water supply systems. Plumbing includes yard piping connecting sanitary or storm drainage with any point of disposal or other acceptable terminal as well as the water service piping connecting to a water main or other source of water supply. Plumbing does not include the installation, alteration, repair or maintenance of automatic fire sprinklers and including the underground or overhead water supply beginning at the outlet of an approved backflow prevention device installed under the plumbing provisions of this Code where water is

to be used or is intended to be used exclusively for fire protection purposes.

Potable Water—water free from impurities present in amount sufficient to cause disease or harmful physiological effects and conforming to the bacteriological, physical, radiological, and chemical quality requirements of the federal Safe Drinking Water Act or the regulations of the Department of Health and Hospitals, Office of Public Health.

Potable Water Supply—a publicly owned or privately owned water supply system which purveys potable water.

Preschool—any child less than five years of age.

Private Water Supply—a potable water supply that does not meet the criteria for a public water supply including, but not limited to a domestic well.

Public or *Public Utilization*—in the classification of plumbing fixtures, "public" applies to fixtures in general toilet rooms of schools, gymnasiums, hotels, hotel/motel rooms, airports, busand railroad stations, public buildings, bars, public comfort stations, office buildings, stadiums, stores, restaurants, patient rooms and other installations where a number of fixtures are installed so that their utilization is similarly unrestricted.

NOTE: Delete definition *Public Water Main*—A water supply pipe for public use controlled by public authority.

Public Water Supply—public water system.

Public Water System—a particular type of water supply system intended to provide potable water to the public having at least 15 service connections or regularly serving an average of at least 25 individuals daily at least 60 days out of the year.

Putrescible Waste—waste which is subject to spoilage, rot, or decomposition and may give rise to foul smelling, offensive odors and/or is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies. It includes wastes from the preparation and consumption of food, vegetable matter, and animal offal and carcasses.

Residential Facility—any place, facility, or home operated by any person who receives therein four or more people who are not related to such person for supervision, care, lodging and maintenance with or without transfer of custody. This shall include, but not be limited to group homes, community homes, maternity homes, juvenile detention centers, emergency shelters, halfway homes and schools for the mentally retarded.

Sanitary Sewage—see "sewage."

Sewer—a pipe or other constructed conveyance which conveys sewage, rainwater, surface water, subsurface water, or similar liquid wastes.

a. *Building Sewer*—see "building sewer."

b. *Public Sewer*—a common sewer directly controlled by a public authority or utilized by the public.

c. *Sanitary Sewer*—a sewer that carries sewage and excludes storm, surface and ground water.

d. *Storm Sewer*—a sewer that conveys rainwater, surface water, subsurface water and similar liquid wastes.

Sewerage System—any system of piping (excluding the building drain and building sewer) and/or collection and/or transport system and/or pumping facility and/or treatment facility, all for the purpose of collecting, transporting, pumping, treating and/or disposing of sanitary sewage.

Waste Receptor—a *plumbing fixture* designed specifically to collect and dispose of liquid waste received from an indirect waste pipe which is connected to other *plumbing fixtures*, plumbing equipment or appliances which are required to discharge to the drainage system through either an air gap (drainage system) or air break (drainage system). The following type fixtures fall within the classification of indirect waste receptors: floor sinks, curbed cleaning facilities with floor drain, and standpipe drains with integral air gaps (drainage system) or air breaks (drainage system), and may include others when approved as such by the code official.

Water Main—a water supply pipe or system of pipes installed and maintained by a city, township, county, Public Utility Company or other public entity, on public property, in the street or in an approved dedicated easement of public or community use. This term shall also mean the principal artery (or arteries) used for the distribution of potable water to consumers by any water supplier including, but not limited to, those public water systems which are not owned by the public and which may not be on public property.

Water Supplier—a person who owns or operates a water supply system including, but not limited to, a person who owns or operates a public water system.

Water Supply System—the water service pipe, water distribution pipes, and the necessary connecting pipes, fittings, control valves and all appurtenances in or adjacent to the structure or premise. This term shall also mean the system of pipes or other constructed conveyances, structures and facilities through which water is obtained, treated to make it potable (if necessary) and then distributed (with or without charge) for human consumption or other use.

NOTE: Delete definition *Well*—

Bored—a well constructed by boring a hole in the ground with an auger and installing a casing.

Drilled—a well constructed by making a hole in the ground with a drilling machine of any type and installing casing and screen.

Driven—a well constructed by driving a pipe in the ground. The drive pipe is usually fitted with a well point and screen.

Dug—a well constructed by excavating a large-diameter shaft and installing a casing.

C. Amend Chapter 3, General Regulations.

1. Add section 303.5, Water Piping Quality.

a. All potable water pipes, fittings, valves, and fixtures shall be lead-free and shall be evaluated and listed as conforming with NSF/ANSI 372. Any solder or flux which is used in the installation or repair of any public water system or any plumbing in a residential or nonresidential facility providing water for human consumption shall be lead-free.

i. Exception. The lead-free requirement above shall not apply to:

(a). leaded joints necessary for the repair of existing cast iron pipes;

(b). fire hydrants, pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor

watering, or any other uses where the water is not anticipated to be used for human consumption; or

(c). toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.

2. Amend section [B] 309.2, Flood hazard.

a. For structures located in flood hazard areas, the following systems and equipment shall be located and installed as required by section 1612 of the *International Building Code*.

NOTE: Where a private water supply is used it must meet the applicable requirements of LAC 51:XII (Water Supplies) and LAC 56:I (Water Wells) shall be utilized.

i. Exception

(a). The following systems are permitted to be located below the elevation required by section 1612 of the *International Building Code* for utilities and attendant equipment provided that the systems are designed and installed to prevent water from entering or accumulating within their components and the systems are constructed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to up to such elevation:

(i). all water service pipes;

(ii). all sanitary drainage piping;

(iii). storm drainage piping;

(iv). manhole covers shall be sealed, except where elevated to or above the design flood elevation;

(v). all other plumbing fixtures, faucets, fixture fittings, piping systems and equipment;

(vi). water heaters;

(vii). vents and vent systems.

3. Amend section 312.1, Required Tests.

a. The permit holder shall make the applicable tests prescribed in sections 312.2 through 312.10 to determine compliance with the provisions of this code. The permit holder shall give reasonable advance notice to the code official when the plumbing work is ready for tests. The code official shall verify the test results. The equipment, material, power and labor necessary for the inspection and test shall be furnished by the permit holder and the permit holder shall be responsible for determining that the work will withstand the test pressure prescribed in the following tests. All plumbing system piping shall be tested with either water or by air. After the plumbing fixtures have been set and their traps filled with water, the entire drainage system shall be submitted to final tests. The code official shall require the removal of any cleanouts if necessary to ascertain whether the pressure has reached all parts of the system.

4. Amend section 312.3, Drainage and vent test.

a. An air test shall be made by forcing air into the system until there is a uniform gauge pressure of 5 psi (34.5 kPa) or sufficient to balance a 10-inch (254 mm) column of mercury. This pressure shall be held for a test period of not less than15 minutes. Any adjustments to the test pressure required because of changes in ambient temperatures or the seating of gaskets shall be made prior to the beginning of the test period.

5. Amend section 312.5, Water supply system test.

a. Upon completion of a section of or the entire water supply system, the system, or portion completed, shall be tested and proved tight under a water pressure not less than 1.5 times the working pressure of the system, but not less than 140 psi; or, for piping systems other than plastic, by an air test of not less than 50 psi (344 kPa). This pressure shall be held for not less than 15 minutes. The water utilized for tests shall be obtained from a potable source of supply. The required tests shall be performed in accordance with this Section and Section 107.

6. Amend section 312.10, Installation, inspection and testing of backflow prevention assemblies, barometric loops and air gaps.

a. Installation, inspection and testing shall comply with sections 312.10.1 through 312.10.3.

7. Amend section 312.10.1, Inspections.

a. Annual inspections shall be made of all backflow prevention assemblies, barometric loops and air gaps to determine whether they are operable, properly installed and maintained, and meet testing/code requirements. Inspections of backflow prevention devices including barometric loops and air gaps used to protect high degree of hazard cross connections shall be documented in writing and the report provided to the owner of the backflow prevention device.

8. Amend section 312.10.2, Testing.

a. Reduced pressure principle, double check, pressure vacuum breaker, reduced pressure detector fire protection, double check detector fire protection, and spill-resistant vacuum breaker backflow preventer assemblies shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The testing procedure shall be performed in accordance with one of the following standards: ASSE 5013, ASSE 5015, ASSE 5020, ASSE 5047, ASSE 5048, ASSE 5052, ASSE 5056, CSA B64.10.1, USC's FCCC and HR's "Manual of Cross-Connection Control", or UFL's TREEO's "Backflow Prevention—Theory and Practice". Any backflow preventer which is found to be defective shall be repaired.

9. Add section 312.10.3, Owner Responsibilities.

a. The owner of the backflow prevention assemblies shall comply with the following.

i. It shall be the duty of the owner of the backflow prevention assembly to see that these tests are made in a timely manner in accord with the frequency of field testing specified in 312.10.2 of this code.

ii. The owner shall notify the building official, and/or water supplier (for those devices associated with containment) in advance when the tests are to be undertaken so that the building official and/or water supplier may witness the tests if so desired.

iii. Upon completion, the owner shall provide records of such tests, repairs, overhauls, or replacements to the building official or water supplier (for those devices associated with containment). In addition, all records shall be kept by the owner of the backflow prevention device or method for at least 5 years and, upon specific request, shall be made available to the building official or water supplier.

iv. All tests, repairs, overhauls or replacements shall be at the expense of the owner of the backflow preventer.

10. Add section 314.3, Plenum.

a. No floor drain or other plumbing fixture except electric water heaters shall be installed in a room containing air handling machinery when such room is used as a plenum. When rooms are used as a plenum, equipment drains shall be

conveyed through an indirect waste receptor located outside such rooms or other approved point of disposal.

11. Amend section 316.1.2, Submittal.

a. The registered design professional engineer shall indicate on the permit application that the plumbing system is an alternative engineered design. The permit and permanent permit records shall indicate that an alternative engineered design was part of the approved installation.

D. Amend chapter 4.

1. Amend section 403.3.3, Location of toilet facilities in occupancies other than malls and educational buildings.

a. In occupancies other than covered and open mall buildings, and educational buildings, the required public and employee toilet facilities shall be located not more than one story above or below the space required to be provided with toilet facilities, and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m).

2. Add section 403.3.7, Location of toilet facilities in educational buildings.

a. For primary schools, and other special types of institutions with classrooms, for children through 12 years of age, separate boys' and girls' toilet room doors shall not be further than 200 feet from any classroom doors. For secondary schools, and other special types of institutions with classrooms, for persons of secondary school age, separate boys' and girls' toilet room doors shall not be further than 400 feet from any classroom door. In multi-storied buildings, there shall be boys' and girls' toilet rooms on each floor, having the number of plumbing fixtures as specified in Table 403.1 of this Code for the classroom population of that floor. When new educational buildings are added to an existing campus, the restroom facilities and drinking fountains located in the existing building(s) may be used to serve the occupants of the new educational building(s) only when all of the following provisions are met:

i. covered walkways consisting of a roof designed to protect the students and faculty from precipitation having a minimum width of 6 feet and located above a slip-resistant concrete or other acceptable hard surfaces leading to and from the restrooms shall be provided whenever children or faculty have to walk outside to access the toilet room;

ii. the path of travel from the classroom door to the toilet room doors (boys' or girls') does not exceed the applicable distance specified in this Section; and

iii. the number of occupants of the new building does not cause an increase in the school population that would trigger the need for more fixtures per Table 403.1 (Minimum Number of Required Plumbing Fixtures).

3. Add section 403.6, Other fixture requirements for licensed pre-schools, day care centers, and residential facilities.

a. Additional plumbing fixtures shall be provided in day care centers and residential facilities as required by this Section.

4. Add section 403.6.1, Food preparation.

a. The food preparation area in pre-schools, day cares, and residential facilities shall meet the following requirements. The food preparation, storage and handling where six or less individuals are cared for shall provide a two-compartment sink and an approved domestic type dishwasher. Where the number of individuals cared for is between 7 and 15, either a three-compartment sink, or an approved domestic or commercial type dishwashing machine and a two-compartment sink with hot and cold running water shall be provided. Where 16 or more individuals are cared for, a three-compartment sink must be provided. If a dishwasher is also utilized in these instances (16 or more individuals), it must be a commercial type and it shall be in addition to the required three-compartment sink. One laundry tray, service sink, or curbed cleaning facility with floor drain shall also be provided on the premises for cleaning of mops and mop water disposal (for facilities caring for 16 or more individuals).

5. Add section 403.6.2, Caring for children between 0 and 4 years of age.

a. In child day care facilities, a hand washing sink shall be in or adjacent to each diaper changing area. In addition, one extra laundry tray, service sink, or similar fixture is required to clean and sanitize toilet training potties immediately after each use. Such fixture shall be dedicated solely for this purpose and shall not be in the food preparation/storage, utensil washing, or dining areas. Training potties shall not be counted as toilets in determining the minimum fixture requirements of Table 403.1. Fixtures shall be size appropriate for the age of the children being cared for (toilets 11 inches maximum height and lavatories 22 inches maximum height), or if standard size fixtures are used, safe, cleanable step aids shall be provided.

6. Add section 410.5, Minimum Required Separation from Contamination.

a. Drinking fountain fixtures shall provide a minimum requirement of 18 inches of separation from its water outlet (spigot) to any source of contamination. Combination sink/drinking fountain units shall provide a minimum of 18 inches between the drinking fountain water outlet (spigot) and the nearest outside rim of the sink bowl [or other source(s) of contamination].

i. Exception

(a). This 18-inch minimum separation may only be reduced by the use of a vertical shield made of a smooth, easily cleaned surface that is attached flush with the top surface of the unit and extends to a distance at least 18 inches in height above the drinking fountain water outlet (spigot) level.

(b). Prohibited Fixture. Combination sink/drinking fountain units which share the same sink bowl are prohibited except in individual prison cells.

7. Amend section 412, Floor and Trench Drains.

a. Add section 412.5, Miscellaneous areas.

i. A floor drain shall be required in public toilet rooms, excluding hotel/motel guest rooms or patient rooms of a hospital or nursing home.

ii. A floor drain shall be required in the recess room for sterilizers in a medical facility.

iii. Floor drains are not permitted in general food storage areas, for example, a food storage closet or room.

8. Amend section 417.3, Shower water outlet.

a. Waste outlets serving showers shall be not less than 2 inches (50.8 mm) in diameter and, for other than waster outlets in bathtubs, shall have removable strainers not less than 3 inches (76 mm) in diameter with strainer openings not less than 1/4 inch (6.4 mm) in least dimension.

Where each shower space is not provided with an individual waste outlet, the waste outlet shall be located and the floor pitched so that waste from one shower does not flow over the floor area serving another shower. Waste outlets shall be fastened to the waste pipe in an approved manner.

9. Add section 418.4, Handwash Sinks.

a. Dedicated handwash sinks shall be located to permit convenient use by all employees in food processing, food preparation, and other food handling areas.

b. Each commercial body art (tattoo) facility shall provide a hand washing sink to be used solely for hand washing in body art procedure area for the exclusive use of the operator. A separate instrument sink shall also be provided for the sole purpose of cleaning instruments and equipment prior to sterilization.

c. A hand washing sink may not be used for purposes other than hand washing.

d. Sinks used for food preparation or for washing and sanitizing of equipment and utensils shall not be used for hand washing.

10. Add section 418.5, Manual Warewashing, Sink Requirements.

a. A sink with at least three compartments constructed of smooth, impervious non-corrosive material such as stainless steel or high density food grade polymer plastic shall be provided in slaughter rooms, packing rooms, retail food establishments, and other food handling areas for manual washing, rinsing and sanitizing equipment and utensils except where there are no utensils or equipment to wash, rinse and sanitize; i.e., such as in a facility with only prepackaged foods.

11. Add section 422.11, Handwashing Facilities.

a. Medical facilities, including doctor's office and clinics, shall be provided with hand washing facilities within each patient examination and treatment room. The hand wash facility shall be provided with hot and cold water delivered via a mixing faucet.

12. Amend section 425.2, Flushometer valves and tanks.

a. Flushometer valves and tanks shall comply with ASSE 1037 or CSA B125.3. I vacuum breakers on flushometer valves shall conform to the performance requirements of ASSE 1001 or CSA B64. 1.1. Flushometer valves shall be equipped with an approved vacuum breaker. The vacuum breaker shall be installed on the discharge side of the flushing valve with the critical level at least 4 inches (102 mm) above the overflow rim of the bowl. Access shall be provided to vacuum breakers. Flushometer valves shall be of the water conservation type and shall not be used where the water pressure is lower than the minimum required for normal operation. When operated, the valve shall automatically complete the cycle of operation, opening fully and closing positively under the water supply pressure. Each flushometer valve shall be provided with a means for regulating the flow through the valve. The trap seal to the fixture shall be automatically refilled after each flushing cycle.

E. Amend Chapter 5, Water Heaters.

1. Amend section 503.1, Cold water line valve.

a. The cold water branch line from the main water supply li ne to each hot water storage tank or water heater shall be provided with a full port ball valve, located near the equipment and serving only the hot water storage tank or water heater. The valve shall not interfere or cause a disruption of the cold water supply to the remainder of the cold water system. The valve shall be provided with access on the same floor level as the water heater served.

2. Amend section 504.7, Required pan.

a. Where a storage tank-type water heater or a hot water storage tank is installed in a location where water leakage from the tank will cause damage, the tank shall be installed in a galvanized steel pan having a material thickness of not less than 0.0276-inch (0.7 mm), or other pans approved for such use.

i. Exception

(a). Electric water heaters may rest in a high impact plastic pan of at least 1/16-inch (1.6 mm) thickness.

3. Amend section 504.7.1, Pan size and drain.

a. The drain pan shall be a minimum of 2 inches (2") (50.8 mm) in depth and shall be of sufficient size and shape to receive all dripping or condensate from the tank or water heater. The pan shall be drained by an indirect waste pipe having a diameter of not less than 1 inch (25.4 mm). Piping for safety pan drains shall be of those materials listed in Table 605.4.

F. Amend Chapter 6, Water Supply and Distribution.

1. Amend section 602.3, Individual water supply.

a. Where a potable public water supply is not available, a private water supply meeting the applicable requirements of LAC 51:XII (Water Supplies) and LAC 56:I (Water Wells) shall be utilized.

i. Delete and remove sections 602.3.1, 602.3.2, 602.3.3, 602.3.4, 602.3.5 and 602.3.5.1, Pump Enclosure.

2. Amend section 603.2, Separation of water service and sewer lines.

a. Underground water service pipe and the building drain or building sewer shall be horizontally separated by not less than 5-feet (1524 mm) of undisturbed or compacted earth.

i. Exceptions:

(a). The required separation distance shall not apply where the bottom of the water service pipe within 5 feet (1524 mm) of the sewer is not less than 12 inches (305 mm) above the top of the highest point of the sewer and the sewer pipe materials conform to Table 702.3.

(b). Water service pipe is permitted to be located in the same trench with a building drain or building sewer, provided such sewer is constructed of materials listed in Table 702.2 and the water service pipe is placed on a solid shelf excavated at one side of the common trench. The bottom of the water service pipe, at all points, shall be at least 12 inches (305 mm) above the top of the sewer line at its highest point.

(c). Any underground water service pipe which must cross a pipe that conveys sewage (e.g., building drains, building sewers, and other piping conveying sewage) shall have a minimum vertical separation of 12 inches (305 mm) above the top of the sewer. The water service pipe shall be sleeved to a point not less than 5 feet (1524 mm) horizontally from the sewer pipe centerline on both sides of such crossing with pipe materials listed in Table 605.3, 702.2 or 702.3.

3. Add section 603.3, Potable Water (Pressure) Lines Near Soil Absorption Trenches, Sand Filter Beds, Oxidation

Ponds, and any Effluent Reduction Option (Effluent Reduction Fields, Rock Plant Filters, Spray Irrigation Systems, Overland Flow Systems, Mound Systems, or Subsurface Drip Disposal Systems).

a. Underground potable water (pressure) lines shall not be located within 25 feet (7.6 m) of any soil absorption trenches, sand filter beds, oxidation ponds, or any effluent reduction option including, but not limited to effluent reduction fields, rock plant filters, spray irrigation systems (from the edge of the spray and its drainage), overland flow systems (from the discharge point and field of flow), mound systems, or subsurface drip disposal systems which have been installed for either the disposal of septic tank effluent or mechanical treatment plant effluent.

4. Add section 603.4, Potable Water (Pressure) Lines Near Septic Tanks, Mechanical Sewage Treatment Plants, and Pump Stations.

a. Underground potable water (pressure) lines shall not be located within 10 feet (3.0 m) of any septic tank, mechanical sewage treatment plant, or sewage pump station.

5. Add section 603.5, Potable Water (Pressure) Lines Near Seepage Pit, Cesspool, or Sanitary Pit Privy.

a. Underground potable water (pressure) lines shall not be located within 50 feet (15.2m) of any seepage pit, cesspool, or sanitary pit privy.

6. Add 603.6, Reclaimed Water Lines.

a. Reclaimed water lines shall be considered and treated as though they are sewerage lines and shall be installed in accord with the spacing requirements of this Section for the protection of potable water lines.

7. Add section 603.7, Stop and Waste Valves and Devices.

a. Combination stop and waste valves and cocks shall not be installed underground in a water service pipe, water supply system, or a water distribution system. Any fixture or device which incorporates a stop and waste feature is prohibited if the waste opening is underground or in any location that waste water or water-borne contaminates may enter the device or water supply from the ground or other source by reversal of flow.

8. Amend Table 604.5, Minimum Sizes of Fixture Water Supply Lines.

a. Table 604.5—Minimum Sizes of Fixture Water Supply Pipes.

Fixture	Minimum Pipe Size (inch)
Bathtubs[a] (60x 32 and smaller)	1/2
Bathtubs[a] (larger than 60x 32)	1/2
Bidet	3/8
Combination sink and tray	1/2
Dishwasher, domestic[a]	1/2
Drinking fountain	1/2
Hose bibbs	1/2
Kitchen sink[a]	1/2
Kitchen sink , Commercial	3/4
Lavatory	1/2
Shower, single head[a]	1/2
Sinks, flushing rim	3/4
Sinks, service	1/2
Urinal, flush tank	1/2
Urinal, flushometer valve	3/4
Wall hydrant	1/2
Water closet, flush tank	3/8
Water closet, flushometer valve	1
Water closet, flushometer tank	1/2
Water closet, one piece[a]	1/2

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm, 1 pound per square inch = 6.895 kPa.

[a] Where the developed length of the distribution line is 60 feet or less, and the available pressure at the meter is 35 psi or greater, the minimum size of an individual distribution line supplied from a manifold and installed as part of a parallel water distribution system shall be one nominal tube size smaller than the sizes indicated.

9. Amend section 605.2, Lead content of water supply pipe and fittings.

a. Water Piping Quality. All potable water pipes, fittings, valves, and fixtures shall be lead-free and shall be evaluated and listed as conforming with NSF/ANSI 372. Any solder or flux which is used in the installation or repair of any public water system or any plumbing in a residential or nonresidential facility providing water for human consumption shall be lead-free.

i. Exception. The lead-free requirement above shall not apply to:

(a). leaded joints necessary for the repair of existing cast iron pipes;

(b). fire hydrants, pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or

(c). toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.604.

10. Amend section 605.3, Water service pipe with corresponding Table 605.3.

a. Water service pipe shall conform to NSF 61 and shall conform to one of the standards listed in Table 605.3. Water service pipe or tubing, installed underground and outside of the structure, shall have a working pressure rating of not less than 160 psi (1100 kPa) at 73.4ºF (23ºC). Where the water pressure exceeds 160 psi (1100 kPa) piping material shall have a working pressure rating not less than the highest available pressure. Water service piping materials not third-party certified for water distribution shall terminate at or before the full open valve located at the entrance to the structure. All ductile iron water service piping shall be cement mortar lined in accordance with AWWA C104.

i. Table 605.3—Water Service Pipe

Material	Standard
Acrylonitrile butadiene styrene (ABS) plastic pipe	ASTM D 1527; ASTM D 2282
Brass pipe	ASTM B 43
Chlorinated polyvinyl chloride (CPVC) plastic pipe	ASTM D 2846; ASTM F 441; ASTM F 442; CSA B137.6
Copper or copper-alloy pipe	ASTM B 42; ASTM B 302
Copper or copper-alloy tubing (Type K, WK, L, or WL only. i.e., Type M copper is prohibited.)	ASTM B 75; ASTM B 88; ASTM B 251; ASTM B 447

Material	Standard
Cross-linked polyethylene (PEX) plastic pipe and tubing	ASTM F 876; ASTM F 877; AWWA C904; CSA B137.5
Cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX) pipe	ASTM F 1281; ASTM F 2262; CSA B137.10M
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Ductile iron water pipe	AWWA C151/A21.51; AWWA C115/A21.15
Galvanized steel pipe	ASTM A 53
Polyethylene (PE) plastic pipe	ASTM D 2239; ASTM D 3035; AWWA C901; CSA B137.1
Polyethylene (PE) plastic tubing	ASTM D 2737; AWWA C901; CSA B137.1
Polyethylene/aluminum/polyethylene (PE-AL-PE) pipe	ASTM F 1282; CSA B137.9
Polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 2769
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11
Polyvinyl chloride (PVC) plastic pipe	ASTM D 1785; ASTM D 2241; ASTM D 2672; CSA B137.3
Stainless steel pipe (Type 304/304L)	ASTM A 312; ASTM A 778
Stainless steel pipe (Type 316/316L)	ASTM A 312; ASTM A 778

11. Amend section 605.3.1, Dual check-valve-type backflow preventer.

a. Dual check-valve backflow preventers installed on the water supply system shall comply with ASSE 1024 or CSA B64.6. These devices, which are commonly installed immediately downstream of water meters by water suppliers, are not approved backflow prevention devices and are only allowed to be installed when no cross connections exist downstream of the device or when all downstream cross connections are properly protected by approved backflow prevention devices, assemblies, or methods in accordance with section 608 of this code.

12. Amend Table 605.4, Water Distribution Pipe.

a. Table 605.4—Water Distribution Pipe

Material	Standard
Brass pipe	ASTM B 43
Chlorinated polyvinyl chloride (CPVC) plastic pipe and tubing	ASTM D 2846; ASTM F 441; ASTM F 442; CSA B137.6
Copper or copper-alloy pipe	ASTM B 42; ASTM B 302
Copper or copper-alloy tubing (Type K, WK, L, or WL only. i.e., Type M copper is prohibited.)	ASTM B 75; ASTM B 88; ASTM B 251; ASTM B 447
Cross-linked polyethylene (PEX) plastic tubing	ASTM F 876; ASTM F 877; CSA B137.5
Cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX) pipe	ASTM F 1281; ASTM F 2262; CSA B137.10M
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Ductile iron pipe	AWWA C151/A21.51; AWWA C115/A21.15
Galvanized steel pipe	ASTM A 53
Polyethylene/aluminum/polyethylene (PE-AL-PE) composite pipe	ASTM F 1282
Polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 2769
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11
Stainless steel pipe (Type 304/304L)	ASTM A 312; ASTM A 778
Stainless steel pipe (Type 316/316L)	ASTM A 312; ASTM A 778

13. Amend section 605.5, Fittings.

a. Pipe fittings shall be approved for installation with the piping material installed and shall comply with the applicable standards listed in Table 605.5. Pipe fittings utilized in water supply systems shall also comply with NSF 61. Ductile and gray iron pipe fittings shall be cement mortar lined in accordance with AWWA C104. For repairs all copper, brass and stainless steel joints below a building slab shall be brazed and/or welded in accordance with the requirements of this code, as appropriate. With the exception of heat fused polypropylene, all other joints and fittings for plastic pipe below a building slab are prohibited.

14. Amend Table 605.5, Pipe Fittings.

a. Table 605.5—Pipe Fittings

Material	Standard
Acrylonitrile butadiene styrene (ABS) plastic	ASTM D 2468
Cast-iron	ASME B16.4; ASME B16.12
Chlorinated polyvinyl chloride (CPVC) plastic	ASSE 1061; ASTM D 2846; ASTM F 437; ASTM F 438; ASTM F 439; CSA B137.6
Copper or copper alloy	ASSE 1061; ASME B16.15; ASME B16.18; ASME B16.22;
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Fittings for cross-linked polyethylene (PEX) plastic tubing	ASSE 1061, ASTM F 877; ASTM F 1807; ASTM F 1960; ASTM F 2080; ASTM F 2098, ASTM F 2159; ASTM F 2434; ASTM F 2735; CSA B137.5
Fittings for polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 1807; ASTM F 2098; ASTM F 2159; ASTM F 2735
Gray iron and ductile iron	AWWA C110/A21.10; AWWA C153/A21.53
Insert fittings for polyethylene/aluminum/polyethylene (PE-AL-PE) and cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX)	ASTM F 1974; ASTM F 1281; ASTM F 1282; CSA B137.9; CSA B137.10M

Material	Standard
Malleable iron	ASME B16.3
Metal (brass) insert fittings for polyethylene/aluminum/polyethylene (PE-AL-PE) and cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX)	ASTM F 1974
Polyethylene (PE) plastic pipe	ASTM D 2683; ASTM D 3261; ASTM F 1055; CSA B137.1
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11
Polyvinyl chloride (PVC) plastic	ASTM D 2464; ASTM D 2466; ASTM D 2467; CSA B137.2; CSA B137.3
Stainless steel (Type 304/304L)	ASTM A 312; ASTM A 778
Stainless steel (Type 316/316L)	ASTM A 312; ASTM A 778
Steel	ASME B16.9; ASME B16.11; ASME B16.28

15. Amend section 606.1, Location of full-open valves.

a. Full-open valves shall be installed in the following locations:

i. on the building water service pipe from the public water supply near the curb;

ii. on the water distribution supply pipe at the entrance into the structure;

iii. on the discharge side of every water meter;

iv. on the base of every water riser pipe in occupancies other than multiple-family residential occupancies that are two stories or less in height and in one- and two-family residential occupancies;

v. on the top of every water down-feed pipe in occupancies other than one- and two-family residential occupancies;

vi. on the entrance to every water supply pipe to a dwelling unit, except where supplying a single fixture equipped with individual stops;

vii. on the water supply pipe to a gravity or pressurized water tank;

viii. on the water supply pipe to every water heater;

ix. on each water supply branch line 1 1/2 inches or larger so as to isolate all fixtures and all pieces of equipment supplied by the branch line. The shutoff valve shall be installed in a labeled and accessible location as close to the connection to the supply main and/or riser as practical.

b. When such shutoff valve is located in the service pipe outside the building, it shall be located and accessible in a manufactured, approved, valve box with a readily removable access cover which extends to grade (G) level. When drain valves are provided for the distribution piping or other portions of the water distribution system, such drains shall be above grade (G) or otherwise located to prevent the possibility of backflow into the piping system after the system has been drained.

16. Amend section 606.2, Location of shutoff valves.

a. Shutoff valves shall be installed in the following locations:

i. on the fixture supply to each plumbing fixture other than bathtubs and showers in one- and two-family residential occupancies. Such vales shall permit each fixture to be shut off without interfering with the water supply to any other fixtures. In all buildings other than one-and two-family residential occupancies, shutoff valves shall be installed which permit the water supply to all fixtures and equipment in each separate room to be shut off without interference with the water supply to any other room or portion of the building or each individual fixture and piece of equipment shall have a shutoff valve which will permit each fixture and piece of equipment to be shut off without interfering with the water supply to other fixtures or equipment;

ii. on the water supply pipe to each sillcock;

iii. on the water supply pipe to each appliance or mechanical equipment.

17. Amend section 606.5.5, Low-pressure cutoff required on booster pumps.

a. A low-pressure cutoff shall be installed on all booster pumps in a water pressure booster system to prevent creation of a vacuum or negative pressure on the suction side of the pump when a positive pressure of 20 psi (137.9 kPa) or less occurs on the suction side of the pump.

18. Amend section 607.3.2, Backflow prevention device or check valve.

a. Where a backflow prevention device, check valve or other device is installed on a water supply system utilizing storage water heating equipment, a device for controlling pressure shall be installed at an accessible location between the checking device and the water heating equipment to limit thermal expansion of the water being heated to not more than 80 psi (552 kPa) static pressure at any fixture on the system. A potable water expansion tank or auxiliary relief valve set at 80 psi (552 kPa) shall be acceptable. The auxiliary relief valve shall be in addition to the water heater safety relief valve. This thermal expansion control device shall be designed and trimmed for repeated operation. The valve shall be a minimum 1/2-inch pipe size, shall be adjustable and calibrated, and shall include a tag describing its function.

19. Amend section 608.1, General.

a. A potable water supply system shall be designed, installed and maintained in such a manner so as to prevent contamination from non-potable liquids, solids or gases being introduced into the potable water supply through cross-connections or any other piping connections to the system. Backflow preventers shall conform to the applicable Standard referenced in Table 608.1. Backflow preventer applications shall conform to Table 608.1, except as specifically stated in sections 608.2 through 608.16.27 and sections 608.18 through 608.18.2.

20. Amend section 608.4, Water service piping/Containment to protect potable water supplies.

a. Water service piping shall be protected in accordance with sections 603.2. Containment to protect potable water supplies shall be achieved in accordance with 608.18 through 608.18.2.

21. Amend section 608.6, Cross-connection control.

a. Cross connections shall be prohibited, except where approved backflow prevention devices, assemblies, or methods are installed to protect the potable water supply. A dual check valve type backflow preventer (i.e., device meeting ASSE 1024 or CSA B64.6 with two spring loaded,

independently operating check valves without tightly closing shut-off valves or test cocks which is commonly installed immediately downstream of water meters by water suppliers) is not an approved backflow prevention device when a known cross connection exists downstream of the device. These devices are only allowed to be installed when no cross connections exist downstream of the device or when all downstream cross connections are properly protected by approved backflow prevention devices, assemblies, or methods.

22. Amend section 608.8, Identification of nonpotable water.

a. Where nonpotable water systems are installed, the piping conveying the nonpotable water shall be identified either by color marking or metal tags in accordance with sections 608.8.1 through 608.8.3. All nonpotable water outlets such as hose connections, open ended pipes, and faucets shall be identified at the point of use for each outlet with the words, "Nonpotable—not safe for drinking." The words shall be indelibly printed on a tag or sign constructed of corrosion-resistant waterproof material or shall be indelibly printed on the fixture. The letters of the words shall be not less than 0.5 inches (12.7 mm) in height and in colors in contrast to the background on which they are applied.

i. Exception

(a). Overall Exception to this Section (§608.8 of this code). Pursuant to R.S. 40:4.12, industrial-type facilities listed therein shall not be required to comply with this section (§608.8 of this code) provided that such facilities have a potable water distribution identification plan in conformity with the requirements of R.S. 40:4.12. The required formal cross-connection control survey of the facility referenced in R.S. 40:4.12 shall be performed by an individual holding a valid cross-connection control surveyor certificate issued under the requirements of ASSE 5120, or other individuals holding a surveyor certificate from a nationally recognized backflow certification organization approved by the state health officer.

23. Amend section 608.14, Location of backflow preventers.

a. Access shall be provided to backflow preventers as specified by the manufacturer's instructions for the required testing, maintenance and repair. A minimum of 1-foot of clearance shall be provided between the lowest portion of the assembly and grade or platform. Elevated installations exceeding 5 feet above grade (g) shall be provided with a suitably located permanent platform capable of supporting the installer, tester, or repairer. Reduced pressure principal type backflow preventers, and other types of backflow preventers with atmospheric ports and/or test cocks (e.g., atmospheric type vacuum breakers, double check valve assemblies, pressure type vacuum breaker assemblies, etc.), shall not be installed below grade (in vaults or pits) where the potential for a relief valve, an atmospheric port, or a test cock being submerged exists.

24. Amend section 608.14.2, Protection of backflow preventers.

a. Backflow preventers subjected to freezing temperatures shall protected from freezing by heat, insulation or both; or as otherwise recommended by the manufacturer.

25. Amend section 608.15.4, Protection by a vacuum breaker.

a. Openings and outlets shall be protected by atmospheric-type or pressure-type vacuum breakers. The critical level of atmospheric type vacuum breakers shall be installed not less than 6 inches (152 mm) above all downstream piping and not less than 6 inches (152 mm) above the flood-level rim of the fixture receptor or device served. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker. Atmospheric vacuum breakers including, but not limited to, hose bibb vacuum breakers shall not be subjected to continuous water pressure. The critical level of pressure type vacuum breakers shall be installed not less than 12 inches (305 mm) above all downstream piping and not less than 12 inches (305 mm) above the flood-level rim of the fixture receptor or device served. Fill valves shall be set in accordance with section 425.3.1. Vacuum breakers shall not be installed under exhaust hoods or similar locations that will contain toxic fumes or vapors.

26. Amend section 608.15.4.2, Hose connections.

a. Sillcocks, hose bibbs, wall hydrants and other openings with a hose connection shall be protected against backflow by an atmospheric-type or pressure-type vacuum breaker installed in accordance with section 608.15.4, or by a permanently attached hose connection vacuum breaker in which the highest point of usage is less than 10 feet above the hose connection vacuum breaker. Hose bib vacuum breakers shall not be subjected to continuous water pressure.

27. Amend section 608.16, Connections to the potable water system.

a. Connections to the potable water system shall conform to sections 608.16.1 through 608.16.27. These sections (608.16.1-608.16.27) are not inclusive of all potential contamination sources which may need fixture isolation protection. For potential contamination sources not listed in sections 608.16.1 through 608.16.27, backflow prevention methods or devices shall be utilized in accordance with Table B1 of CAN/CSA B64.10-1994. When a potential contamination source and its associated backflow prevention method or device is not identified in this code or Table B1 of CAN/CSA B64.10-1994, backflow prevention methods or devices shall be utilized as directed by the building official.

28. Amend section 608.16.5, Connections to lawn irrigation systems.

a. The potable water supply to lawn irrigation systems shall be protected against backflow by an atmospheric vacuum breaker, a pressure vacuum breaker assembly or a reduced pressure principle backflow prevention assembly. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker. When an irrigation/lawn sprinkler system is provided with separate zones, the potable water supply shall be protected by a pressure vacuum breaker or reduced pressure principal backflow prevention assembly. Atmospheric vacuum breakers shall be installed at least 6 inches (152 mm) above the highest point of usage (i.e., 6 inches (152 mm) above all downstream piping or highest sprinkler head). Pressure type vacuum breakers shall be installed at least 12 inches (305 mm) above the highest point of usage (i.e., 12 inches (305

mm) above all downstream piping and the highest sprinkler head). Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow prevention assembly.

29. Amend section 608.16.8, Portable Cleaning Equipment.

a. Where the portable cleaning equipment connects to the water distribution system, the water supply system shall be protected against backflow in accordance with section 608.13.1, 608.13.2, 608.13.3, 608.13.5, 608.13.6, or 608.13.8. The type of backflow preventer shall be selected based upon the application in accordance with Table 608.1.

30. Add section 608.16.11, Cooling towers.

a. The potable water supply to cooling towers shall be protected against backflow by an air gap.

31. Add section 608.16.12, Chemical tanks.

a. The potable water supply to chemical tanks shall be protected against backflow by an air gap.

32. Add section 608.16.13, Commercial Dishwashers in commercial establishments.

a. The potable water supply to commercial dishwashers in commercial establishments shall be protected against backflow by an air gap, atmospheric vacuum breaker, or pressure vacuum breaker. Vacuum breakers shall meet the requirements of section 608.15.4.

33. Add section 608.16.14, Ornamental Fountains.

a. The potable water supply to ornamental fountains shall be protected against backflow by an air gap.

34. Add section 608.16.15, Swimming pools, spas, hot tubs.

a. The potable water supply to swimming pools, spas, or hot tubs shall be protected against backflow by an air gap or reduced pressure principal backflow prevention assembly.

35. Add section 608.16.16, Baptismal fonts.

a. The potable water supply to baptismal fonts shall be protected against backflow by an air gap.

36. Add section 608.16.17, Animal watering troughs.

a. The potable water supply to animal watering troughs shall be protected against backflow by an air gap.

37. Add section 608.16.18, Agricultural chemical mixing tanks.

a. The potable water supply to agricultural chemical mixing tanks shall be protected against backflow by an air gap.

38. Add section 608.16.19, Water hauling trucks.

a. The potable water supply to water hauling trucks/tankers shall be protected against backflow by an air gap when filled from above. When allowed to be filled from below, they shall be protected by a reduced pressure principle backflow prevention assembly. When a tanker truck is designated for the hauling of food grade products (and has been cleaned utilizing food grade cleaning procedures) and is allowed to be filled from below, a double check valve assembly shall be acceptable.

39. Add section 608.16.20, Air conditioning chilled water systems and/or condenser water systems.

a. The potable water supply to air conditioning chilled water systems and condenser water systems shall be protected against backflow by a reduced pressure principal backflow prevention assembly.

40. Add section 608.16.21, Pot-type chemical feeders.

a. The potable water supply to pot-type chemical feeders shall be protected against backflow by a reduced pressure principal backflow prevention assembly.

41. Add section 608.16.22, Food processing steam kettles.

a. The potable water supply to food processing steam kettles shall be protected against backflow by a double check valve backflow prevention assembly.

42. Add section 608.16.23, Individual travel trailer pads.

a. The potable water supply to individual travel trailer pads shall be protected against backflow by a double check valve backflow prevention assembly.

43. Add section 608.16.24, Laboratory and/or medical aspirators.

a. The potable water supply to laboratory and/or medical aspirators shall be protected against backflow by an atmospheric or pressure vacuum breaker installed in accordance with sections 608.3.1 and 608.15.4.

44. Add section 608.16.25, Laboratory or other sinks with threaded or serrated nozzles.

a. The potable water supply to laboratory sinks or other sinks with threaded or serrated nozzles shall be protected against backflow by an atmospheric or pressure vacuum breaker installed in accordance with sections 608.3.1 and 608.15.4.

45. Add section 608.16.26, Mortuary/embalming aspirators.

a. The potable water supply to mortuary/embalming aspirators shall be protected against backflow by a pressure vacuum breaker installed in the supply line serving the aspirator. The critical level of the vacuum breaker shall be installed a minimum of 12 inches higher than the aspirator. The aspirator shall be installed at least 6 inches above the highest level at which suction may be taken. An air gap shall be provided between the outlet of the discharge pipe and the overflow rim of the receiving fixture.

46. Add section 608.16.27, Room(s) or other sub-unit(s) of a premise or facility receiving water where access is prohibited.

a. When access is prohibited to particular areas, rooms, or other sub-units of a premise or facility which is receiving water, the potable water supply serving those areas shall be protected against backflow by a reduced pressure principal backflow protection assembly.

47. Amend section 608.17, Protection of individual water supplies.

a. An individual water supply shall be located and constructed so as to be safeguarded against contamination in accordance with the applicable requirements of LAC 51:XII (Water Supplies) and LAC 56:I (Water Wells).

48. Remove and delete sections 608.17.1 thru 608.17.8 including Table 608.17.1.

49. Add section 608.18, Containment practices.

a. Backflow prevention methods or devices shall be utilized as directed by the water supplier or code official to isolate specific water supply system customers from the water supply system's mains when such action is deemed necessary to protect the water supply system against potential contamination caused by backflow of water from

that part of the water system owned and maintained by the customer (for example, the piping downstream of the water meter, if provided). Minimum requirements shall be in accordance with section 608.18.1 through 608.18.2.

50. Add section 608.18.1, Containment requirements.

a. As a minimum, the following types of backflow prevention assemblies or methods shall be installed and maintained by water supply system customers immediately downstream of the water meter (if provided) or on the water service pipe prior to any branch line or connections serving the listed customer types and categories.

51. Add Table 608.18.1, Containment Requirements.

a. Table 608.18.1—Containment Requirements

Air Gap
1. Fire Protection/Sprinkler System utilizing non-potable water as an alternative or primary source of water
Reduced Pressure Principle Backflow Prevention Assembly
1. Hospitals, Out-Patient Surgical Facilities, Renal Dialysis Facilities, Veterinary Clinics
2. Funeral Homes, Mortuaries
3. Car Wash Systems
4. Sewage Facilities
5. Chemical or Petroleum Processing Plants
6. Animal/Poultry Feedlots or Brooding Facilities
7. Meat Processing Plants
8. Metal Plating Plants
9. Food Processing Plants, Beverage Processing Plants
10. Fire Protection/Sprinkler Systems using antifreeze in such system (a detector type assembly is recommended on unmetered fire lines)
11. Irrigation/Lawn Sprinkler Systems with Fertilizer Injection
12. Marinas/Docks
13. Radiator Shops
14. Commercial Pesticide/Herbicide Application
15. Photo/X-ray/Film Processing Laboratories
16. Multiple Commercial Units served by a master meter
17. Any type of occupancy type or any other facility having one or more Single-walled Heat Exchangers which uses any chemical, additive, or corrosion inhibitor, etc., in the heating or cooling medium
18. Any type of occupancy type or any other facility having one or more Double-walled Heat Exchangers which use any chemical, additive, or corrosion inhibitor, etc., in the heating or cooling medium and which does not have a path to atmosphere with a readily visible discharge
19. Premises where access/entry is prohibited
Pressure Vacuum Breaker Assembly/Spill Resistant Vacuum Breaker Assembly
1. Irrigation/Lawn Sprinkler Systems
Double Check Valve Assembly
1. Fire Protection/Sprinkler Systems (a detector type double check valve assembly is recommended on unmetered fire lines)
2. Two residential dwelling units served by a master meter, unless both units are located on a parcel or contiguous parcels of land having the same ownership and neither unit is used for commercial purposes. As used herein, the term "commercial purposes" means any use other than residential.
3. Three or more residential dwelling units served by a master meter
4. Multistoried Office/Commercial Buildings (over 3 floors)
5. Jails, Prisons, and Other Places of Detention or Incarceration

52. Add section 608.18.2, Other containment requirements.

a. Table 608.18.1 of this code above is not inclusive of all potential contamination sources which may need containment protection. For potential contamination sources not listed in this table, backflow prevention methods or devices shall be utilized in accordance with Table B1 of CAN/CSA B64.10-1994. When a potential contamination source and its associated backflow prevention method or device is not identified in Table 608.18.1 of this code above or Table B1 of CAN/CSA B64.10-1994, backflow prevention methods or devices shall be utilized:

i. as directed by the building code official; or

ii. as directed by the water supplier.

iii. In cases of a discrepancy regarding the particular backflow prevention assembly or method required, the assembly or method providing the higher level of protection shall be required.

G. Amend Chapter 7, Sanitary Drainage.

1. Amend section 701.2, Sewer required.

a. Buildings in which plumbing fixtures are installed and premises having sanitary drainage system piping shall be connected to a community sewerage system, where available, or an approved commercial treatment facility or individual sewerage meeting the requirements of LAC 51:XIII (Sewage Disposal).

2. Amend section 701.3, Separate Sewer Connection.

a. A building having plumbing fixtures installed and intended for human habitation, occupancy or use on premises abutting on a street, alley or easement in which there is community sewerage system shall have a separate connection with the sanitary sewer. Where located on the same lot, multiple buildings shall not be prohibited from connecting to a common sanitary building sewer that connects to the community sewerage system.

3. Amend section 701.8, Engineered systems.

a. Engineered sanitary drainage systems shall conform to the provisions of section 316 and 714. Single stack plumbing systems may be considered for approval by the code official for use on the upper floors of hotel and motel guest rooms but shall not be approved for condominium or apartment complexes.

4. Amend section 701.9, Drainage piping in food service areas.

a. Exposed soil or waste piping, including vacuum drainage systems, shall not be installed above any food preparation areas, food or utensil storage areas or eating surfaces in food service establishments unless they are adequately shielded to intercept potential drips.

5. Add section 701.10, Repairs to drainage system via re-route.

a. In the case where it is determined that there is a broken underground drain line including, but not limited to, broken drain lines under the slab of a building, and a drain line re-route is performed, the existing broken underground drain line shall be cut or otherwise disconnected from the entire drainage system. At the point of such cutting or disconnection, the entire circumference of the existing pipe which remains connected to the drainage system shall have a wall thickness of not less than 1/8-inch. The existing pipe which remains connected to the drainage system shall be sealed watertight and gastight using approved plumbing materials and joining/jointing methods, e.g., properly install an approved cap, plug, or cleanout on the cut or disconnected pipe.

6. Amend section 702.5, Chemical waste system.

a. A chemical waste system shall be completely separated from the sanitary drainage system. The chemical waste shall be treated in accordance with section 803.2 before discharging to the sanitary drainage system. Separate drainage systems for chemical wastes and vent pipes shall be constructed of one of the materials listed in Table 702.5 or

other materials approved by the plumbing official. The material selected shall be resistant to corrosion and degradation for the concentrations of chemicals involved. Joints shall be made in conformance with the manufacturer's recommendations.

i. Table 702.5—Chemical Waste System

Material	Standard
High silicon cast iron	ASTM A 518/A 518M
Borosilicate glass	ASTM C 1053
Chlorinated poly [vinyl chloride] (CPVC)	ASTM F 2618
Polyolefin	ASTM F 1412
Polyvinylidene fluoride (PVDF)	ASTM F 1673

7. Add section 703.6, Minimum Size Building Sewer.

a. No building sewer shall be less than 4 inches in size with the exception of force lines.

8. Delete section 706.4, Heel- or side-inlet quarter bends.

9. Amend section 708.3, Where Required.

a. Cleanouts shall be located in accordance with sections 708.3.1 through 708.3.6.

10. Amend section 708.3.1, Horizontal drains within buildings.

a. Horizontal drains within buildings shall be provided with cleanouts as follows.

i. All horizontal drains 3-inch nominal diameter or less, cleanouts shall be located at not more than 50 feet (15 200mm) intervals.

ii. For horizontal drains 4-inch nominal diameter through 6-inch nominal diameter, cleanouts shall be located at not more than 80 feet (24 400mm) intervals.

iii. Horizontal drains larger than 6-inch nominal diameter shall be provided with cleanouts located at not more than 100 feet (30 480 mm) intervals.

11. Amend section 708.3.2, Building sewers.

a. Building sewers 4-inch nominal diameter through 6-inch nominal diameter shall be provided with cleanouts located not more than 80 feet (24 400mm) apart measured from the upstream entrance of the cleanout. For building sewers 8 inches (203 mm) and larger, manholes shall be provided and located not more than 200 feet (60 960 mm) from the junction of the building drain and building sewer, at each change in direction and at intervals of not more than 400 feet (122 m) apart. Manholes and manhole covers shall be of an approved type.

12. Amend section 708.3.3, Changes of direction.

a. Each horizontal drainage pipe shall be provided with a cleanout at the upstream end of the pipe and in changes of direction over 45° (0.785 rad).

i. Exceptions

(a). The following plumbing arrangements are acceptable in lieu of the upstream cleanout:

(i). "P" traps connected to the drainage piping with slip joints or ground joint connections;

(ii). "P" traps into which floor drains, shower drains or tub drains with removable strainers discharge;

(iii). "P" traps into which the straight through type waste and overflow discharge with the overflow connecting to the branch of the tee;

(iv). "P" traps into which residential washing machines discharge;

(v). test tees or cleanouts in a vertical pipe above the flood-level rim of the fixtures that the horizontal pipe serves and not more than 4-feet (1219 mm) above the finish floor.

13. Amend section 708.3.5, Building drain and building sewer junction.

a. There shall be a cleanout within 6 feet (1829 mm) of the junction of the building drain and the building sewer. The cleanout shall be either inside or outside the building wall and shall be brought up to the finished ground level or to the basement floor level. An approved two-way cleanout is allowed to be used at this location to serve as a required cleanout for both the building drain and building sewer. The minimum size of the cleanout at the junction of the building drain and building sewer shall comply with section 708.7.

14. Amend section 710.1, Maximum fixture unit load.

a. The maximum number of drainage fixture units connected to a given size of building sewer, building drain or horizontal branch of the building drain shall be determined using Table 710.1(1). The maximum number of drainage fixture units connected to a given size vertical soil or waste stack, or horizontal branch connecting to a vertical soil or waste stack, shall be determined using Table 710.1(2).

15. Amend Table 710.1(1).

a. Table 710.1(1)—Building Drains And Sewers

Diameter Of Pipe (Inches)	Maximum Number Of Drainage Fixture Units Connected To Any Portion Of The Building Drain Or The Building Sewer, Including Branches Of The Building Drain[a]			
	Slope Per Foot			
	1/16 inch	1/8 inch	1/4 inch	1/2 inch
1 1/4			1	1
1 1/2			3	3
2			21	26
2 1/2			24	31
3		20 (not over two water closets)	27 (not over two water closets)	36 (not over two water closets)
4	—	180	216	250
5	—	390	480	575
6	—	700	840	1,000
8	1,400	1,600	1,920	2,300
10	2,500	2,900	3,500	4,200
12	3,900	4,600	5,600	6,700
15	7,000	8,300	10,000	12,000

For SI: 1 inch = 25.4 mm, 1 inch per foot = 83.3 mm/m.

[a] The minimum size of any building drain serving a water closet shall be 3 inches.

16. Amend Table 710.1(2).

a. Table 710.1(2)—Horizontal Fixture Branches and Soil Stacks[a]

Diameter of Pipe (inches) (The minimum size of any branch or soil stack serving a water closet shall be 3".)	Maximum Number of Drainage Fixture Units (dfu)			
	Total for Horizontal Branch (Does not include branches of the building drain. Use 50 percent less dfu's for any circuit or battery vented fixture branches, no size reduction permitted for circuit or battery vented branches throughout the entire branch length.)	Soil Stacks[b]		
		Total discharge into one branch interval when greater than three branch intervals	Total for soil stack when three branch intervals or less	Total for soil stack when greater than three branch intervals
1 1/2	3	2	4	8
2	6	6	10	24
2 1/2	12	9	20	42
3	20 (not over two water closets)	16 (not over two water closets)	30 (not over six water closets)	60 (not over six water closets)
4	160	90	240	500
5	360	200	540	1,100
6	620	350	960	1,900
8	1,400	600	2,200	3,600
10	2,500	1,000	3,800	5,600
12	3,900	1,500	6,000	8,400
15	7,000	Note [c]	Note [c]	Note [c]

For SI: 1 inch = 25.4 mm.

[a] Does not include branches of the building drain. Refer to Table 710.1(1).

[b] Soil stacks shall be sized based on the total accumulated connected load at each story or branch interval. As the total accumulated connected load decreases, stacks are permitted to be reduced in size. Stack diameters shall not be reduced to less than one-half of the diameter of the largest stack size required.

[c] Sizing load based on design criteria.

17. Add section 710.1.3, Minimum size of soil and waste stacks.

a. No soil or waste stack shall be smaller than the largest horizontal branch connected thereto except that a 4x3 water closet connection shall not be considered as a reduction in pipe size. The soil or waste stack shall run undiminished in size from its connection to the building drain to its connection to the stack vent.

18. Add section 710.1.4, Minimum size of drain serving a water closet.

a. The minimum size of any building drain serving a water closet shall be 3 inches. Not more than two water closets shall discharge into a 3-inch horizontal building drain. Not more than six water closets shall discharge into a 3-inch vertical building drain.

19. Add section 710.3, Underground Drainage Piping.

a. Any portion of the drainage system installed underground or below a basement or cellar shall not be less than 2-inch diameter. In addition, any portion of the drainage system installed underground which is located upstream from a grease trap or grease interceptor as well as the underground horizontal branch receiving the discharge there from shall not be less than 3-inch diameter.

20. Amend section 713.9, Local vents and stacks for bedpan washers.

a. Bedpan washers shall be vented to open air above the roof by means of one or more local vents. The vent terminal and location of the local vent shall be the same as required for sanitary sewer vents. The local vent for a bedpan washer shall not be less than a 2-inch-diameter (51 mm) pipe. A local vent serving a single bedpan washer is permitted to drain to the fixture served.

H. Chapter 8 Indirect/Special Waste

1. Amend section 802.1.1, Food handling.

a. Equipment and fixtures utilized for the storage, preparation and handling of food shall discharge through an indirect waste pipe by means of an air gap. Food handling equipment includes but is not limited to the following: any sink where food is cleaned, peeled, cut up, rinsed, battered, defrosted or otherwise prepared or handled; potato peelers; ice cream dipper wells; refrigerators; freezers; walk-in coolers or freezers; ice boxes; ice making machines; fountain type drink dispensers; rinse sinks; cooling or refrigerating coils; laundry washers; extractors; steam tables; steam kettles; egg boilers; coffee urns; steam jackets or other food handling or cooking equipment wherein the indirect waste pipe may come under a vacuum; or similar equipment.

2. Amend section 802.2, Installation.

a. Indirect waste piping shall discharge through an air gap or air break into a waste receptor. Waste receptors and standpipes shall be trapped and vented and shall connect to the building drainage system. All indirect waste piping that exceeds 30 inches (762 mm) in developed length measured horizontally, or 54 inches (1372 mm) in total developed length, shall be trapped. The maximum length of indirect waste piping to the waste receptor shall not exceed 15 feet (4527 mm). Should an indirect waste pipe exceed 15 feet in length, a local vent shall be provided at a maximum of every 15 feet (4527 mm) in length. Indirect waste piping shall be installed as to permit ready access for flushing and cleaning.

3. Amend section 802.2.2, Air break.

a. An air break shall be provided between the indirect waste pipe and the trap seal of the waste receptor or standpipe. The air break (drainage system) between the indirect waste and the building drainage system shall be installed such that the level of the lowest outlet located on the fixture, device, appliance or apparatus (to which the indirect waste pipe connects) is above the flood-level rim of the receiving sink or other receptor by a vertical distance of at least twice the diameter of the effective opening of the indirect waste pipe, but in no case less than 2 inches (51 mm). In addition, the indirect waste pipe shall terminate below the flood-level rim of the receiving sink or other receptor a distance equal to not more than one-half (1/2) the diameter of the effective opening of the indirect waste pipe.

I. Delete section 918, Air Admittance Valves in its entirety and all referring sections of the 2012 IPC.

J. Amend Chapter 10: Traps, Interceptors and Separators.

1. Amend section 1002.1, Fixture Traps.

a. Each plumbing fixture shall be separately trapped by a liquid-seal trap, except as otherwise permitted by this code. The vertical distance from the fixture outlet to the trap

weir shall not exceed 24 inches (610 mm), and the horizontal distance shall not exceed 30 inches (610 mm) measured from the centerline of the fixture outlet to the centerline of the inlet of the trap. The height of a clothes washer standpipe above a trap shall conform to section 802.4. A fixture shall not be double trapped.

i. Exceptions

(a). This Section shall not apply to fixtures with integral traps.

(b). A combination plumbing fixture is permitted to be installed on one trap, provided that one compartment is not more than 6 inches (152 mm) deeper than the other compartment and the waste outlets are not more than 30 inches (762 mm) apart.

(c). A grease interceptor intended to serve as a fixture trap in accordance with the manufacturer's installation instructions shall be permitted to serve as the trap for a single fixture or a combination sink of not more than three compartments where the vertical distance from the fixture outlet to the inlet of the interceptor does not exceed 30 inches (762 mm) and the developed length of the waste pipe from the most upstream fixture outlet to the inlet of the interceptor does not exceed 60 inches (1524 mm).

(d). One trap may be installed for a set of not more than three single-compartment sinks or laundry trays or three lavatories immediately adjacent to each other in the same room, if the waste outlets are not more than 30 inches (762 mm) apart and the trap is centrally located when three compartments are installed.

2. Amend section 1002, Prohibited traps.

a. The following types of traps are prohibited:

i. traps that depend on moving parts to maintain the seal;

ii. bell traps;

iii. crown-vented traps;

iv. traps not integral with a fixture and that depend on interior partitions for the seal, except those traps constructed of an approved material that is resistant to corrosion and degradation;

v. "S" traps;

vi. drum traps;

(a). exception:

(i). drum traps used as solids interceptors and drum traps serving chemical waste systems shall not be prohibited.

vii. running traps;

(a). exceptions:

(i). a running trap with cleanout may be allowed on condensate waste lines and for certain floor level fixtures installed on a combination waste and vent system.

3. Amend section 1002.4, Trap Seals.

a. Each fixture trap shall have a liquid seal of not less than 2 inches (51 mm) and not more than 4 inches (102 mm), or deeper for special designs relating to accessible fixtures. Where a trap seal is subject to loss by evaporation, (i.e., floor drains or similar traps where the water seal is not replenished regularly and automatically) a trap seal primer valve shall be installed. Trap seal primer valves shall connect to the trap at a point above the level of the trap seal. A trap seal primer valve shall conform to ASSE 1018 or ASSE 1044.

4. Add section 1002.4.2, Drainage type trap seal primer valves.

a. Drainage-type trap seal primers meeting ASSE 1044 shall capture liquid wastes only from:

i. the tail piece of a lavatory;

ii. the discharge side of the atmospheric vacuum breaker located downstream of a flushometer valve servicing a water closet or a clinical sink (the takeoff point on the discharge pipe must be at least 4" below the critical level of the vacuum breaker); or,

iii. the refill/hush tube of ballcocks

5. Amend section 1003.2, Approval.

a. Interceptors and separators shall be designed and installed in accordance with the manufacturer's instructions and the requirements of this section based on the anticipated conditions of use. Wastes that do not require treatment or separation shall not be discharged into any interceptor or separator. No interceptor or separator shall be installed until its design, size, location and venting has been approved by the local jurisdictional code official. The local jurisdictional code official shall have the authority to require a grease interceptor to be serviced, repaired, or replaced with a larger unit when it is determined that a unit is not working or being maintained properly, the unit is damaged, or the mode of operation of the facility no longer meets the anticipated conditions of use (i.e., offensive odors, sewage backups or overflows, or when it is determined that grease is bypassing the grease interceptor and causing downstream blockages or interfering with sewage treatment.)

6. Amend section 1003.3, Grease interceptors.

a. Grease interceptors shall comply with the requirements of sections 1003.3.1 through 1003.3.5.

7. Amend section 1003.3.1, Grease interceptors and automatic grease removal devices required.

a. A grease interceptor or automatic grease removal device, sized in accordance with section 1003.3.5 of this code, shall be required to receive the drainage from fixtures and equipment with grease-laden waste located in food preparation areas, such as in restaurants, hotel kitchens, hospitals, school kitchens, bars, factory cafeterias and clubs. Fixtures and equipment shall include pot sinks, prerinse sinks; soup kettles or similar devices; work stations; floor drains or sinks into which kettles are drained; automatic hood wash units and dishwashers. Grease interceptors and automatic grease removal devices shall receive waste only from fixtures and equipment that allow fats, oils or grease to be discharged. Other than standard detergents associated with dishwashing; emulsifiers, chemicals, enzymes or bacteria shall not discharge into a grease interceptor or automatic grease removal device. A grease interceptor or an automatic grease removal device shall not be required for individual detached one- and two-family dwelling units or any private living quarters.

8. Amend section 1003.3.2, Hydromechanical grease interceptors.

a. Hydromechanical grease interceptors shall be evaluated, tested, and certified for conformance with ASME A 112.14.3, PDI-G101, or PDI-G102. Hydromechanical grease interceptors shall be equipped with devices to control the rate of water flow so that the water flow does not exceed the rated flow. The flow-control device shall be vented and

terminate not less than 6 inches (152 mm) above the flood rim level or be installed in accordance with the manufacturer's instructions. To prevent odors in the kitchen or occupied space, such vent shall be directly connected to the building vent system. Hydromechanical grease interceptors shall be sized in accordance with section 1003.3.5 of this code.

9. Amend section 1003.3.3, Automatic grease removal devices.

a. Automatic grease removal devices shall be evaluated, tested, and certified for conformance with ASME A112.14.4. Where automatic grease removal devices are installed, such devices shall be located downstream of each fixture or multiple fixtures in accordance with the manufacturer's instructions. Ready access shall be provided for inspection and maintenance. Automatic grease removal devices shall be sized in accordance with section 1003.3.5 of this code.

10. Amend section 1003.3.4, Gravity grease interceptors.

a. Gravity grease interceptors shall comply with the requirements of sections 1003.3.4.1 through 1003.3.4.8 and shall be sized in accordance with section 1003.3.5 of this code.

11. Amend 1003.3.4.1, Indoor installations.

a. If a gravity grease interceptor must be installed within an enclosed building, any access covers shall be gasketed to prevent the intrusion of odors into the building.

12. Amend section 1003.3.4.2, Distance.

a. The grease interceptor shall be placed as close to the plumbing fixture(s) discharging greasy waste as possible, but preferably on the outside of the building when feasible.

13. Add section 1003.3.4.3, Outlet pipe.

a. The minimum diameter of the outlet pipe shall not be less than 4 inches. The invert of the gravity grease interceptor outlet opening (i.e., lowest portion of the outlet pipe where it draws waste near the bottom of the grease interceptor), shall be located at a maximum of 6 inches and a minimum of 4 inches from the floor of the grease interceptor. This requirement also applies to any intermediate outlets in multi-compartment gravity grease interceptors.

14. Add section 1003.3.4.4, Air space.

a. A minimum of one foot of air space shall be provided above the static water level.

15. Add section 1003.3.4.5, Venting.

a. A gravity grease interceptor outlet shall be properly vented in accordance with this section to prevent it from siphoning itself out. Any internally vented outlet line shall have the vent terminal extended to within 2 inches of the bottom of the access cover to prevent grease from escaping the gravity grease interceptor through the open vent terminal. For those gravity grease interceptors having a gasketed cover, the gravity grease interceptor outlet line shall not be allowed to be internally vented. In this case, the outlet line itself shall be vented with a minimum 2-inch vent pipe installed in accordance with Chapter 9 of this code.

16. Add section 1003.3.4.6, Water seal.

a. On unbaffled single compartment gravity grease interceptors, a 90° ell shall be used on the inlet and shall terminate 6 inches below the static water level. On baffled single compartment gravity grease interceptors, a baffle wall shall be placed between the inlet and outlet. The inlet shall discharge into the gravity grease interceptor at a level at least 6 inches below the top of the baffle wall.

17. Add section 1003.3.4.7, Minimum horizontal distance.

a. The minimum horizontal distance between the inlet and outlet piping in the gravity grease interceptor shall be 24 inches.

18. Add section 1003.3.4.8, Access/Covers.

a. Access from the top of the gravity grease interceptor shall be provided by an easily removable cover above an access opening for proper maintenance. Additional access opening/covers shall be provided as necessary to provide accessibility to each compartment in multi-compartment or multi-baffled arrangements as well as access to both the inlet and outlet. Access opening covers shall be above or at grade (G) to provide ready accessibility. Each access cover shall be designed so that it cannot slide, rotate, or flip when properly installed in order that the opening is not unintentionally exposed. Especially for lightweight covers, mechanical fasteners are recommended to augment the safety of and ensure positive closure of the cover.

19. Amend section 1003.3.5, Minimum required liquid holding capacity.

a. In all instances of new construction, change of occupancy classification or use of the property, a gravity grease interceptor or hydro-mechanical grease interceptor meeting the minimum capacity as required by this Section of the Code shall be installed. The minimum required capacity (volume) of the grease interceptor shall be determined based upon the maximum number of persons served during the largest meal period in accordance section 1003.3.5.1 or 1003.3.5.2 of this code.

20. Add section 1003.3.5.1, Without garbage grinder.

a. The minimum capacity for applications without a garbage grinder shall not be less than 125 gallons below the static water level. This capacity is sufficient to hold the flow from one meal long enough to accomplish proper grease separation when serving up to 50 people during a single meal period. When over 50 people are served during a single meal period, the minimum capacity shall be increased beyond 125 gallons based upon at least an additional 2 1/2 gallons per person beginning with the 51st person served and greater.

21. Add section 1003.3.5.2, With garbage grinder.

a. When a garbage grinder is connected, the minimum capacity shall not be less than 500 gallons below the static water level. This capacity is sufficient to hold the flow from one meal long enough to accomplish proper grease separation when serving up to 50 people during a single meal period. When a garbage grinder is connected and over 50 people are served during a single meal period, the minimum capacity shall be increased beyond 500 gallons based upon at least an additional 2 1/2 gallons per person beginning with the 51st person served and greater.

i. Exception:

(a). At the discretion of the local jurisdictional code official, a smaller, point of use type hydro-mechanical grease interceptor or automatic grease removal device may be permissible when:

(i). a concrete slab would have to be broken at an existing building or facility for the proper installation of a grease interceptor; or

(ii). an outside, unpaved area surrounding an existing building where a grease interceptor could be installed is available; however, it is determined that the area is located further than 75 feet from the plumbing fixtures that the grease interceptor would be servicing; or

(iii). the local jurisdictional code official determines that the installation is unfeasible such as when servicing a kitchen located on the upper floors of a multistoried building; or

(iv). the local jurisdictional code official determines that minimal fat, oil and grease will be produced or introduced into the sanitary drainage system based on the menu and mode of operation of the facility (i.e., snowball stands, sandwich shops, or other similar facilities with low grease production and which utilize single-service tableware and hollowware including forks, knives, spoons, plates, bowls, cups, and other serving dishes).

(b). In these instances, listed under the exception, the minimum required size of the hydromechanical grease interceptor shall be determined based upon fixture discharge rate (gpm) and grease retention capacity (pounds) in accordance with PDI G101 or ASME A 112.14.3. Automatic grease removal devices shall be sized in accordance with ASME A112.14.4. In no case shall a grease interceptor or automatic grease removal device be installed which has an approved rate of flow of less than 20 gallons per minute.

22. Amend section 1003.10, Access and maintenance of interceptors and separators.

a. Access shall be provided to each interceptor and separator for service and maintenance. A two-way cleanout shall be provided on the discharge waste line immediately downstream of all interceptors and separators. Interceptors and separators shall be maintained by periodic removal of accumulated grease, scum, oil, or other floating substances and solids deposited in the interceptor or separator.

K. Amend Chapter 11, Storm Drainage.

1. Amend section 1101.2, Where required.

a. All roofs, paved areas, yards, courts and courtyards shall drain into a separate storm sewer system or to an approved place of disposal. For one- and two-family dwellings, and where approved, storm water is permitted to discharge onto flat areas, such as streets or lawns, provided that the storm water flows away from the building.

2. Amend section 1101.3, Prohibited drainage.

a. Storm water shall not be drained into sewers intended for sewage only.

i. Exception:

(a). Liquid waste from the cleaning operation and from the leakage of garbage containers and dumpsters holding putrescible wastes shall be disposed of as sewage. Methods used for this disposal shall prevent rainwater and runoff from adjacent areas from entering the sanitary sewerage system (i.e., dumpster pads may be elevated or curbed, enclosed or covered). When determined by the code official that liquid wastes or putrescible wastes contain fats, oils or grease (or, for new establishments, will likely contain fats, oils, or grease in the future), an approved grease interceptor shall be installed in the waste line in accordance with section 1003 of this code.

3. Amend section 1102.2, Inside storm drainage conductors.

a. Inside storm drainage conductors installed above ground shall conform to one of the standards listed in Table 702.1. Plastic piping shall be schedule 40.

4. Amend section 1102.3, Underground building storm drain pipe.

a. Underground building storm drain pipe shall conform to one of the standards listed in Table 702.2. Plastic piping shall be schedule 40.

5. Delete section 1103.1.

6. Delete section 1103.2.

7. Delete section 1103.3.

8. Delete section 1103.4.

9. Amend section 1104.2, Combining storm with sanitary drainage prohibited.

a. The sanitary and storm drainage systems of a structure shall be entirely separate.

10. Amend section 1106.2, Vertical conductors and leaders.

a. Vertical conductors and leaders shall be sized for the maximum projected roof area, in accordance with Table 1106.2(1) and Table 1106.2(2). If a vertical offset is 45 degrees or less, the leader can be sized as a vertical pipe. If the offset is greater than 45 degrees, the pipe must be sized as a horizontal pipe.

11. Delete section 1109.1.

12. Amend section 1113.1, Building subdrains.

a. Building subdrains located below the public storm sewer level shall discharge into a sump or receiving tank, the contents of which shall be automatically lifted and discharged into the gravity storm drainage system as required for building sumps. The sump and pumping equipment shall comply with section 1114.1.

L. Amend Chapter 13, Gray Water Recycling Systems.

1. Amend section 1301.1, Scope.

a. Gray water recycling systems shall only be considered on an individual basis and plans and specifications for any proposed gray water recycling system shall be submitted to the local jurisdictional code official for review and approval prior to construction. Such plans and specifications shall be appropriately sealed and signed by a Louisiana Registered Professional Engineer. Potable makeup water supply lines shall be protected against backflow by an air gap or reduced pressure principal backflow prevention assembly. The provisions of Chapter 13 shall govern the materials, design, construction and installation of gray water systems for flushing of water closets and urinals and for subsurface landscape irrigation. See Figures 1301.1(1) and 1301.1(2).

M. Amend Chapter 14, Referenced Standards.

1. Amend CSA Referenced Standard.

a. B64.10.1-07 Maintenance and Field testing of Backflow Prevention devices section 312.10.2

b. B64.10-94 Manual for the Selection, Installation, Maintenance and Field testing of Backflow Prevention Devices (not including Part 6 (Maintenance and Field Testing) section 608.16 and section 618.2

N. Add and reserve Chapter 15 for future use.

O. Add Chapter 16, Travel Trailer and Mobile/Manufactured Home Parks.

1. Add the following definitions:

Dependent Travel Trailer—a travel trailer not equipped with a water closet.

Drain Hose—the approved type hose, flexible and easily detachable, used for connecting the drain outlet on a travel trailer to a sewer inlet connection.

Drain Outlet—the lowest end of the main drain of a travel trailer itself to which a drain hose is connected.

Independent Travel Trailer—a travel trailer equipped with a water closet and a bath or shower.

Inlet Coupling—the terminal end of the branch water line to which the mobile/manufactured home or travel trailer's water service connection is made. It may be a swivel fitting or threaded pipe end.

Intermediate Waste Holding Tank (travel trailers only)—an enclosed tank for the temporary retention of water-borne waste.

Mobile/Manufactured Home—a prefabricated home built on a permanent chassis which can be transported in one or more sections and is typically used as a permanent dwelling. Manufactured homes built since 1976 are built to the Manufactured Home Construction and Safety Standards (HUD Code) and display a HUD certification label on the exterior of each transportable section.

Park or *Mobile/Manufactured Home Park* or *Travel Trailer Park*—any lot, tract, parcel or plot of land upon which more than one travel trailer and/or mobile/manufactured homes parked for the temporary or permanent use of a person or persons for living, working or congregating.

Park Drainage System—the entire system of drainage piping within the park which is used to convey sewage or other wastes from the mobile/manufactured home or travel trailer drain outlet connection, beginning at its sewer inlet connection at the mobile/manufactured home or travel trailer site, to a community sewerage system, a commercial treatment facility, or an individual sewerage system.

Park Water Distribution System—all of the water distribution piping within the park, extending from the water supply system or other source of supply to, but not including, the mobile/manufactured home or travel trailer's water service connection, and including branch service lines, fixture devices, service buildings and appurtenances thereto.

Service Building—a building housing toilet and bathing facilities for men and women, with laundry facilities.

Sewer Inlet—a sewer pipe connection permanently provided at the travel trailer or mobile/manufactured home site which is designed to receive sewage when a travel trailer or a mobile/manufactured home is parked on such site. It is considered the upstream terminus of the park drainage system.

Travel Trailer—a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use.

Travel Trailer Sanitary Service Station—a sewage inlet with cover, surrounded by a concrete apron sloped inward to the drain, and watering facilities to permit periodic wash down of the immediately adjacent area, to be used as a disposal point for the contents of intermediate waste holding tanks of travel trailers.

Water Service Connection—as used in conjunction with mobile/manufactured homes and travel trailers, the water pipe connected between the inlet coupling of the park water distribution system and the water supply fitting provided on the mobile/manufactured home or travel trailer itself.

2. Add section 1601, General.

a. Add section 1601.1, Scope.

i. The requirements set forth in this Chapter shall apply specifically to all new travel trailer and mobile/manufactured home parks, and to additions to existing parks as herein defined, and are to provide minimum standards for sanitation and plumbing installation within these parks, for the accommodations, use and parking of travel trailers and/or mobile/manufactured homes.

b. Add section 1601.2, Governing Provisions.

i. Other general provisions of this code shall govern the installation of plumbing systems in travel trailer and mobile/manufactured home parks, except where special conditions or construction are specifically defined in this Chapter.

c. Add section 1601.3, Sewage collection, disposal, treatment.

i. Travel trailers or mobile/manufactured homes shall not hereafter be parked in any park unless there are provided plumbing and sanitation facilities installed and maintained in conformity with this code. Every travel trailer and mobile/manufactured home shall provide a gastight and watertight connection for sewage disposal which shall be connected to an underground sewage collection system discharging into a community sewerage system, a commercial treatment facility, or an individual sewerage system which has been approved by the state health officer.

d. Add section 1601.4, Travel trailer sanitary service station.

i. At least one travel trailer sanitary service station shall be provided in all travel trailer parks that accept any travel trailers having an intermediate waste holding tank. The water supply serving the sanitary service station shall be protected against backflow by a reduced pressure principle backflow prevention assembly meeting the requirements of section 608 of this code.

e. Add section 1601.5, Materials.

i. Unless otherwise provided for in this Chapter, all piping fixtures or devices used in the installation of drainage and water distribution systems for travel trailer parks and mobile/manufactured home parks shall conform to the quality and weights of materials prescribed by this code.

f. Add section 1601.6, Installation.

i. Unless otherwise provided for in this Chapter, all plumbing fixtures, piping drains, appurtenances and appliances designed and used in the park drainage, water distribution system, and service connections shall be installed in conformance with the requirements of this code.

g. Add section 1601.7, Maintenance.

i. All devices or safeguards required by this Chapter shall be maintained in good working order by the owner, operator, or lessee of the travel trailer park or his designated agent.

3. Add section 1602, Service Buildings.

a. Add section 1602.1, Service buildings for independent travel trailers.

i. Each travel trailer park which serves only independent travel trailers shall have at least one service building to provide necessary sanitation and laundry facilities. Each mobile/manufactured home park which also serves one or more independent travel trailers (in addition to mobile/manufactured homes) shall have at least one service building to provide necessary sanitation and laundry facilities. When a service building is required under this Section, it shall have a minimum of one water closet, one lavatory, one shower or bathtub for females and one water closet, one lavatory, and one shower or bathtub for males. In addition, at least one laundry tray or clothes washing machine and one drinking fountain located in a common area shall be provided.

(a). Exception:

(i). Temporary (6 months) travel trailers residing in mobile home parks and or where more than one travel trailer resides for the purpose of employment and or hardships, may be exempted by the local jurisdiction building official from 1602.1.

b. Add section 1602.2, Service building for dependent travel trailers.

i. The service building(s) in travel trailer or mobile/manufactured home parks that also accommodate dependent travel trailers shall have a minimum of two water closets, one lavatory, one shower or bathtub for females, and one water closet, one lavatory, one urinal, and one shower or bathtub for males. In addition, at least one laundry tray or clothes washing machine and one drinking fountain located in a common area shall be provided. The above facilities are for a maximum of ten dependent travel trailers. For every ten additional dependent travel trailers (or any fraction thereof) the following additional fixtures shall be provided: One laundry tray or clothes washing machine, one shower or bathtub for each sex, and one water closet for females. Also, one additional water closet for males shall be provided for every 15 additional dependent travel trailers (or any fraction thereof).

c. Add section 1602.3, Service building design requirements.

i. Each service building shall conform to sections 1302.3.1 through 1302.3.3 of this code.

d. Add section 1302.3.1, Construction.

i. Every service building shall be of permanent construction with an interior finish of moisture resistant material which will stand frequent washing and cleaning and the building shall be well-lighted and ventilated at all times.

e. Add section 1602.3.2, Fixture separation.

i. The laundry tray(s) and/or clothes washing machine(s) and drinking fountain(s) shall be located in a common area. None of these fixtures shall be located within any toilet room. Each water closet, tub and/or shower shall be in separate compartments with self-closing doors on all water closet compartments. The shower stall shall be a minimum of 3 x 3 feet (914 x 914 mm) in area, with a dressing compartment.

f. Add section 1602.3.3, Floor drains.

i. A minimum 2-inch floor drain protected by and approved trap primer shall be installed in each toilet room and laundry room.

4. Add section 1603, Park Drainage System.

a. Add section 1603.1, Separation of water and sewer lines.

i. The sewer main and sewer laterals shall be separated from the park water service and distribution system in accordance with section 603.2 of this code.

b. Add section 1603.2, Minimum size pipe.

i. The minimum size pipe in any mobile/manufactured home park or travel trailer park drainage system shall be 4 inches. This includes branch lines or sewer laterals to individual travel trailers and mobile/manufactured homes.

c. Add section 1603.3, Fixture units.

i. Each mobile/manufactured home and travel trailer shall be considered as 6 fixture units in determining discharge requirements in the design of park drainage and sewage disposal systems.

d. Add section 1603.4, Sewage disposal/treatment.

i. The discharge of a park drainage system shall be connected to a community sewerage system. Where a community sewerage system is not available, an approved commercial treatment facility or individual sewerage system shall be installed in accord with the requirements of LAC 51:XIII (Sewage Disposal).

e. Add section 1603.5, Manholes and cleanouts. Manholes and/or cleanouts shall be provided and constructed as required in Chapter 7 of this code. Manholes and/or cleanouts shall be accessible and brought to grade.

f. Add section 1603.6, Sewer inlets.

i. Sewer inlets shall be 4-inch diameter and extend above grade (G) 3 to 6 inches (76 to 152 mm). Each inlet shall be provided with a gas-tight seal when connected to a travel trailer or mobile/manufactured home and have a gas-tight seal plug for use when not in service.

g. Add section 1603.7, Drain connections.

i. Drain connections shall slope continuously downward and form no traps. All pipe joints and connections shall be installed and maintained gastight and watertight.

h. Add section 1603.8, Waste.

i. No sewage, waste water, or any other effluent shall be allowed to be deposited on the surface of the ground.

i. Add section 1603.9, Testing the park drainage system.

i. Upon completion and before covering, the park drainage system shall be subjected to a static water test performed in accordance with section 312 of this code.

5. Add section 1604, Water Supply and Distribution System.

a. Add section 1604.1, General.

i. Every mobile/manufactured home and travel trailer site shall be provided with an individual branch water service line delivering potable water.

b. Add section 1604.2, Water service lines.

i. Water service lines to each travel trailer site shall be sized to provide a minimum of 8 gpm (0.505 L/s) at the point of connection with the trailer's water distribution system. Water service lines to each mobile/manufactured home site shall be sized to provide a minimum of 17 gpm (1.1 L/s) at the point of connection with the

mobile/manufactured home's water distribution system. All water service lines shall be a minimum of ¾ inch. A separate service shutoff valve shall be installed on each water service line. In instances where a backflow prevention device or assembly is installed on the water service line (see section 608.16.23), the shutoff valve shall be located on the supply side of the device or assembly.

c. Add section 1604.3, Water Service Connections.

i. The water service connection from the water service line to the mobile/manufactured home or travel trailer site shall be not less than 1/2-inch diameter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1) and Act836 of the 2014 of the Regular Louisiana Legislative Session. .

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2386 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:

Jason Starnes
Chief Administrative Officer

1610#007

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Gray Triggerfish Recreational Closure

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use seasonal rules to set finfish seasons, R.S. 56:326.3, which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in LAC 76:VII.335.G.5 to modify opening and closing dates of any commercial or recreational reef fish seasons in Louisiana state waters when he is informed by the regional administrator of NOAA Fisheries that the seasons have been closed in adjacent federal waters, the secretary hereby declares:

The recreational fishery for gray triggerfish in Louisiana waters will close at 12:01 a.m. on September 29, 2016 and shall remain closed until 12:01 a.m. on January 1, 2017, at which time the recreational fishery for gray triggerfish will reopen. Effective with this closure, no person shall recreationally harvest or possess gray triggerfish whether within or without Louisiana waters.

The secretary has been notified by NOAA Fisheries that the recreational season for gray triggerfish in federal waters of the Gulf of Mexico off of Louisiana will remain closed until 12:01 a.m. January 1, 2017. Compatible season regulations in state waters are preferable to provide effective rules and efficient enforcement for the fishery, and to prevent overfishing of the species in the long term.

Charles J. Melancon
Secretary

1610#049

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Greater Amberjack Recreational Closure

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use seasonal rules to set finfish seasons, R.S. 56:326.3, which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in LAC 76:VII.335.G.5 to modify opening and closing dates of any commercial or recreational reef fish seasons in Louisiana state waters when he is informed by the regional administrator of NOAA Fisheries that the seasons have been closed in adjacent federal waters, the secretary hereby declares:

The recreational fishery for greater amberjack in Louisiana waters will close on 12:01 a.m. on September 29, 2016 but shall remain closed until 12:01 a.m. on January 1, 2017, at which time the recreational fishery for greater amberjack will reopen. Effective with this closure, no person shall recreationally harvest or possess greater amberjack whether within or without Louisiana waters.

The secretary has been notified by NOAA Fisheries that the season in federal waters of the Gulf of Mexico off of Louisiana will remain closed until 12:01 a.m. January 1, 2017. Compatible season regulations in state waters are preferable to provide effective rules and efficient enforcement for the fishery, and to prevent overfishing of the species in the long term.

Charles J. Melancon
Secretary

1610#050

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Oyster Season (2016/2017)
Calcasieu Lake, Chenier Reef, and Sabine Lake

In accordance with the emergency provisions of the Administrative Procedure Act, *Louisiana Revised Statutes* (R.S.) 49:953, and under the authority of R.S. 56:435.1 and R.S. 56:435.1.1, notice is hereby given that the Wildlife and Fisheries Commission hereby declares the 2016/2017 oyster season in Calcasieu Lake and Sabine Lake as follows:

Both the East Side and West Cove portions of the Calcasieu Lake public oyster area as described in R.S. 56:435.1.1 shall open one-half hour before sunrise on November 1, 2016. However, this action shall not supersede public health closures. The following areas shall remain closed for the entire 2016/2017 oyster season:

1. the 2015 Calcasieu Lake West Cove Cultch Plant within the following coordinates:
   a. 29 degrees 52 minutes 39.66 seconds, 93 degrees 23 minutes 42.14 seconds;
   b. 29 degrees 52 minutes 28.94 seconds, 93 degrees 23 minutes 42.20 seconds;
   c. 29 degrees 52 minutes 39.60 seconds, 93 degrees 23 minutes 31.92 seconds;
   d. 29 degrees 52 minutes 29.01 seconds, 93 degrees 23 minutes 31.92 seconds;
2. the 2015 Calcasieu Lake Southeast Side Cultch Plant within the following coordinates:
   a. 29 degrees 50 minutes 25.46 seconds, 93 degrees 17 minutes 05.83 seconds;
   b. 29 degrees 50 minutes 19.83 seconds, 93 degrees 17 minutes 04.64 seconds;
   c. 29 degrees 50 minutes 28.52 seconds, 93 degrees 16 minutes 51.37 seconds;
   d. 29 degrees 50 minutes 22.86 seconds, 93 degrees 16 minutes 50.19 seconds;
3. the Cheniere Reef artificial reef planning area within the following coordinates:
   a. 29 degrees 51 minutes 09.10 seconds, 93 degrees 17 minutes 06.96 seconds;
   b. 29 degrees 51 minutes 09.35 seconds, 93 degrees 16 minutes 50.20 seconds;
   c. 29 degrees 51 minutes 05.33 seconds, 93 degrees 16 minutes 46.06 seconds;
   d. 29 degrees 50 minutes 50.72 seconds, 93 degrees 16 minutes 45.78 seconds;
   e. 29 degrees 50 minutes 50.96 seconds, 93 degrees 17 minutes 09.62 seconds;
   f. 29 degrees 51 minutes 05.56 seconds, 93 degrees 17 minutes 09.90 seconds;
4. the Sabine Lake public oyster area (as described in R.S. 56:435.1).

During the 2016/2017 Calcasieu Lake oyster season, the following provisions shall be in effect.

1. Any vessel from which any person(s) takes or attempts to take oysters from the Calcasieu Lake public oyster area described above shall be limited to a daily take and possession limit not to exceed 7 sacks of oysters per vessel as provided for in R.S. 56:435.1.1. A sack of oysters for the purposes of this declaration of emergency shall be defined as the size described in R.S. 56:440.

2. If any person on a vessel takes or attempts to take oysters from the Calcasieu Lake public oyster area described above, all oysters contained on that vessel shall be deemed to have been taken from said public oyster area from the time harvest begins until all oysters are off-loaded dockside.

3. Prior to leaving the Calcasieu Lake public oyster area with oysters harvested from said oyster area: all oysters must be sacked, the number of sacks shall be recorded in a log book, and each sack shall be properly tagged.

4. All vessels located in the Calcasieu Lake public oyster area during those times between one-half hour after sunset and one-half hour before sunrise shall have all oyster dredges unshackled.

The secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to:

1. close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered; and

2. adjust daily take and/or possession limits as biological or enforcement data indicate a need; and

3. reopen an area previously closed if the threat to the resource has ended, or may open areas if substantial oyster resources are located.

Prior to any action, the secretary shall notify the chairman of the Wildlife and Fisheries Commission of his intention to make any or all of the changes indicated above.

Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action unless such closure is ordered by the Louisiana Department of Health for public health concerns.

Bart R. Yakupzack
Chairman

1610#047

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Reef Fish Harvest—Recreational Red Snapper
Season Re-Opening

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use seasonal rules to set finfish seasons, R.S. 56:326.3, which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in LAC 76:VII.335.G.5 to modify opening and closing dates of recreational red snapper harvest seasons in Louisiana state waters, the commission hereby declares:

The season for the recreational harvest of red snapper in Louisiana state waters, previously closed on September 6, 2016, shall re-open at 12:01 a.m. on October 7, 2016. Effective with this action, the season shall be open on weekends only, with a weekend defined as Friday, Saturday, and Sunday, with a bag and possession limit of 2 fish per person per day at the currently established minimum size limit in LAC 76:VII.335 of 16 inches total length. The season shall remain open until further notice.

The commission further declares that the secretary of the Department of Wildlife and Fisheries is authorized to modify the recreational season for the harvest of red snapper, upon notification to the chairman of the Louisiana Wildlife and Fisheries Commission, if monitoring data indicate that

the self-imposed state allocation of red snapper is projected to be met or is met.

Preliminary estimates of recreational red snapper landings in Louisiana from the La Creel program indicate that the department's self-imposed quota for the recreational harvest of red snapper has not been met and there is additional opportunity for recreational harvest.

Bart R. Yakupzack
Chairman

1610#048

Rules

RULE

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Boll Weevil Eradication Commission

Maintenance and Inspection Fees (LAC 7:XV.Chapter 3)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of enabling statutes, R.S. 3:1604.1, R.S. 3:1652, and R.S. 3:1655, the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences and the Boll Weevil Eradication Commission have amended LAC 7:XV.301, 303 and 321 to reduce the fee paid by cotton producers for the inspection and certification of cotton for the presence of the boll weevil from $6 per acre to $5 per acre. Current cotton commodity prices are the lowest seen in over 10 years, thus significantly reducing farm income for cotton producers. The reduction in the maintenance inspection fee, while not affecting the quality of inspection and certification for the presence of the boll weevil, will provide some relief in input costs for cotton producers in this state.

Title 7
AGRICULTURE AND ANIMALS
Part XV. Plant Protection and Quarantines
Chapter 3. Boll Weevil

§301. Maintenance Inspection Fee

A. In accordance with R.S. 3:1655(D), the state entomologist is authorized to assess fees to defray the costs of inspections or the issuance of certificates or permits for the shipment of agricultural products, commodities, packaging, or equipment. There is hereby established a fee for the inspection and certification of cotton for the presence of the boll weevil to ensure the marketability of cotton in commerce and maintain Louisiana's boll weevil-free status. The fee shall be $5 per acre for each acre of cotton planted in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 40:1517 (August 2014), LR 42:1644 (October 2016).

§303. Definitions Applicable to Boll Weevil

A. The words and terms defined in R.S. 3:1603 are applicable to this Chapter.

B. The following words and terms are defined for the purposes of this Chapter.

* * *

Maintenance Inspection Fee—the fee paid by cotton producers to finance, in whole or in part, a program to inspect cotton for the presence of the boll weevil in the state and to issue certificates or permits in accordance with R.S. 3:1655(D). The charge to the producer is calculated at the rate of $5 per acre for each acre of cotton planted in the state.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 23:195 (February 1997), LR 37:2583 (September 2011), LR 40:1517 (August 2014), LR 42:1644 (October 2016).

§321. Maintenance Inspection Fees, Payment and Penalties

A. The annual maintenance inspection fee on cotton producers in the Louisiana eradication zone shall be $5 per acre for each acre of cotton planted in the state. Each cotton producer shall pay his annual maintenance inspection fee directly to the department no later than July 15 or final certification with the FSA for that growing season, whichever is later. The signed and completed cotton acreage reporting and payment form with FSA Form 578 attached shall be submitted with the annual payment of the maintenance inspection fee.

B. - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1609, 1610, 1612, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997), LR 24:2231 (December 1998), LR 25:829 (May 1999), LR 29:859 (June 2003), LR 30:1142 (June 2004), LR 30:2443 (November 2004), LR 37:2583 (September 2011), LR 40:1519 (August 2014), LR 42:1644 (October 2016).

Mike Strain, DVM
Commissioner

1610#052

RULE

Department of Agriculture Forestry
Office of Agricultural and Environmental Sciences
Horticulture Commission

Arborists, Utility Arborists, and Landscape Irrigation Contractors—Insurance Coverage (LAC 7:XXIX.117)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry ("department") and the Horticulture Commission have amended LAC 7:XXIX.117 to clarify that an arborist, utility arborist and landscape irrigation contractor must maintain insurance coverage while operating in their professions. Current regulation requires an arborist, utility arborist and landscape irrigation contractor to obtain insurance prior to licensure and to show proof of insurance prior to license renewal. Although the department and Horticulture Commission have consistently interpreted the current laws and rules to require continued insurance coverage, the amendment expressly states the requirement and removes

any confusion over the requirement for ongoing, continuous insurance coverage in these professions. In addition, the Rule changes the word "must" to "shall" throughout §117 for consistency.

Title 7
AGRICULTURE AND ANIMALS
Part XXIX. Horticulture Commission
Chapter 1. Horticulture
§117. Professional and Occupational Standards and Requirements

A. Retail Florist

1. Professional Standards

a. All cut flowers, ornamental plants, and living or freshly cut plant materials sold or offered for sale shall be fresh, of high quality, and free from injurious insects, diseases, and other pests. No plant material of low quality and no wilted or dead plant materials may be offered for sale to the general public or sold to a consumer except when specifically requested by the consumer.

b. Floral designs, cut flowers, ornamental plants, and living or freshly cut plant materials shall be cared for in a manner that, to the extent reasonably possible, maintains their freshness and increases their longevity.

c. Coolers where floral designs, cut flowers, ornamental plants, or living or freshly cut plant materials, are kept or stored shall be clean and maintained at a temperature conducive to prolonging the freshness of the said products kept or stored in the coolers.

d. Containers holding cut flowers or living or freshly cut plant materials shall be maintained in a manner that does not adversely affect the cut flowers or plant material. Water in containers shall be changed periodically so as to remain clean at all times.

e. Floral designs shall be prepared in a good and workmanlike manner and shall satisfy the consumer's requests that are objective in nature. All reasonable efforts should be made to satisfy the consumer's requests that are subjective in nature. All floral designs shall be constructed in such a manner as to remain intact during transportation.

f. All wires, steel picks, corsage pins, and other sharp objects employed in the construction of a floral design shall be used in a manner that will maintain the integrity of the floral design while minimizing the risk of injury to any person handling the floral design.

g. Compliance with equivalent procedures and techniques set forth in James L. Johnson, William J. McKinley, Jr. and M. Buddy Benz, *Flowers: Creative Design* (San Jacinto Publishing Co., 7th ed., 2001; distributed by Texas A and M Univ. Press) will establish a rebuttable presumption of compliance by the licensee with these professional standards.

2. Requirements

a. Retail florist shops that lose their licensed florist will be granted a grace period of 90 days of operating without the services of a full-time licensed florist. This grace period shall end 90 days from that date. The purpose of this grace period is to provide the florist shop an opportunity to employ a licensed person. This grace period can only be used once in a 12-month period. Retail florist shops shall cease to engage in the profession of retail florist after the grace period has been exhausted. In the event a retail florist shop, despite reasonable prevention efforts, loses its only or only remaining regularly employed licensed retail florist, the florist shop shall replace the regularly employed licensed retail florist as soon as possible but in no event more than 90 days from the first day the retail florist shop operated without a regularly employed licensed retail florist. Notwithstanding the foregoing, no retail florist shop shall operate without a regularly licensed retail florist for more than a total of 90 days in any 12-month period that follows the first day of operation without a regularly employed licensed retail florist.

b. Retail florists may rent potted ornamental plants for special events such as weddings, conventions, trade shows, etc., if such plants are normally and customarily sold by florists and such plants do not require maintenance, other than normal watering. Plants rented by retail florists for a special event shall be rented only for the duration of that special event.

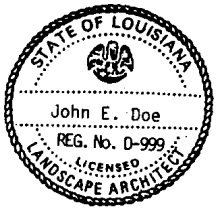
B. Landscape Architect

1. Without good cause, all designs shall make use of plant materials commonly found growing in Louisiana or which are suitable for growth in Louisiana's growing conditions.

2. Licensees shall meet the standards established by the Council of Landscape Architects Registration Board.

3. Each landscape architect shall obtain a seal of the design authorized by the commission. The seal shall be placed on all professional documents, including contracts, maps, plans, designs, drawings, specifications, estimates and reports, issued by a licensed landscape architect for use in this state.

a. The seal required shall be circular and 1 5/8 inches in diameter. The words "State of Louisiana" shall be along the top circumference and the words "Licensed Landscape Architect" shall be along the bottom circumference. The individual's name shall be placed horizontally in the center of the field with his registration number below. Letters and figures shall be as shown on the example printed herein to insure uniformity.



b. A rubber stamp facsimile, which conforms to the official design of the seal described in §117.B.3.a of this Part, may be obtained and used in place of the seal by a licensed landscape architect.

c. The licensee shall sign his or her legal name on each document and shall then affix his or her seal over that signature. The presence of one's seal over the signature on any document constitutes proof that he or she accepts all legal and professional responsibility for the work accomplished. The seal shall be used only by the licensee responsible to this commission for authorship of the documents thus identified. No person other than the licensee represented shall use or attempt to use the prescribed seal, and no unlicensed person shall be authorized to use the prescribed seal. Authorized use of the prescribed seal is an individual act whereby the licensee shall personally inscribe

the seal over his or her signature. The licensee is responsible for the security of the seal when not in use.

4. All designs and specifications utilizing sod shall specify the type and class of sod to be used as provided in §115.D of this Part and accompanied by the sod classification form specified by the commission.

5. Continuing Education Requirements

a. Compliance with these continuing education requirements is necessary for a landscape architect ("licensee") to maintain a landscape architect license in this state.

b. The commission shall administer the continuing education requirements through a standing continuing education committee consisting of not more than two staff members and at least three licensed Louisiana landscape architects elected by mail ballot. The landscape architects on the committee will each serve a term of two years. The call for nominations and balloting for committee service will be conducted concurrent with annual balloting for members of the Louisiana Landscape Architects Selection Board.

c. A licensee shall attend, or complete an approved substitute for attendance, a minimum of 8 credit hours of continuing education within each calendar year. If more than 8 credit hours are obtained during a calendar year, a licensee may carry over a maximum of 4 credit hours from one calendar year to the next. Any credit hours carried over into a following calendar year shall apply to that year only and may not be carried forward into subsequent years. A credit hour shall contain at least 50 minutes of actual instruction or education.

d. Activities that may be approved for continuing education credits shall contain instructional or educational components. Such activities include annual professional meetings, lectures, seminars, workshops, conferences, university or college courses, in-house training, and self-directed activities. The commission's staff shall make the initial determination as to whether an activity qualifies for continuing education credit. If the commission's staff determines that an activity may not qualify, that activity request will be automatically forwarded to the continuing education committee for review and the committee's determination. Any licensee or other applicant for approval of an activity may appeal any committee rejection of an activity for continuing education credit to the commission. However, the commission retains the right to review and approve or disapprove any activity as a qualifying continuing education activity and the number of credit hours arising from such activity, even if there is no appeal. Any appeal from any decision of the commission shall be taken in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.).

e. A licensee shall keep all records showing attendance, or completions of an approved substitute for attendance, at continuing education activities for three years following the year in which attendance or completion was done.

f. Each licensee shall annually submit a written certification signed by the licensee that the licensee has, during that calendar year, attended, or completed an approved substitute for attendance, the number of credit hours stated in the certification. If credit hours carried over from the previous year are being used as a substitute for attendance then the certification shall state the number of carried over credit hours that are being used. The certifications shall be attached to the licensee's annual license renewal application. Any renewal application received without this certification shall not be processed for license renewal and the license fees submitted with the application shall be refunded to the licensee.

g. The commission shall cause an annual audit of licensees to be conducted. Licensees shall be selected for audit either by cross-section of licensees or by random audit. The provisions of this subsection notwithstanding, an investigation of a licensee for possible violation of these continuing education requirements may be conducted if there is reason to believe that a violation may have occurred. Licensees selected for audit will be required to provide documented proof of their having obtained the continuing education credits for the year being audited. A licensee's failure to provide documented proof of having attended, or completed an approved substitute for attendance, for each credit hours certified for the year being audited shall be a violation of this Part. In the event that a licensee provides documented proof of having attended, or undertaken an approved substitute for attendance, any credit hour certified for the year being audited and such credit hour is disallowed then the licensee shall have six months from date of notification of the disallowance to attend, or complete an approved substitute for attendance, a sufficient number of approved credit hours to make up for the disallowed credits. The credit hours attended to make up for any disallowed credit hours shall not count toward the minimum credit hours needed for any other year. Failure to timely make up for the disallowed credit hours shall be deemed a violation of this Part. An appeal from a disallowance of any credit hour may be taken as provided in Subparagraph d of this Paragraph.

h. A licensee may submit a written request for an approved substitute for attendance or for a hardship exemption or extension of time in which to obtain the minimum credit hours for the year in which the request is made. The licensee shall detail the reason for the request, such as the benefit of any substitution, any physical disability, illness, or extenuating circumstance, and a specification of the requested substitute for attendance, including number of credit hours, course of study, etc. The licensee shall also provide any additional information asked for in consideration of the request.

C. Wholesale Florist

1. All flowers or greenery sold or offered for sale shall be fresh and of high quality. No wilted or dead plant materials may be offered for sale to persons holding the proper license or permits.

2. All nursery stock sold or offered for sale shall be fresh and of high quality and free from injurious insects, diseases, and other pests. No low quality plant materials may be offered for sale.

3. Coolers from which cut flowers or greenery are sold, or in which cut flowers or greenery are stored prior to sale, shall be kept clean at all times. Water in containers shall be changed regularly and kept clean at all times.

D. Landscape Horticulturist

1. Any nursery stock used in landscaping, leased, or sold, or offered for use in landscaping, lease, or sale, shall be

of high quality and free from injurious insects, diseases, and other pests. Nursery stock which is leased shall be maintained in high quality and free from injurious insects, diseases, and other pests.

2. All plant beds shall be properly prepared and shall allow for proper drainage.

3. All recommendations and maintenance and planting practices shall incorporate sound horticultural practices.

4. All sod installed, sold, or recommended shall be classified as provided in §115.D of this Part.

5. Recommendations and maintenance and planting practices shall meet the standards outlined in *The Louisiana Manual for the Environmental Horticulture Industry (April 2014 ed.)* published by the Louisiana Nursery and Landscape Association.

6. Landscape horticulturists who prepare drawings to indicate the planting and location and arrangement of plant materials by that landscape horticulturist shall place his name, the words "Landscape Horticulturist," and his license number on each drawing prepared by him. Drawings prepared by a landscape horticulturist may be used only by that landscape horticulturist and no one else in connection with the submission of a bid proposal.

7. Licensees shall display their license at all times in a location accessible to the general public or any representative of the commission.

E. Arborist

1. Licensees may not use climbing irons in any trees which are not to be removed except as provided §117.E.3 of this Part hereof.

2. Before the commission issues an arborist's license, the person to be licensed shall first furnish to the commission the following:

a. a certificate of insurance, written by an insurance company authorized to do business in Louisiana, covering the public liability of the applicant for personal injuries and property damages, providing for not less than $25,000 per person for personal injuries and not less than $50,000 for property damages, both limits applicable to each separate accident, provided that the commission may waive the requirement for the stated insurance coverages for any licensed arborist who does not physically work on trees or accept responsibility for work on trees but only provides consultation with respect to work on trees. The certificate of insurance shall provide for 30 days' written notice to the commission prior to cancellation.

b. Failure to maintain the required insurance may constitute a violation of this Part.

3. When the characteristics of a tree require the use of climbing irons, the licensee may use climbing irons but only with the prior written permission of the owner of the tree.

4. Licensees shall enter into a written contract with the property owner employing him for arboricultural work, which contract shall specify the services to be performed and the sum to be paid for the services. Both parties shall receive a copy of the contract.

5. Licensees may apply pesticides only for the purposes of retarding decay or disease. See also §119.A of this Part relative to application of pesticides.

6. Licensees engaged in the feeding of trees shall follow proper fertilizer schedules and rates according to label directions. Representatives of the commission may take a sample of the nutrients applied during any tree feeding operation for the purpose of verifying its chemical analysis.

7. Licensees shall display their license at all times in a location accessible to the general public or any representative of the commission.

8. Prior to renewal of an arborist license, the licensee shall provide the commission with certifiable evidence of completion of a continuing training seminar which was previously approved by the commission.

9. Recommendations and pruning practices shall meet the standards outlined in the *Arborists' Certification Study Guide (3rd ed. 2010)* published by the International Society of Arboriculture.

F. Nursery Stock Dealer

1. All nursery stock sold or offered for sale shall be fresh and of high quality and shall be free from injurious insects, diseases, and other pests. No low quality plant materials may be offered for sale to the general public.

2. All indoor nursery stock offered for sale shall be displayed or offered for sale under the protection of some type of covering, such as inside a building or under a carport, tent, or canopy, which will protect such plant material from exposure to sun, wind, or rain.

3. A clean source of water shall be provided at all times when plants are offered for sale.

4. Nursery stock dealers operating from a mobile unit shall not sell nursery stock within 300 feet of a place of business that holds a nursery stock dealer's permit, nursery certificate permit, horticulture service license, retail florist license or a wholesale florist license.

5. The permit holder shall display his permit at all times in a location accessible to the general public or any representative of the commission.

6. All sod sold shall be classified as provided in §115.D of this Part.

G. Cut Flower Dealer

1. All flowers or greenery offered for sale shall be fresh and of high quality. No wilted or dead plant materials may be offered for sale to the general public, save and except when specifically requested by consumer.

2. A clean source of water shall be provided for all flowers or greenery that are offered for sale. Water in containers shall be changed regularly and kept clean at all times.

3. The permit holder shall display his decal and/or permit at all times in a location accessible to the general public or any representative of the commission.

4. The restriction against a cut flower dealer locating within 300 feet of an established retail florist shall not apply to cut flower dealers in permanent locations. In addition, cut flower dealers operating from a mobile unit shall not sell cut flowers, within 300 feet of place of business that holds a cut flower dealer's permit.

H. Utility Arborist

1. Licensees may not use climbing irons in any trees which are not to be removed except in remote utility rights-of-way that are inaccessible to tree trimming equipment where no other practical means of trimming the tree is available or as provided in §117.E.3 of this Part.

2. Before the commission issues a utility arborist license, the person to be licensed shall first furnish to the

commission a certificate of insurance as provided in §117.E.2 of this Part.

a. Failure to maintain the required insurance may constitute a violation of this Part.

3. Licensees shall make their license available to the public or any representative of the commission at all times.

4. Prior to renewal of a utility arborist license, the licensee shall provide the commission with certifiable evidence of completion of a continuing training seminar which was previously approved by the commission.

5. Recommendations and pruning practices shall meet the standards outlined in the International Society of Arboriculture Certification Manual (3rd. ed. 2010) and Best Management Practices—Utility Pruning of Trees (rev. or copyright date 2004), a publication by the International Society of Arboriculture.

I. Landscape Irrigation Contractor

1. Before the commission issues a landscape irrigation contractor license the person to be licensed shall first furnish to the commission a certificate of insurance, written by an insurance company authorized to do business in Louisiana, covering the public liability of the applicant, as a licensee, for personal injuries and property damages. The insurance policy shall provide for not less than $25,000 per personal injuries and not less than $50,000 for property damages, both limits applicable to each separate accident. The certificate of insurance shall provide for 30 days' written notice to the commission prior to cancellation. The commission may, however, waive the requirement for the stated insurance coverage for any licensed landscape irrigation contractor who does not physically work on landscape irrigation systems or accept responsibility for work on landscape irrigation systems but only provides consultation or other associated services with respect to landscape irrigation systems or the work performed on such systems.

2. Failure to maintain the required insurance may constitute a violation of this Part.

3. Licensees are required to attend and complete a commission approved continuing training seminar at least once every three years. Each licensee, prior to renewal of his or her license, shall provide the commission with certifiable evidence that the licensee has timely and successfully completed such a seminar.

4. Licensed landscape irrigation contractors shall enter into a written contract with the property owner, specifying the landscape irrigation services to be performed and the sum to be paid for the services. The contract shall include the following statement: "Any complaints regarding landscape irrigation installation should be directed to the Louisiana Horticulture Commission at (225) 952-8100." Both parties shall receive a copy of the contract.

5. Licensees shall display their license at all times in a location accessible to the general public or any representative of the commission.

6. The following clarifications apply to licensed landscape irrigation contractors.

a. A licensed landscape irrigation contractor is not required to have a water supply protection specialist endorsement from the state Plumbing Board in order to install an irrigation system up to the point of connecting the irrigation system to a public or private water supply system or installing a backflow prevention device.

b. A licensed landscape irrigation contractor shall also have a water supply protection specialist endorsement from the state Plumbing Board before connecting any irrigation system to a public or private water supply system or installing a backflow prevention device, pursuant to R.S. 3:3808(P)(4) and (5).

c. A governing authority, such as a parish or municipality, shall issue all necessary permits, including necessary electrical permits, to a licensed landscape irrigation contractor who does not hold a water supply protection specialist endorsement for the installation of an irrigation system, except for those permits that would allow such a licensed landscape irrigation contractor to connect the irrigation system to a public or private water supply system or install a backflow prevention device.

d. A governing authority, such as a parish or municipality shall issue all necessary permits to a licensed landscape irrigation contractor who holds a water supply protection specialist endorsement from the state Plumbing Board for the installation of an irrigation system, including necessary electrical permits and those permits that would allow such a licensed landscape irrigation contractor to connect the irrigation system to a public or private water supply system or install a backflow prevention device.

e. A licensed landscape irrigation contractor who also holds a water supply protection specialist endorsement from the state Plumbing Board is required by R.S. 3:3816(6) to install backflow prevention devices in accordance with ordinances adopted by local governing authorities, such as parishes and municipalities, regulating the installation of backflow prevention devices. If a local governing authority does not have an ordinance regulating the installation of backflow prevention devices, such devises shall be installed in accordance with the requirements of LAC 51, Part XIV (Plumbing) of the *Sanitary Code*, state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001), LR 31:1054 (May 2005), LR 32:78 (January 2006), LR 32:1010 (June 2006), LR 33:1854 (September 2007), LR 53:1228 (July 2009), LR 36:2520 (November 2010), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 42:1645 (October 2016).

Mike Strain, DVM
Commissioner

1610#054

RULE

Department of Agriculture and Forestry
Office of Agro-Consumer Services
Division of Weights and Measures

Weights and Measures Fee Structure and Registration
(LAC 7:XXXV.125 and 127)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry ("department"), through the Office of Agro-Consumer Services and the Division of Weights and Measures has amended LAC 7:XXXV.125 and 127. The rules create a new category of devices called "mass flow meters." Mass flow meters were registered with the department as a class 3 scale and the fee for registering the device was $185. Mass flow meters are not actually scales and should have their own category. The amendment to LAC 7:XXXV.125 has createed a new fee for registration of mass flow meters based on the internal diameter of the meter tube. Under the Rule, mass flow meters will be separated into two classes: those with tubes whose internal diameter is 2 inches or more and those with tubes that are less than 2 inches.

Title 7
AGRICULTURE AND ANIMALS
Part XXXV. Agro-Consumer Services
Chapter 1. Weights and Measures
§125. Weights and Measures Fee Structure

A. - G. …

H. The annual fee for registration of mass flow meters will be based on the internal diameter of the meter tube.

Class	Internal Tube Diameter	Fee
1	Less than 2 inches	$80
2	2 inches or greater	$185

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608 and 3:4622.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), amended LR 23:857 (July 1997), LR 30:1142 (June 2004), LR 42:218 (February 2016), LR 42:1649 (October 2016).

§127. Registration

A. - D.4. …

E. Mass flow meters shall be registered according to the following criteria:

1. make;
2. model;
3. serial number;
4. internal tube diameter in inches; and
5. intended use.

F. A late fee of $25 will be assessed for each device, the maximum penalty of $100 per outlet, when the application is submitted after December 31.

G. A late fee of $25 will be assessed for each new device not registered within 30 days from the date it is put into service.

H. A compound weighing device shall be considered one or more devices for the purpose of registration in accordance with the following.

1. A compound weighing device that consists of a single load receiving element and more than one indicating element shall be considered a single device when all indicating elements may be tested during the same test for the purpose of sealing the device as correct. Said device shall be considered separate devices for each separate test necessary for sealing.

2. A compound weighing device that consists of one indicating element and more than one load receiving element shall for the purpose of registration be considered a separate device for each load receiving element.

I. Applicants for registration may request application forms, verbally or in writing, from the Division of Weights and Measures of the Department of Agriculture and Forestry.

J. Each application for annual registration shall be accompanied by payment of the required fee and said registration shall be valid until December 31. To remain valid, each annual registration must be renewed before January 1. This Subsection shall not apply to the registration of taxicab meters.

K. Taxicab meters shall be registered annually with the division. Each registration shall be valid for one year from the date of issuance. Taxi meters may only be registered with the division upon completion of an inspection of the taxi meter by the department and payment of the required registration fee. The inspection period for taxicab meters for registration purposes shall occur from January 1 through June 30 each year. After June 30, inspections for registration purposes will be done by appointment only.

1. If a taxicab operates in a municipality or parish which requires a local inspection, the inspection required under this Part shall be completed no later than the month in which the taxicab's parish, municipal, or airport inspection is due.

2. Taxicab meters inspected after June 30 will be charged a late fee of $25 unless the late inspection is due to a meter being new, repaired, replaced, or being placed in a different vehicle.

L. Any registration obtained without complying with all of the requirements of these regulations may be voided by the division.

M. Before a device may be sealed to certify the accuracy and correctness of a device, that device must be registered with the Division of Weights and Measures of the Louisiana Department of Agriculture and Forestry.

N. In accordance with R.S. 3:4611, no one shall use a weight, measure or weighing or measuring device which has not been sealed by the division, its director, or its inspectors, at its direction, within the year prior thereto, unless written notice has been given to the division to the effect that the weight, measure or weighing or measuring device is available for examination or is due for re-examination.

O. Application for registration or renewal of registration shall fulfill the requirement of notification in Subsection L of this Section.

P. Applications for annual renewal of registration shall be mailed by the Division of Weights and Measures of the Department of Agriculture and Forestry to all registrants, at the last address provided by the registrant, on or before November 15 and must be returned before January 1.

Q. The record of all registrations shall be maintained by the Division of Weights and Measures and the director of the Division of Weights and Measures in its office in Baton Rouge.

R. Any registrant having a device registered under provisions of this regulation, and that is taken out of commercial use at the location shown on the application for registration, shall notify the commission's office in writing to remove said device from its records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3), 3:4607, 4608, and 3:4622.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:158 (March 1987), amended LR 15:78 (February 1989), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), LR 23:857 (July 1997), LR 41:2098 (October 2015), LR 42:1649 (October 2016).

Mike Strain, DVM
Commissioner

1610#053

RULE

Department of Children and Family Services
Economic Stability Section

Community Supervision Program (LAC 67:III.5573)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:III.Subpart 15, Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55, TANF Initiatives, Section 5573, Community Supervision Program.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) block grant, amendment of Section 5577 is necessary to clarify the program's service period and financial eligibility criteria, which must mirror eligibility rules in effect as of August 21, 1996 under the Louisiana Aid to Families with Dependent Children (AFDC) Emergency Assistance Program.

This action was made effective by an Emergency Rule effective July 1, 2016.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives
Chapter 55. TANF Initiatives
§5573. Community Supervision Program

A. The department has an agreement with the Department of Public Safety and Corrections, Office of Juvenile Justice (DPSC-OJJ), to provide services to youth and their families as a result of an adjudication and disposition by a court that orders (DPSC-OJJ) to supervise youth in their communities in an effort to prevent removal from the home.

B. OJJ will complete an intake/assessment and develop a case plan for addressing the needs of the youth. The case plan will contain goals for all need areas and when indicated, include referrals to community programs for both youth and parents. These referrals may include, but are not limited to:

1. case management, counseling, and in-home services;
2. parenting education and training, either in-home or out-of-home;
3. diagnostic and evaluation services provided in an attempt to make the most appropriate out-of-home placement;
4. supervision or non-residential programs for youth who remain in the home.

C. TANF eligibility is limited within any 12-month period to a single episode of need with a maximum duration of 12 months. TANF eligibility is also limited to families with income less than twice the state median income (SMI).

D. These services are TANF-eligible based on inclusion in the state's approved AFDC Emergency Assistance Program that was in effect as of August 21, 1996.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 46:231, and R.S. 36:474, amended Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:2511 (November 2003), amended LR 31:487 (February 2005), LR 34:697 (April 2008), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:1650 (October 2016).

Marketa Garner Walters
Secretary

1610#025

RULE

Department of Children and Family Services
Economic Stability Section

Income Exclusions for Public Assistance Programs
(LAC 67:III.1229 and Chapter 19)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:III, Subpart 2, Family Independence Temporary Assistance Program, Section, 1229 Income; Subpart 3, Supplemental Nutritional Assistance Program (SNAP), Section 1938, Work Registration Requirements and Section 1940, Work Participation Requirements for Able-Bodied Adults without Dependents; and Subchapter I, Income and Deductions, Section 1980, Income Exclusions.

Amendment of Sections 1229 and 1980 is necessary to include grant-funded research payments as non-countable income for SNAP and cash assistance programs and to add clarification regarding the alignment of countable income across programs. Amendment of Section 1938 is necessary to comply with 7 CFR 273.7. Amendment of Section 1940 is necessary to clarify the individuals who are exempt from work participation requirements.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) block grant and to the authority granted to the department by the Food and Nutrition Services (FNS), the department considers these amendments necessary to clarify the programs' eligibility rules regarding income exclusions and work participation requirements. Excluding

grant-funded research payments as countable income allows families to participate in studies without negatively impacting their public assistance benefits. Excluding some types of income not countable by cash assistance programs ensures fairness in eligibility determinations for SNAP applicants and recipients. Aligning countable income across programs also allows for consistency and aids staff in making accurate eligibility determinations.

Title 67
SOCIAL SERVICES
Part III. Family Support
Subpart 2. Family Independence Temporary Assistance Program
Chapter 12. Application, Eligibility, and Furnishing Assistance
Subchapter B. Conditions of Eligibility
§1229. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. adoption assistance;
2. earned income of a child, including a minor unmarried parent, who is in school and working toward a high school diploma, GED, or special education certificate;
3. disaster payments;
4. Domestic Volunteer Service Act;
5. earned income credits (EIC);
6. education assistance;
7. energy assistance;
8. foster care payments;
9. monetary gifts up to $30 per calendar quarter;
10. agent orange settlement payments;
11. HUD payments or subsidies other than those paid as wages or stipends under the HUD Family Investment Centers Program;
12. income in-kind;
13. Indian and native claims and lands;
14. irregular and unpredictable sources;
15. lump sum payments;
16. nutrition programs;
17. job training income that is not earned;
18. relocation assistance;
19. loans;
20. supplemental security income;
21. wartime relocation of civilians payments;
22. developmental disability payments;
23. Delta Service Corps post-service benefits paid to participants upon completion of the term of service if the benefits are used as intended for higher education, repayment of a student loan, or for closing costs or down payment on a home;
24. Americorps VISTA payments to participants (unless the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage);
25. radiation exposure compensation payments;
26. payment to victims of Nazi persecution;
27. restricted income received for a person not in the assistance unit or not in the income unit. Restricted income is income which is designated specifically for a person's use by federal statute or court order and may include RSDI, VA benefits and court ordered-support payments;
28. crime victim compensation program payments to an applicant/recipient whose assistance is necessary, in full or in part, because of the commission of a crime against the applicant, and to the extent it is sufficient to fully compensate the applicant for losses suffered as a result of the crime;
29. effective October 1, 2004 additional pay received and made available to the household by a member of the United States Armed Forces deployed to a designated combat zone;
30. effective March 1, 2006, interest income;
31. effective March 1, 2006, dividend income;

Exception: Dividends received from a resource-exempt trust fund will not be excluded as income.

32. any payments other than wages received as a result of the Mississippi Canyon 252 well incident in the Gulf of Mexico on April 20, 2010; or
33. grant funded research payments.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq., and 10602(c), R.S. 36:474, R.S. 46:231.1(B), R.S. 46:231.2, P.L. 108-447, Act 16, 2005 Reg. Session, and 7 CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 26:2831 (December 2000), LR 31:2956 (November 2005), LR 32:1616 (September 2006), LR 32:1912 (October 2006), LR 34:2678 (December 2008), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2524 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1675 (September 2014), LR 42:1651 (October 2016).

Subpart 3. Supplemental Nutritional Assistance Program (SNAP)
Chapter 19. Certification of Eligible Households
Subchapter G. Work Requirements
§1938. Work Registration Requirements

A. - A.4. ...

B. Determining Whether a Work Requirement Violation Occurred

1. When a household files an application for participation, or when a participating household reports the loss of a source of income, the DCFS shall determine whether any household member:

a. refused without good cause to provide sufficient information to allow a determination of his/her employment status or job availability;

b. voluntarily and without good cause quit a job;

c. voluntarily and without good cause reduced his/her work effort (and, after the reduction, is working less than 30 hours a week);

d. refused, at the time of application and every 12 months thereafter, to register for employment;

e. refused without good cause to participate in an employment and training program;

f. refused without good cause to accept an offer of employment.

2. Benefits shall not be delayed beyond the normal processing times pending the outcome of this determination. This provision applies only if the employment involved 30

hours or more per week or provided weekly earnings equivalent to the federal minimum wage multiplied by 30 hours; the violation occurred within 60 days prior to the date of application or anytime thereafter, and was without good cause. Terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered a violation for purpose of this Section. An employee of the federal government, or of a state or local government who participates in a strike against such government, and is dismissed from his or her job because of participation in the strike, shall be considered to have violated the work requirements without good cause.

3. If an application for participation is filed in the last month of the disqualification period, the eligibility worker shall use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met.

4. Upon a determination that a violation of the work requirements occurred, the DCFS shall determine if the violation was with good cause. If it is determined that good cause does not exist, the sanction will be imposed. The DCFS shall provide the household with a notice of ineligibility. The notice shall inform the household of the proposed period of disqualification; its right to reapply at the end of the disqualification; and of its right to a fair hearing.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:80 (January 1997), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2528 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:1651 (October 2016).

§1940. Work Participation Requirements for Able-Bodied Adults without Dependents [Effective 10/1/97 by Emergency Rule]

A. Individuals are ineligible to continue to receive SNAP benefits if, during the preceding 36-month period they received SNAP benefits for at least 3 months (consecutive or otherwise) while that individual did not either:

1. work an average of 20 hours per week;

2. participate in and comply with a Job Training Partnership Act program, Trade Adjustment Act program, or employment and training program (other than a job search or job search training program) for 20 hours or more per week; or

3. participate in and comply with a workfare program.

B. An individual is exempt from this requirement if the individual is:

1. under age 18, or 50 years of age or older;

2. medically certified as physically or mentally unfit for employment;

3. residing in a SNAP household where a household member is under age 18, even if the household member who is under age 18 is not eligible to receive SNAP benefits;

4. pregnant; or

5. otherwise exempt from work registration requirements.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, 7 CFR 273.24, and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:81 (January 1997) amended LR 34:885 (May 2008), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2528 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:1652 (October 2016).

Subchapter I. Income and Deductions

§1980. Income Exclusions

A. In addition to those income exclusions previously adopted and codified in Chapter 19, Certification of Eligible Households, the following income types will be excluded from countable income for the Supplemental Nutrition Assistance Program (SNAP):

1. payments or allowances to provide energy assistance under any federal law, including the Department of Housing and Urban Development and the Farmers Home Administration, except that provided under title IV-A;

2. earnings of an elementary or secondary student through age 17 who is the child of, or under parental control of, a member of the household;

3. legally obligated child support payments to non-household members are excluded when determining eligibility based on gross income standards;

4. effective October 1, 2004, additional pay received and made available to the household by a member of the United States Armed Forces deployed to a designated combat zone;

5. agent orange settlement payments income (retroactive to 01-01-89);

6. agriculture and stabilization and conservation service payments received as a result of a presidentially-declared disaster or emergency;

7. assistance payments income that is being recouped for overpayment of non-fraud overpayments;

8. bonus income that is non-recurring or cannot be anticipated to recur;

9. child care food program payments received for the client's own children;

10. child support income received by FITAP/KCSP recipients, which must be transferred to IV-D to maintain eligibility;

11. child support arrearage payments that were previously counted as income or payment that is a one-time non-recurring lump-sum payment;

12. deposits made into joint accounts when the joint account is considered a convenience account, the income deposited into the account is verified to be a loan, or the account is considered inaccessible to the household;

13. disaster payments provided to rebuild a home or replace personal possessions damaged in a disaster if the household is subject to legal sanction if the funds are not used as intended. This includes individual and family grant payments or small business administration loans;

14. disaster relief income funded under national emergency grants or disaster unemployment assistance paid to an individual who is unemployed as a result of a major disaster;

15. the prorated portion of the income for persons disqualified for SSNs, for ineligible aliens, or for persons who failed to attest to citizenship/alien status;

16. Delta Service Corps income if the allowances, earnings, and payments to individuals participating in the

programs are received under title I of the National and Community Service Act;

17. Domestic Volunteer Service Act income received by volunteers for services performed in programs stipulated in title II of the amended Domestic Volunteer Service Act of 1973 (P.L. 93-118), which include Foster Grandparents and Retired Senior Volunteer Program; or payments received by volunteers for services in programs under title I (VISTA) if the person was receiving food stamps or public assistance when he joined VISTA or the household was receiving an income exclusion for a title I subsistence allowance at the time of conversion to the Food Stamp Act of 1977;

18. Indian and native claims and lands income received:

a. under Public Law 94-189, (Sac and Fox Indian Claims Agreement);

b. under Public Law 94-540, (Grand River Band of Ottawa Indians);

c. under Public Law 95-433, section 2, Confederated Tribes and Bands of the Yakima Nation and the Apache Tribe of the Mescalero Reservation received from the Indian Claims Commission;

d. by certain Indian tribal members under Public Law 94-114, section 6, regarding submarginal lands held in trust by the United States;

e. under Public Law 93-531 (Navajo and Hopi Tribes);

f. tax-exempt portions made pursuant to Public Law 92-203, The Alaska Native Claims Settlement Act; or

g. under Public Law 96-420 (Passamaquoddy Tribe and Penobscot Nation, or the Houlton Band of Maliseet Indians pursuant to the Maine Indian Claims Settlement Act of 1980);

19. Indian gambling operations income paid to children under 18 when the household is not given a choice and the money is deposited in an inaccessible trust fund;

20. in-kind income not in the form of money payable directly to the household except earned income vendor payments made by the employer instead of all or part of the salary;

21. irregular and unpredictable income when the anticipated income will be less than $30 in a three-month period, and the income is received too infrequently and irregularly to be reasonably anticipated;

22. strategies to empower people (STEP) payments for supportive services;

23. loans;

24. non-recurring lump-sum payments;

25. crime victim compensation payments made to a client whose assistance is necessary, in full or in part, because of the commission of a crime against the client, and to the extent it is sufficient to fully compensate the client for losses suffered as a result of the crime;

26. National and Community Service Corporation payments for living allowance (stipend) and child care received by participants as well as in-kind benefits provided to the participants;

27. non-household member's portion of income that is received by a household member which is intended and used for care and maintenance of a third-party beneficiary who is not a household member;

28. nutrition programs income—the value of supplemental food assistance under the Child Nutrition Act of 1966 and under the Special Food Service Program for Children (the National School Lunch Act) or benefits received under title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965;

29. payments made to victims of Nazi persecution;

30. payments made to persons through the Radiation Exposure Compensation Act, which was enacted October 15, 1990;

31. railroad retirement income that is being recouped for a prior overpayment;

32. reimbursement income which:

a. is not a gain or benefit to the household;

b. is not provided specifically for normal living expenses; or

c. does not exceed the actual expenses for which the reimbursement was paid;

33. relocation assistance income if received under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970;

34. Senior Community Service Employment Program (SCSEP) income received by individuals 55 or older;

35. supplemental security income that is being recouped for non-fraud SSI overpayment;

36. unemployment compensation benefits that are paid as the result of unemployment due to a major disaster and funded through the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

37. vendor payments made by a person or organization outside the household/assistance unit directly to the client's creditor or to a person or organization providing the service unless:

a. the vendor payment is made by an employer instead of all or part of the salary;

b. it is a local GA vendor payment provided to cover housing expenses exclusive of energy or utility expenses; or

c. the vendor payment is made in lieu of payments which are legally obligated to the household;

38. severance pay received in a single lump-sum payment;

39. payments made through the wartime relocation of civilians law:

a. payments of $20,000 made to eligible persons of Japanese ancestry who were interned during World War II, or such payments made to the spouse, children or parents if the eligible individual is deceased;

b. payments of $12,000 made to eligible Aleuts who were relocated from their home on the Pribolof or Aleutian Islands to an internment camp during World War II, or such payments made to an individual who was born while his mother was relocated;

40. effective March 1, 2006, dividend income;

Exception: Dividends received from a resource-exempt trust fund will not be excluded as income.

41. effective March 1, 2006, interest income;

42. effective March 1, 2006, education assistance;

43. any payments other than wages received as a result of the Mississippi Canyon 252 well incident in the Gulf of Mexico on April 20, 2010; or

44. grant-funded research payments.

B. Any type of income excluded when determining eligibility or benefits for cash assistance as defined by 45 CFR 260.31(a)(1) and (a)(2), will be excluded from countable income for SNAP, except for those types determined countable by 7 CFR 273.9(c)(19), such as wages, salaries, etc.

AUTHORITY NOTE: Promulgated in accordance with P.L. 103-66, 7 CFR 273.9(c)(11), P.L. 104-193, P.L. 107-171, P.L. 108-447, and CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 21:188 (February 1995), amended LR 23:82 (January 1997), LR 29:607 (April 2003), LR 31:2956 (November 2005), LR 32:1616 (September 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2530 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:1652 (October 2016).

Marketa Garner Walters
Secretary

1610#024

RULE

Department of Civil Service
Board of Ethics

Late Filings; Records and Reports
(LAC 52:I.Chapter 12 and 1309)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Civil Service, Louisiana Board of Ethics has amended rules for late filing procedures and to correctly reference a statute for certain disclosure forms.

Title 52
ETHICS
Part I. Board of Ethics

Chapter 12. Late Filings

§1201. Late Filing; Notice of Delinquency
[Formerly §1202]

A. The staff shall mail, by certified mail, a notice of delinquency within four business days after the due date for any report or statement, of which the staff knows or has reason to know is due by the filer that is due under any law within the board's jurisdiction which has not been timely filed.

B. If the date on which a report is required to be filed occurs on a weekend or federal or state holiday, the report shall be filed no later than the first working day after the date it would otherwise be due that is not a federal or state holiday.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 26:628 (April 2000), LR 30:2669 (December 2004), LR 38:1207 (May 2012), LR 42:1654 (October 2016).

§1203. Late Filing; Assessment of Late Fee

A. The staff of the board shall automatically assess and order the payment of late filing fees for any failure to timely file any report or statement due under any law within the board's jurisdiction in accordance with the law on the assessment of late fees.

B. The assessment and order of the late fee shall be mailed by certified mail to the late filer. If the assessment and order is not claimed by the late filer, the assessment and order shall be served on the late filer via a subpoena of notice.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 38:1208 (May 2012), LR 42:1654 (October 2016).

§1205. Late Filing
[Formerly §1204]

A. Definitions. For purposes of §1205, the following definitions shall apply.

Amount of Activity—the total amount of receipts or expenditures, whichever is greater.

Person Regularly Responsible—the person designated by the person required to file a report, in accordance with any law under the jurisdiction of the board, who is responsible for keeping the records and filing the reports on behalf of the required filer.

B. An automatic late fee shall not be assessed, and if one is assessed shall be rescinded by the staff, if the person required to file the report did not file the report for any of the following reasons which occurred on the due date or during the 14 days prior to the date the report was due:

1. death of the person required to file or the person regularly responsible, or a death in their immediate family, as defined in R.S. 42:1102(13);

2. serious medical condition, in the considered judgment of the staff, which prevented the person required to file or the person regularly responsible from filing the report timely;

3. a natural disaster, an act of God, force majeure, a catastrophe, or such other similar occurrence.

C. If a report is filed more than 10 days late and the amount of activity on the report is less than the amount of the late fee to be assessed, the staff may reduce the late fee to the amount of activity or 10 times the per-day penalty, whichever is greater.

D. An automatic late fee for a candidate's campaign finance disclosure report shall not be assessed, and if one is assessed, shall be rescinded by the staff, if the candidate officially withdrew with the Secretary of State from the election and received no contributions or loans and/or made any expenditures, excluding his qualifying fee.

E. An automatic late fee for a candidate personal financial disclosure statement shall not be assessed, and if one is assessed, shall be rescinded by the staff, if the candidate officially withdrew with the Secretary of State from the election.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 26:628 (April 2000), LR 31:1227 (June 2005), LR 38:1208 (May 2012), LR 42:1654 (October 2016).

§1207. Late Filing; Waiver
[Formerly §1205]

A. Any person assessed with automatic late filing fees may request a waiver of the late fee, in writing, to the board

within 20 days after the receipt of the assessment requiring the payment of late filing fees, setting forth the facts which tend to prove that the late filer had good cause for filing late.

B. The executive secretary shall place all such requests for a waiver on the board's agenda for consideration. If a late filer requests to make an appearance, the executive secretary shall schedule the appearance.

C. At the time of submission of his request for a waiver, the late filer shall submit all information and documentation to support his request.

D. If the board affirms the order assessing the late fee, notice shall be mailed by certified mail to the late filer, notifying him that the order was affirmed.

E. If the board waives the late fee, notice of the board's decision shall be issued by regular mail.

F. If the board alters in any way the assessment of the late fee after consideration of a waiver request, a new order shall be issued by the staff of the board consistent with the decision of the board after consideration of the waiver request. The new order shall be sent to the late filer in the manner set forth in §1203.B.

G. Within 20 days of receipt of the notice of the board's decision on the waiver request, the late filer may seek reconsideration of the board's decision only upon submission of information not provided or available to the board during its initial consideration of the matter.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 30:2669 (December 2004), LR 38:1208 (May 2012), LR 42:1654 (October 2016).

§1209. Late Filing; Appeal

A. Any person ordered to pay late filing fees pursuant to §1203 may appeal the order to the Ethics Adjudicatory Board.

B. Notice of the person's intent to appeal should be submitted in writing to the executive secretary of the board within 20 days of the receipt of the order.

C. The notice of intent to appeal shall include all grounds for which the late filer is seeking an appeal, along with any documentation and evidence to be considered by the Ethics Adjudicatory Board.

D. The executive secretary shall forward the notice of appeal, along with the order assessing the late fee and any correspondence concerning the assessment of the late fee to the Ethics Adjudicatory Board. The notice from the executive secretary shall include the name of the attorney for the board and contact information for the late filer.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1208 (May 2012), amended LR 42:1655 (October 2016).

Chapter 13. Records and Reports

§1309. Disclosure Forms Filed Pursuant to R.S. 42:1119(B)(2) of the Code

A. Disclosure forms filed pursuant to R.S. 42:1119(B)(2)(a) of the code shall:

1. be on a form approved by the board or a form which is substantially the same as the form approved by the board;

2. be filed no later than 30 days after the beginning of the school year;

3. be signed by the school board member or superintendent and contain:

a. the name, address, and position of the school board member or superintendent;

b. the name, relationship, and position of the immediate family member and the date of the family member's employment;

c. the parish in which the school board member or superintendent serves and the date of the commencement of such service; and

d. which of the following exceptions applies to the immediate family member:

i. classroom teacher certified to teach;

ii. employed by school board for more than one year prior to the school board member or the superintendent becoming a member of the school board or the superintendent; or

iii. served in public employment on April 1, 1980, the effective date of the code.

B. Disclosure forms filed pursuant to R.S. 42:1119(B)(2)(b) of the code shall:

1. be in writing and on a form approved by the board or a form which is substantially the same as the form approved by the board;

2. be filed no later than January 30 of each year;

3. be signed by the chief executive or member of the board of a hospital service district or hospital public trust authority and contain:

a. the name, address, and position of the chief executive or member of the board of a hospital service district or hospital public trust authority;

b. the calendar year for which the disclosure statement is being filed;

c. the name, relationship, and position of the immediate family member and the date of the family member's employment;

d. the name of the hospital service district or public trust authority that the chief executive or member of the board of a hospital service district or hospital public trust authority serves and the date of the commencement of such service; and

e. which of the following exceptions applies to the immediate family member:

i. employed by the hospital service district or public trust authority for more than one year prior to the chief executive or member of a board of a hospital service district or hospital public trust authority becoming the chief executive or board member for the hospital service district or hospital public trust authority;

ii. served in public employment on April 1, 1980, the effective date of the code; or

iii. the hospital service district or public trust authority is located in a parish with a population of 100,000 or less and the family member is employed as a licensed physician or registered nurse.

C. The executive secretary shall maintain these forms suitably indexed.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1300 (October 1997), amended LR 26:629 (April 2000), LR 42:1655 (October 2016).

Kathleen M. Allen
Ethics Administrator

1610#043

RULE

Department of Economic Development
Office of Business Development
Office of Entertainment Industry Development

Motion Picture Investor Program (LAC 61:I.1617 and 1619)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development has amended the rules for the motion picture tax credit program.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 16. Louisiana Entertainment Industry Tax Credit Programs
Subchapter A. Motion Picture Investor Tax Credit Program

§1617. Louisiana Music

A. For state certified productions initially certified on or after July 1, 2015, with expenditures occurring on or after July 1, 2015, to be eligible for an additional 15 percent tax credit for music expenditures, an applicant company must meet the following criteria:

1. services performed in Louisiana—music expenditures were for services performed in Louisiana, with job titles such as composer, songwriter, performer, musician, sound designer, arranger, producer. The purchase of a pre-existing musical work from a procurement company will not qualify; and

2. Louisiana copyright ownership—must be able to prove that the sound recording copyright or musical copyright is either:

a. owned in whole or in no part less than 25 percent by a Louisiana resident or residents, or

b. owned by a company headquartered in the state, with a majority ownership (51 percent+) of Louisiana residents;

c. the purchase of a copyright from a procurement company will not qualify.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:1656 (October 2016).

§1619. Louisiana Promotional Graphic

A. For state-certified productions initially certified on or after August 1, 2015, to be eligible for the entire 30 base investment tax credit, motion picture production applicants with base investments in excess of $300,000 must be able to demonstrate, at time of request for final certification, that either that they have complied with the Louisiana promotional graphic requirements set forth below, or that an alternative marketing opportunity has been approved in writing by LED.

1. Approved Louisiana promotional graphic requirements:

a. a five-second long static or animated graphical brand or logo promoting Louisiana, that has been approved in writing by LED;

b. for feature films, or other production types with a customary end credit crawl, the approved logo is to be placed in the end credits, before the below-the line crawl for the life of the production;

i. LED shall deem "life of the production" to mean that the approved logo is permanently embedded within the subject of the state certified production; and

c. the production company includes an approved Louisiana promotional link or prominent credit to Louisiana on its own website, or that of an approved affiliated company.

2.a. Alternative marketing opportunities shall be proposed to LED at the time of application for initial certification, setting forth the details and estimated value of the proposed opportunity or justification of value taking into consideration the additional five percent credit being sought. LED shall either approve or deny such options in writing at time of initial certification.

b. Acceptable examples of alternative marketing opportunities may include, but not be limited to a combination of the following:

i. a produced in Louisiana card featuring an approved version of the logo during the opening credits of a feature film;

ii. an approved promotional featurette highlighting Louisiana as a tourist destination included on the DVD release of the production;

iii. an approved version of the logo placed in the opening title sequence or as a bumper into or out of commercial breaks for Television productions;

iv. significant community service projects in Louisiana;

v. red carpet screening event in Louisiana;

vi. sponsorship of a film festival or other approved event in Louisiana;

vii. an official advertising poster for the state-certified production and a still frame from the production, or, at the discretion of LED, a significant set piece, prop, or costume from the production may be donated on the condition that they may be used for unlimited marketing purposes by the state;

viii. access to a standard or electronic press kit, clip from the motion picture or special interview with the principles involved in the production (actors, directors, producers, etc) promoting Louisiana as a business destination for unlimited use for marketing purposes by LED;

ix. other alternatives as proposed by production companies and approved by LED.

B. Failure to demonstrate such compliance at time of final certification shall result in a reduced base investment credit amount of 25 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:1656 (October 2016).

Anne G. Villa
Undersecretary

1610#057

RULE

Board of Regents
Office of Student Financial Assistance

Scholarship/Grant Programs—TOPS Core Curriculum Equivalents: AP Computer Science A (LAC 28:IV.703)

The Board of Regents, in accordance with the Administrative Procedure Act [R.S. 49:950 et seq.], has amended and re-promulgated the rules of the scholarship/grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1.1-3042.8, R.S. 17:5001 et seq., and R.S. 56:797(D)(2)].

This rulemaking adds AP computer science A as an equivalent to advanced mathematics in the TOPS core curriculum for students who graduate from high school beginning in the 2013-2014 academic year (high school). (SG16171R)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards
§703. Establishing Eligibility

A. - A.5.a.ii.(d).(ii). …

* * *

(iii). For students graduating in academic years (high school) 2013-2014 through 2016-2017, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, in addition to the equivalent courses identified in §703.A.5.a.ii.(d).(i) above, the following course shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Algebra III; Advanced Math-Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL	AP Computer Science A

(e). For students graduating in academic year (high school) 2017-2018 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course(s)	Equivalent (Substitute) Course
Algebra I, Geometry and Algebra II	Integrated Mathematics I, II and III
Art	Media Arts I-IV; Photography I, Photography II, and Digital Photography
Algebra III; Advanced Math- Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL	AP Computer Science A
Any listed core course or its equivalent.	Any core curriculum course taken by a student who has been deemed to be gifted and talented pursuant to R.S. 17:1941 et. seq. as implemented in State Board of Elementary and Secondary Education policy and in fulfillment of the student's Individualized Education Program shall be considered a gifted and talented course and shall fulfill the core curriculum requirement in its given subject area.

A.5.a.ii.(f). - J.4.b.ii. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:651, 664 (April 2015), LR 41:1486 (August 2015), LR 41:2596, 2599 (December 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 42:1657 (October 2016).

Robyn Rhea Lively
Senior Attorney

1610#016

RULE

Tuition Trust Authority
Office of Student Financial Assistance

START Saving Program and 2015 Interest Rate
(LAC 28:VI.305 and 315)

The Louisiana Tuition Trust Authority has amended its START Saving Program rules (R.S. 17:3091 et seq.). (ST16170R)

Title 28
EDUCATION
Part VI. Student Financial Assistance—Higher Education Savings
Chapter 3. Education Savings Account
§305. Deposits to Education Savings Accounts

A. - D.4.d. …

e. Beginning the 2015 calendar year and thereafter, the investment option may be changed two times each calendar year.

D.5. - E.4. …

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 35:236 (February 2009), LR 35:1234 (July 2009), LR 36:492 (March 2010), LR 36:2550 (November 2010), LR 42:1076 (July 2016), LR 42:1658 (October 2016).

§315. Miscellaneous Provisions

A. - B.32. …

33. For the year ending December 31, 2015, the Louisiana Education Tuition and Savings Fund earned an interest rate of 1.67 percent.

34. For the year ending December 31, 2015, the Savings Enhancement Fund earned an interest rate of 1.15 percent.

C. - S.2. …

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1886 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 39:2238 (August 2013), LR 40:1926 (October 2014), LR 41:1487 (August 2015), LR 42:1082 (July 2016), LR 42:1658 (October 2016).

Robyn Rhea Lively
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1610#014

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Control of Emissions for the Nitric Acid Industry
(LAC 33:III.2307)(AQ363)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.2307.C (Log #AQ363).

This Rule repeals LAC 33:III.2307.C. LAC 33:III.2307.C applies to nitric acid plants that are not subject to 40 CFR 60 Subpart G (standards of performance for nitric acid plants).

LAC 33:III.2307.C.1.a states, in relevant part, that a "four-hour start-up exemption from [NOX] emission regulations may be authorized by the administrative authority for plants not subject to 40 CFR Part 60, Subpart G. LAC 33:III.2307.C.2.a provides a similar exemption "where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition." These provisions were approved by EPA into Louisiana's state implementation plan (SIP) on July 5, 2011 (76 FR 38977).

However, on June 12, 2015, EPA promulgated a Rule* finding that several Louisiana air quality regulations, including LAC 33:III.2307.C, are "substantially inadequate to meet [Clean Air Act] requirements" because they provide "impermissible discretionary exemptions" from "otherwise applicable SIP emission limitations." Consequently, EPA issued a "SIP call" directing affected states to submit corrective SIP revisions by November 22, 2016.

Based on a review of effective permits, LDEQ identified only one nitric acid plant that is not subject to 40 CFR 60 subpart G, that being nitric acid train 4 (NNA4-1, EQT 0007), located at PCS Nitrogen Fertilizer's (PCS's) Geismar Agricultural Nitrogen and Phosphate Plant (agency interest no. 3732). Nitric acid train 4 is currently operating under permit no. 2240-V8, issued February 6, 2015.

A consent decree between EPA, LDEQ, and PCS (civil action no. 14-707-BAJ-SCR), entered February 26, 2014, requires PCS to install NO_X control equipment (i.e., selective catalytic reduction, or SCR) on nitric acid train 4 as a supplemental environmental project. Based on conversations with representatives of PCS, LDEQ understands that the SCR control device will be installed in summer 2016 and, after that time, the exemptions provided by LAC 33:III.2307.C will no longer be needed. Therefore, in response to EPA's SIP call, LDEQ has repealed LAC 33:III.2307.C.

*State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction [80 FR 33840]

This Rule is also a revision to the Louisiana state implementation plan for air quality. The basis and rationale for this Rule are to repeal the exemptions provided by LAC

33:III.2307.C in order to comply with EPA's SIP call. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 23. Control of Emissions for Specific Industries[1]

[1] Regulation of emissions of volatile organic compounds for certain industries are presented in Chapter 21.

Subchapter D. Nitric Acid Industry

§2307. Emission Standards for the Nitric Acid Industry

A. - B. …

C. Reserved.

1. - 2.c. Repealed.

D. - H.2. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000), LR 30:1672 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 33:2088 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:1659 (October 2016).

Herman Robinson
General Counsel

1610#021

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Control of Emissions of Smoke
(LAC 33:III.1105 and 1107)(AQ361)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.1105.A and 1107.A (AQ361).

This Rule repeals LAC 33:III.1107.A. The relevant part of LAC 33:III.1105 (Smoke from Flaring Shall not Exceed 20 Percent Opacity) provides that the, "emission of smoke from a flare or other similar device used for burning in connection with pressure valve releases for control over process upsets shall be controlled so that the shade or appearance of the emission does not exceed 20 percent opacity…for a combined total of 6 hours in any 10 consecutive days."

LAC 33:III.1107.A allows LDEQ to grant an exemption from the provisions of LAC 33:III.1105 "during start-up and shutdown periods if the flaring was not the result of failure to maintain or repair equipment." This exemption was approved by EPA into Louisiana's state implementation plan (SIP) on July 5, 2011 (76 FR 38977).

However, on June 12, 2015, EPA promulgated a Rule* finding that several Louisiana air quality regulations, including LAC 33:III.1107.A, are "substantially inadequate to meet [Clean Air Act] requirements" because they provide "impermissible discretionary exemptions" from "otherwise applicable SIP emission limitations." Consequently, EPA issued a "SIP call" directing affected states to submit corrective SIP revisions by November 22, 2016.

In response to EPA's SIP call, LDEQ has repealed LAC 33:III.1107.A for two primary reasons. One, there is incongruity between the provisions of LAC 33:III.1105 and LAC 33:III.1107.A. LAC 33:III.1105 applies to flaring in connection with process upsets, whereas §1107.A addresses startup and shutdown periods (not malfunctions or upsets). Two, other standards for flares that are commonly applicable, such as 40 CFR 63.11(b)(4), require the control device to "be designed for and operated with no visible emissions, except for periods not to exceed a total of 5 minutes during any 2 consecutive hours."

* State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction [80 FR 33840]

The basis and rationale for this Rule are to repeal the exemption provided by LAC 33:III.1107.A in order to comply with EPA's SIP call. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 11. Control of Emissions of Smoke

§1105. Smoke from Flaring Shall not Exceed 20 Percent Opacity

A. The emission of smoke from a flare or other similar device used for burning in connection with pressure valve releases for control over process upsets shall be controlled so that the shade or appearance of the emission does not exceed 20 percent opacity (LAC 33:III.1503.D.4, Table 4) for a combined ttal of 6 hours in any 10 consecutive days. If it appears the emergency cannot be controlled in 6 hours, SPOC shall be notified by the emitter in accordance with LAC 33:I.3923 as soon as possible after the start of the upset period.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 25:656 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000), LR 30:1671 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2084 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:1659 (October 2016).

§1107. Exemptions

A. Reserved.

B. - B.6. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2084 (October 2007), LR 37:1144 (April 2011), amended by the Office of the Secretary, Legal Division, LR 42:1659 (October 2016).

Herman Robinson
General Counsel

1610#019

RULE

Department of Environmental Quality
Office of Secretary
Legal Division

Emission Standards for Sulfur Dioxide—Exemptions
(LAC 33:III.1507)(AQ360)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.1507.A and B (Log #AQ360).

This Rule repeals LAC 33:III.1507.A and B. LAC 33:III.1507.A and B apply to existing sulfuric acid plants (i.e., those constructed or last modified on or before August 17, 1971, and therefore not subject to 40 CFR 60 Subpart H).

LAC 33:III.1507.A states, in relevant part, that a "four-hour (continuous) start-up exemption from the [SO2 and sulfuric acid mist] emission limitations of LAC 33:III.1503.A will be authorized by the administrative authority for facilities not subject to 40 CFR 60.82 and 60.83 [of Subpart H]." LAC 33:III.1507.B provides a similar exemption "where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition." These provisions were approved by EPA into Louisiana's state implementation plan (SIP) on July 15, 1993 (58 FR 38060).

However, on June 12, 2015, EPA promulgated a Rule* finding that several Louisiana air quality regulations, including LAC 33:III.1507.A and B, are "substantially inadequate to meet [Clean Air Act] requirements" because they provide "impermissible discretionary exemptions" from "otherwise applicable SIP emission limitations." Consequently, EPA issued a "SIP call" directing affected states to submit corrective SIP revisions by November 22, 2016.

Based on a review of effective permits, LDEQ has determined that no sulfuric acid plants are eligible for the aforementioned exemptions because each is subject to 40 CFR 60.82 and 60.83. Therefore, in response to EPA's SIP call, LDEQ has repealed LAC 33:III.1507.A and B.

*State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction. [80 FR 33840]

This Rule is also a revision to the Louisiana state implementation plan for air quality. The basis and rationale for this Rule are to repeal the exemptions provided by LAC 33:III.1507.A and B in order to comply with EPA's SIP call. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 15. Emission Standards for Sulfur Dioxide
§1507. Exemptions

A. Reserved.
1. - 2. Repealed.
B. Reserved.
1. - 2. Repealed.
C. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), LR 23:1678 (December 1997), LR 24:1284 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), LR 33:1011 (June 2007), LR 33:2085 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:1660 (October 2016).

Herman Robinson
General Counsel

1610#018

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

VOC Emissions—Industrial Wastewater
(LAC 33:III.2153)(AQ362)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.2153.B.1.i (AQ362).

This Rule repeals LAC 33:III.2153.B.1.i. Due to LAC 33:III.2153 (Limiting VOC Emissions from Industrial Wastewater), "affected VOC wastewater streams" are required to be controlled. More specifically, LAC 33:III.2153.B.1.d.i requires vents on covers and certain junction box covers to be, "equipped with either a control device or a vapor recovery system that maintains a minimum control efficiency of 90 percent VOC removal or a VOC concentration of less than or equal to 50 parts per million by volume."

LAC 33:III.2153.B.1.i provides that the aforementioned control device or recovery device is "not… required to meet the 90 percent removal efficiency or 50 ppmv concentration

during periods of malfunction or maintenance on the devices for periods not to exceed 336 hours per year." This exemption was approved by EPA into Louisiana's state implementation plan (SIP) on July 5, 2011 (76 FR 38977).

However, on June 12, 2015, EPA promulgated a Rule* finding that several Louisiana air quality regulations, including LAC 33:III.2153.B.1.i, are "substantially inadequate to meet [Clean Air Act] requirements" because they provide "automatic exemptions for excess emissions from otherwise applicable SIP emission limitations." Consequently, EPA issued a "SIP call" directing affected states to submit corrective SIP revisions by November 22, 2016.

An LDEQ query of effective air permits returned no documents identifying LAC 33:III.2153.B.1.i as an applicable requirement. Moreover, LDEQ reached out to the regulated community, inquiring if any affected source relied upon this exemption as a means to comply with LAC 33:III.2153. No affirmative responses were received. Therefore, in response to EPA's SIP call, LDEQ has repealed LAC 33:III.2153.B.1.i.

* State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction [80 FR 33840]

The basis and rationale for this Rule are to repeal the exemption provided by LAC 33:III.2153.B.1.i in order to comply with EPA's SIP call. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 21. Control of Emission of Organic Compounds
Subchapter M. Limiting Volatile Organic Compound (VOC) Emissions from Industrial Wastewater
§2153. Limiting VOC Emissions from Industrial Wastewater

A. - B. …

1. The wastewater component shall meet the following requirements:

a. - h.iii. …

i. Repealed.

B.2. - I. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:936 (September 1995), amended LR 22:1212 (December 1996), LR 24:26 (January 1998), LR 25:850 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 28:1765 (August 2002), LR 30:747 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2441 (October 2005), LR 33:2087 (October 2007), LR 37:3232 (November 2011), amended by the Office of the Secretary, Legal Division, LR 38:2752 (November 2012), LR 42:1661 (October 2016).

Herman Robinson
General Counsel

1610#020

RULE

Department of Health
Board of Dentistry

Dentists and Dental Hygienists Licensure Examination
(LAC 46:XXXIII.1709 and 1711)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), the Department of Health, Board of Dentistry has amended LAC 46:XXXIII.1709 and 1711.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Profession
Chapter 17. Licensure Examination
§1709. Examination of Dentists

A. An applicant shall be entitled to take the examinations required in this Section to practice dentistry in this state if such applicant:

1. is 18 years of age or older;

2. is of good moral character;

3. is a graduate of a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, if any, or any other nationally-recognized accrediting agency; and

4. has successfully completed the National Board of Dental Examiners dental examination.

B. To be licensed as a dentist in this state, an applicant for initial licensure must successfully complete the following:

1. a written examination on the jurisprudence and ethics of the state regulating the practice of dentistry; and

2. the Louisiana state Board of Dentistry approved clinical examination. This examination will be named by the board and this approval may be changed or amended as deemed necessary by the board.

C. Examination scores are valid for initial licensure for three years following the candidate's successful completion of an accepted licensing examination. The examinations accepted by the Louisiana state Board of Dentistry for initial licensure by examination are as follows:

1. examinations conducted prior to January 1, 2012, by Council of Interstate Testing Agencies (CITA), Central Regional Dental Testing Service (CRDTS), Northeast Regional Examining Board (NERB), Southern Regional Testing Agency (SRTA), and Western Regional Examining Board (WREB);

2. examinations conducted after January 1, 2012, by Council of Interstate Testing Agencies (CITA);

3. the American Board of Dental Examiners (ADEX) dental examination.

D. The board is expressly authorized to utilize the services of other licensed dentists to facilitate the examination.

E. No clinical licensing examination may be conducted in the state of Louisiana without the written permission from the Louisiana state Board of Dentistry. For permission to be granted, the agency conducting the examination must have at least four current members of the Louisiana state Board of Dentistry participating in the clinical licensing examination.

F. Notwithstanding any other law to the contrary or any examination manual of any of the testing agencies listed in Subsection C of this Section, no candidate for licensure in the state of Louisiana will be granted same if said candidate has failed any clinical licensing examination for a total of three times. This number includes the accumulation of all examinations taken regardless of the testing agency. This number excludes failures of clinical examinations taken prior to an applicant's final year of dental school. A make-up examination counts as an examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:2513 (December 2002), LR 33:2654 (December 2007), LR 37:1407 (May 2011), LR 37:2151 (July 2011), LR 37:3516 (December 2011), repromulgated LR 38:356 (February 2012), amended LR 38:1959 (August 2012), LR 39:86 (January 2013), LR 39:1282 (May 2013), LR 40:783 (April 2014), amended by the Board of Dentistry, LR 42:1622 (October 2016).

§1711. Examination of Dental Hygienists

A. An applicant shall be entitled to take the examinations required in this Section to practice dental hygiene in this state if such applicant:

1. is 18 years of age or older;

2. is of good moral character;

3. is a graduate of a dental hygiene college or school approved by the board or accredited by the Commission on Accreditation of the American Dental Association or its successor agency; and

4. has successfully completed the national board dental hygiene examination as administered by the American Dental Association.

B. To be licensed as a dental hygienist in this state, an applicant must successfully complete the following:

1. a written examination on the jurisprudence and ethics of the state regulating the practice of dental hygiene; and

2. the clinical examination administered by the Louisiana state Board of Dentistry approved testing agency. This agency will be named by the board and this relationship may be changed or amended as deemed necessary by the board.

C. Examination scores are valid for initial licensure for three years following the candidate's successful completion of an accepted licensing examination. The examinations accepted by the Louisiana state Board of Dentistry for initial licensure by examination are as follows:

1. examinations conducted by Council of Interstate Testing Agencies (CITA);

2. the American Board of Dental Examiners (ADEX) dental hygiene examination.

D. The board is expressly authorized to utilize the services of other licensed dentists to facilitate the examination.

E. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:1779 (August 2002), LR 33:2654 (December 2007), LR 37:1407 (May 2011), LR 37:2151 (July 2011), LR 37:3516 (December 2011), repromulgated LR 38:356 (February 2012), amended LR 38:1960 (August 2012), amended by the Department of Health, Board of Dentistry, LR 42:1662 (October 2016).

Arthur Hickham, Jr.
Executive Director

1610#073

RULE

Department of Health
Board of Examiners of Psychologists

Continuing Education and Licenses
(LAC 46:LXIII.Chapters 8 and 9)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists has amended LAC 46:LXIII.801, 803, 805, 807, 809, 811, 815, 903; repealed §808; adopted §901; and renumbered former §§901, 902, and 903.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXIII. Psychologists
Subpart 1. General Provisions

Chapter 8. Continuing Education

§801. Preface

A. Pursuant to R.S. 37:2357(B), each licensed psychologist is required to complete continuing education hours, also referred to as continuing professional development (CPD) within biennial reporting periods. Continuing education is an ongoing process consisting of learning activities that increase professional development. Continuing professional development activities:

1. - 3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:769 (September 1990), amended LR 19:46 (January 1993), LR 32:1228 (July 2006), LR 36:1007 (May 2010), LR 39:2754 (October 2013), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1662 (October 2016).

§803. Requirements

A. For the reporting periods that begin July 2014 and July 2015, each psychologist is required to complete 30 hours or credits of continuing professional development within the biennial reporting period. The CPD credits must conform to the distribution requirements listed below in Subsection C. For the reporting periods that begin July 2016 and July 2017 and henceforth, 40 credits of continuing

professional development will be required in the biennial reporting period and the hours must conform to the distribution listed below in Subsection C.

B. …

C. Within each reporting period, licensees must earn credits in at least two of the subcategories listed under Subsection D of this Section.

D. Licensees can accumulate continuing professional development credits in the categories defined.

1. Professional

a. Peer Consultation—interacting with colleagues in a structured and organized format. Examples include case consultation groups, journal clubs, regional research groups, mentoring, and shadowing a colleague. One hour of peer consultation equals one credit.

i. If requested, documentation required to earn credit shall be a verification form providing evidence that it is a structured program of consultation with regularly scheduled meetings and showing the nature of the consultation. Additionally, the person providing the consultation, or facilitating the case consultation group, must attest, by signature, to the description of the program, number of hours met and that the verification form has been completed.

b. Practice Outcome Monitoring—assessing patient/client outcomes via questionnaire(s) that is appropriate to the practice endeavor. One client equals one credit per reporting period.

i. If requested, documentation required to earn credit shall be a verification form and a de-identified copy of the patient/client questionnaire.

c. Professional Activities—serving on a national, regional, or state psychological association board or committee; or board member of regulatory body related to the field of psychology. Professional activities shall not include lobbying activities. One year equals 10 credits.

i. If requested, documentation required to earn credit shall be a verification form and documentation from the professional organization confirming the service.

d. Conferences/Conventions—attendance at a conference related to the field of psychology or a conference, which aids in the licensee's professional development. One conference day equals one credit.

i. If requested, documentation required to earn credit shall include a copy of registration materials. This credit is separate from traditional continuing education units that may be awarded at said conference.

2. Academic

a. Academic Courses—graduate-level course related to psychologist's discipline and practice taken for credit from a regionally accredited university or one pre-approved by the board. One three-hour course or equivalent equals 20 credits; or, one registered audit, documented by the university, equals five credits.

i. If requested, documentation required to earn credit shall include course transcript.

b. Instruction—preparation and teaching a semester long graduate or undergraduate course, related to psychology, in a regionally accredited institution; or continuing education workshop presentation. Credit can only be received the first time teaching or presenting the material. Credit for preparing and teaching a workshop shall be equal to four times the credit granted attendees divided by the number of presenters. Credit for teaching a university course shall be 10 times the number of credit hours awarded the students.

i. If requested, documentation required to earn credit shall be the course syllabus or brochure.

c. Publications—author of an article for peer-reviewed publications or author, editor or co-editor of a book/book chapter related to the field of psychology. One article equals 10 credits; one book/book chapter equals 10 credits.

i. If requested, documentation required to earn credit shall include a copy of journal abstract or a copy of the publication.

3. Traditional Continuing Education

a. Approved Sponsored CE—workshops from a recognized approved sponsor under Subsection 805.A of this Chapter. One hour equals one credit.

i. If requested, documentation required to earn credit shall be the certificate or award of completion from sponsor.

b. Self-directed Learning—examples include reading, Internet, videos, and/or other unsponsored activities. All self-directed learning activities shall be limited to 10 credits. One hour equals one credit.

i. If requested, documentation required to earn credit shall include the completion of the continuing professional development verification form provided by the Board.

AUTHORITY NOTE:Promulgated in accordance with R.S. 27:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19:46 (January 1993), LR 32:1228 (July 2006), LR 39:2754 (October 2013), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1662 (October 2016).

§805. Acceptable Sponsorship, Offerings and Activities

A. The board will recognize the following as acceptable sponsors of the continuing education requirements:

1. accredited institutions of higher education;

2. hospitals which have approved regional medical continuing education centers;

3. hospitals which have APA approved doctoral internship training programs;

4. national, regional, or state professional associations, or divisions of such associations, which specifically offer or approve graduate or post doctoral continuing education training;

5. American Psychological Association (APA) approved sponsors and activities offered by APA (including home study courses);

6. activities sponsored by the Board of Examiners of Psychologists; and

7. activities sponsored by the Louisiana Department of Health or its subordinate units and approved by the chief psychologist of the sponsoring state office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19:46 (January 1993), LR 22:1131 (November 1996), LR 25:1098 (June 1999), LR 32:1228 (July 2006), LR 36:1007 (May 2010), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1663 (October 2016).

§807. Unacceptable Offerings and/or Activities

A. The board will not recognize:

1. activities unrelated to the field of psychology even though such activities may be valuable for other professional purposes;

2. personal psychotherapy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR19:47 (January 1993), LR 25:1098 (June 1999), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1664 (October 2016).

§808. Calculation of Credits Earned

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists LR 32:1229 (July 2006), repealed by the Department of Health, Board of Examiners of Psychologists, LR 42:1664 (October 2016).

§809. Reporting Requirements

A. Each psychologist shall complete, at the end of reporting periods, the continuing professional development report and file accordingly with the board.

B. …

C. Supporting Documentation. Each licensee shall retain corroborative documentation, such as the CPD verification Form, of his or her continuing professional development for six years. Although this documentation is not routinely required as part of the licensee's submission, the board may, at its discretion, request such documentation. Any misrepresentation of continuing professional development will be cause for disciplinary action by the board.

D. …

E. The board may conduct an annual audit of continuing professional development reports. Psychologists shall be selected randomly and will be required to produce documentation for each item reported to the board. The number of psychologists selected for audit shall be determined by the board.

AUTHORITY NOTE:Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:47 (January 1993), amended LR 32:1229 (July 2006), LR 39:2755 (October 2013), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1664 (October 2016).

§811. Extensions/Exemptions

A. Licensees on extended active military service outside the state of Louisiana during the applicable reporting period and who do not engage in delivering psychological services within the state of Louisiana may be granted an extension or an exemption if the board receives a timely confirmation of such status.

B. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:47 (January 1993), amended LR 32:1229 (July 2006), LR 39:2755 (October 2013), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1664 (October 2016).

§815. Reinstatement

A. - B. …

1. The board may require documentation of continuing professional development prior to reinstating a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:47 (January 1993), LR 39:2756 (October 2013), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1664 (October 2016).

Chapter 9. Licensees

§901. Reinstatement of Lapsed Licenses

A. If the licensee is not renewed by the end of July, due notice having been given, the license shall be regarded as lapsed for the year beginning with that August. Such lapsed license shall not be listed in the directory.

B. The person shall not practice psychology in Louisiana while the license is lapsed.

C. Within two years of the lapsing of such license, the licensee may submit an application for reinstatement for board review along with the payment of a reinstatement fee equal to the current application fee and the current renewal fee. Applicants who appear for reinstatement after one year of the lapsing of his/her license are required to submit to a criminal background check.

D. After two years of the lapsing of such license, the licensee may submit an application for reinstatement for board review along with the payment of a reinstatement fee equal to the current application fee and the current renewal fee provided that the person is in compliance with R.S. 37:2357(A) and the rules and regulations of the board. Applicants for reinstatement received after two years are required to submit to a criminal background check and oral examination.

E. A lapsed license shall be reinstated as of the date all applicable requirements of R.S. 37:2357 have been met. However, the board retains the right to reinstate licenses retroactively in unusual circumstances as specified in the policy and procedures of the LSBEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1664 (October 2016).

§902. Provisional License Renewal [Formerly §901]

A. A psychologist is eligible to renew their provisional license until July 31 of each year upon submission of the required renewal fee, renewal application form and fulfillment of all continuing education requirements as defined in LAC 46:LXIII.Chapter 8.

B. A provisional license may be valid for one year beginning August 1 through July 31 for each renewal period.

C. A person whose provisional license has been suspended is not eligible for renewal. Reinstatement procedures of a suspended provisional license are at the discretion of the board.

D. A person whose provisional license has been revoked is not eligible for renewal.

E. Provisionally licensed psychologists shall be eligible for renewal of provisional licensure no more than three consecutive years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2619 (December 2015), repromulgated by the Department of Health, Board of Examiners of Psychologists, LR 42:1664 (October 2016).

§903. Lapsed Provisional License [Formerly §902]

A. If a provisional license is not renewed by July 31, due notice having been given, the license shall be regarded as lapsed for the year beginning with that August. Such license is not eligible for reinstatement unless such requirements are satisfied within six months from the date of lapse.

B. If a provisional license lapses for a period longer than six months, one may make a new application to the board. It is at the discretion of the board that any requirements not fulfilled during the year prior to lapse be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2620 (December 2015), repromulgated by the Department of Health, Board of Examiners of Psychologists, LR 42:1665 (October 2016).

§904. Contact Information [Formerly §903]

A. A licensed psychologist shall notify the board within 30 days, with documentation, attesting to any change of contact information including mailing address, work address, telephone number and email address. This documentation notice shall include the psychologist's, full name, license number, and the old and new contact information.

B. Should a psychologist be displaced to a temporary location due to an emergency, the psychologist shall notify the board within 30 days, with documentation attesting to the temporary change in contact information. The documented notice shall include the psychologist's full name, license number, old and new temporary contact information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 32:1227 (July 2006), amended LR 39:2754 (October 2013), repromulgated by the Department of Health, Board of Examiners of Psychologists, LR 42:1665 (October 2016).

Jaime T. Monic
Executive Director

1610#001

RULE

Department of Health
Board of Speech-Language Pathology and Audiology

Speech-Pathology and Audiology
(LAC 46:LXXV.103, 107, 109, 119, 121, 123, 130, 131, 501, and 505)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:3085, the Board of Speech-Language Pathology and Audiology has amended its current regulations to make technical changes and clarifications, add definitions for telehealth/telepractice, remove hearing aid dispensing fee from renewal and initial applications, and add telehealth registration fees.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXV. Speech Pathology and Audiology
Chapter 1. General Rules
§103. Definitions

A. ...

* * *

Asynchronous Store and Forward Transfer—the transmission of client information in the delivery of telehealth services from an originating site to the provider at the distant site without the client being present.

* * *

Distant Site—the site at which the healthcare provider delivering the service is located at the time the service is provided via a telecommunication system.

* * *

Originating Site—the location of the client at the time the service is furnished via a telecommunications system or when the asynchronous store and forward transfer occurs.

* * *

Synchronous Interaction—communication through interactive technology in the delivery of telehealth services that enable an audiologist or speech-language pathologist and a client at two locations separated by distance to interact via two-way video and audio transmissions simultaneously.

Telehealth—a mode of delivering audiology and speech-language pathology services that utilizes information and communication technologies to enable the diagnosis, consultation, treatment, education care management, and self-management of clients at a distance from the audiologist or speech-language pathologist provider. Telehealth allows services to be accessed when providers are in a distant site and patients are in the originating site. Telehealth facilitates self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

Telehealth Registration—limited to out-of-state residents whose out-of-state audiology or speech-language pathology license does not require supervision, is an unrestricted and unencumbered license in good standing to perform audiology or speech-language pathology in the state in which the provider is located, and the license is comparable to the license in Louisiana as determined by this board.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:705 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), LR 28:1781 (August 2002), LR 30:2307 (October 2004), LR 33:2192 (October 2007), LR 37:2392 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1665 (October 2016).

§107. Qualifications for Licensure

A. - J.2. …

K. Examination Requirement—Speech-Language Pathology License, Provisional Speech-Language Pathology License, Audiology License, Provisional Audiology License

1. The board recognizes only the Educational Testing Service's specialty area examinations for speech-language pathology and audiology as the licensure examination for speech-language pathology and/or audiology. Scores received directly from the applicant are not acceptable for licensing purposes.

2. The passing score for the audiology area examination is a minimum score of 170.

3. The passing score for the speech-language pathology area examination is a minimum score of 162.

4. If an individual has never held a license to practice audiology or speech-language pathology in another state, and if the degree program was completed greater than 10 years from the date of application, the passing score on the specialty area examination for speech/language pathology or audiology must have been obtained within the last 5 years.

L. - L.1.c. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1690 (October 2001), amended LR 28:1781 (August 2002), LR 30:2308 (October 2004), LR 33:2192 (October 2007), LR 37:2393 (August 2011), LR 39:1042 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1666 (October 2016).

§109. Application Procedures

A. - P. …

Q. Licensing Military Members and Military Spouses

1. Expedited application for licensure shall be granted to military members and military spouses in the area of audiology or speech-language pathology, licensed, certified or registered in another jurisdiction, while the individual is satisfying the requirement for licensure.

a. …

b. Military members shall submit with the application a copy of current military-issued identification and military orders.

c. …

2. In accordance with the 60-day grace period, military applicants shall submit:

a. military members—official, primary-source documentation verifying requirements met in accordance with §107 and §111.

b. …

3. Active and retired military members and military spouses shall be given a 60-day grace period for submission of official documentation from the date their notarized application and license fee are received by the board office, regardless of lapsed license status. The board may consider an extension of this grace period as per House Concurrent Resolution 74 of the 2015 Regular Session of the Louisiana Legislature.

4. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:1974 (September 2002), LR 30:2311 (October 2004), LR 33:2193 (October 2007), LR 37:2393 (August 2011), repromulgated LR 37:2623 (September 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1666 (October 2016).

§119. Fees

A. The board collects the following fees, which are non-refundable:

1. initial Louisiana license application—$125;

2. dual license application (to include hearing aid dispensing)—$225;

3. renewal of license submitted on or before June 30, of each year (including hearing aid dispensing)—$65:

a. dual licensure renewal (including hearing aid dispensing)—$90;

4. delinquent renewal fee submitted between July 1 and July 31, of each year (including hearing aid dispensing)—$130;

a. dual licensure (including hearing aid dispensing)—$180;

5. delinquent renewal fee submitted between August 1 and October 31, of each year (including hearing aid dispensing)—$260:

a. dual licensure (including hearing aid dispensing)—$360;

6. registration fee for audiologists to dispense hearing aids—$25;

7. initial telehealth registration fee—$50;

8. renewal of telehealth registration submitted on or before June 30, of each year—$25;

9. renewal of telehealth registration submitted between July 1 and July 31, of each year—$50;

10. licensure upgrade—$30;

11. continuing education pre-approval fee for corporations or individuals who are not LBESPA licensees—$50;

12. mailing list—$0.05 per name and address plus postage and handling;

13. NSF or returned check—$40;

14. open book test fee—$30:

a. open book retest fee, per section—$10;

15. publications to include law, rules, etc.—$5 ea. plus postage and handling;

16. re-issuance of license certificate—$25;

17. subpoena within East Baton Rouge Parish—$50:

a. subpoena plus state-allowed travel rate per mile outside East Baton Rouge Parish—$50;

18. verification of license (written)—$10;

19. an additional fee may be charged for credit card transactions in accordance with state treasury rules.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:350 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1691 (October 2001) amended LR 30:2313 (October 2004), LR 33:2195 (October 2007), LR 37:2395 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1666 (October 2016).

§121. License Renewals

A. - E. …

F. Inactive status is granted to licensees who are retired or who do not practice audiology or speech-language pathology during the fiscal year, July 1-June 30.

1. Licensees on inactive status may retain their license by payment of the annual renewal fee.

2. These licensees shall complete the affidavit on the continuing education report and submit it at the time of licensure renewal.

3. The licensee may submit the required five hours of continuing education each year he/she is on inactive status or submit all of the hours the year he/she returns to work in the profession.

4. Licensees on inactive status or who are retired shall not supervise individuals or otherwise engage in the practice of audiology or speech-language pathology.

5. In order to resume the practice of audiology or speech-language pathology, licensees on inactive status shall demonstrate completion of 5 clock hours of continuing education in the area of licensure for each year that inactive status was maintained (maximum of 25 hours). In addition, a letter requesting a change to active status must be submitted to the board office prior to resuming the practice of audiology or speech-language pathology.

G. - J.4. …

5. Licensees who have allowed their license to lapse for a period of 5 years or greater, and do not hold a current audiology or speech-language pathology license in another state, must submit evidence of 25 continuing education hours directly related to the clinical practice of the license being sought and must have been obtained within the past 18 months.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:351 (May 1996), LR 27:198 (February 2001), LR 28:1972 (September 2002), LR 30:2314 (October 2004), LR 33:2195 (October 2007), LR 37:2395 (August 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1667 (October 2016).

§123. Continuing Education Requirements

A. - B. …

C. Audiologists who register as dispensing audiologists shall ensure that at least 3 of the total 10 hours are in areas directly related to hearing aid dispensing, such as business/practice management, marketing, aural habilitation/rehabilitation, diagnostic assessment, characteristics of hearing aids and their application, etc.

D. …

E. Out-of-state audiologists and speech-language pathologists who hold telehealth registration shall complete the continuing education requirements consistent with the license the individual possesses for the state in which the provider is located. Telehealth registrants residing in states which do not require continuing education for audiologists and/or speech-language pathologists shall complete the annual continuing education requirements specified in this Section and may be audited.

F. Continuing education events occurring in the month of June will be accepted for the collection period in which they occur or they may be counted in the following collection period which begins on July 1. Hours from one event may not be divided between two collection periods.

G. The graduated scale for the collection of continuing education hours is based on the date an applicant receives his/her initial license.

License Received	Hours Required
April, May, June	0
January, February, March	3
October, November, December	6
July, August, September	10

H. In the case of extenuating circumstances, when the licensee does not fulfill the continuing education requirements, the licensee shall submit a written request for extension to the board for consideration.

I. Continuing education hours accrued during the applicant's grace period will be accepted.

J. Acceptable continuing education sponsors and activities that are directly related to the practice of audiology and/or speech-language pathology:

1. board-sponsored activities;

2. presentations in the area of communication disorders sponsored by professional organizations such as American Academy of Audiology (AAA), American Speech-Language-Hearing Association (ASHA), Louisiana Academy of Audiology (LAA), Louisiana Speech-Language-Hearing Association (LSHA), Speech Pathologists and Audiologists in Louisiana Schools (SPALS), Louisiana Society for Hearing Aid Specialists, etc.;

3. activities provided by ASHA-approved continuing education providers or AAA-approved continuing education activities;

4. meetings of related professional organizations (e.g., Council for Exceptional Children, Orton Dyslexia Society);

5. college courses in the area of licensure taken for credit or official audit (3 semester hours or 6 quarter hours=10 hours of continuing education);

6. distance learning (video conferences, telephone seminars and internet courses sponsored by universities, schools, clinics, state agencies, hospitals, professional organizations, or related professional organizations);

7. workshops and in-services that are university, school, clinic, hospital or state agency sponsored (maximum of five hours in a related area);

8. publication of an article in a peer-reviewed journal for the year in which it was published;

9. digital media (e.g. CD, DVD, online webinars, etc.) which is ASHA-approved and AAA-approved continuing education media;

10. the presenting licensee may count 1 1/2 times the value of an activity the first time it is presented to allow for preparation time (example: a 3 hour workshop=4 1/2 hours). The activity will count for the actual hour value for each subsequent presentation of the same activity;

11. teaching at the college level in the area of communication disorders is not acceptable.

K. Pre-Approval Policy

1. Pre-approval is required for continuing education events that do not meet the requirements as listed under §123.I.1-11, and pre-approval of continuing education events is required in those situations where it is unclear whether or not the topic is relevant to the profession or will further a professional's expertise in a particular area.

2. The licensee shall request pre-approval (minimum of 30 days in advance) of self-study activities, or other appropriate activities.

3. Individuals not licensed by LBESPA as well as corporations offering continuing education not addressed under §123.I, must submit a $50 continuing education review fee along with the pre-approval request.

4. Licensees who elect to attend university classes/courses in speech-language pathology and/or audiology without payment of the university fee shall submit a self-study plan for pre-approval from the Louisiana Board of Examiners for Speech-Language Pathology and Audiology to receive continuing education credits.

5. Self-study activities in the area of communication disorders:

a. digital media (maximum of 5 hours);

b. reading of journal articles that contain self-examination questions at the end. Articles shall be submitted for pre-approval (maximum of 5 hours).

6. Publication of diagnostic and/or therapeutic materials (maximum of 5 hours).

L. Recording of Continuing Education Activities

1. Licensees shall record all continuing education activities as prescribed by the board and submitted at the time of renewal.

2. The board may request, through random audit, verification of clock hours submitted, including information regarding content and attendance. A percentage will be audited each year as a means of evaluating compliance with the continuing education requirements.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:351 (May 1996), amended LR 27:199 (February 2001), LR 28:1973 (September 2002), LR 30:2314 (October 2004), LR 33:2196 (October 2007), LR 37:2395 (August 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1667 (October 2016).

§130. Telepractice

A. Telepractice, regardless of where the service is rendered or delivered, constitutes the practice of audiology or speech-language pathology and shall require Louisiana licensure for in-state practitioners and telehealth registration for out-of-state licensed practitioners.

B. A provider of telehealth services shall be competent in both the type of services provided and the methodology and equipment used to provide the services.

C. A provider of telehealth services must use methods for protecting client information that include authentication and encryption technology.

D. The standard of care shall be the same as if the audiology or speech-language pathology services were delivered face-to-face. It is the responsibility of the provider to determine candidacy and to ensure that the client is comfortable with the technology being utilized.

E. The client shall be notified of telehealth services including but not limited to the right to refuse telehealth services, options for service delivery, and instructions on filing and resolving complaints, in all applicable jurisdictions.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 39:1044 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1668 (October 2016).

§131. Hearing Aid Dispensing

A. Audiologists who dispense hearing aids shall meet the coursework and practicum requirements for dispensing as specified in R.S. 37:2650 et seq., and shall indicate their intent to do so at the time of each license renewal.

1. - 2. Repealed.

B. - D. …

E. Repealed.

F. Audiologists who dispense hearing aids shall comply with the following.

1. - 1.b.…

c. a basic audiological test battery conducted within the preceding six-month period in a sound-treated environment unless the patient's physical condition prohibits accomplishment of these procedures. The battery shall include:

F.1.c.i. - H.2. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:353 (May 1996), amended LR 27:201 (February 2001), LR 28:1975 (September 2002), LR 30:2317 (October 2004), LR 33:2198 (October 2007), LR 37:2398 (August 2011), repromulgated LR 37:2624 (September 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1668 (October 2016).

Chapter 5. Procedural Rules

§501. Investigation of Complaints

A. - C. …

D. Once a written complaint is received, the board shall initiate a review of the allegations contained therein. The board may dispose of the complaint informally through correspondence or conference with the licensee and/or the complainant, which may result in a private letter of concern or a consent order. If the licensee stipulates to the complaint and waives her/his right to a formal hearing, the board may

impose appropriate sanctions without delay. If the board finds that a complaint cannot be resolved informally, the written complaint shall be forwarded to the board's designated investigator for investigation. The board shall at that time notify the licensee, by certified mail, return receipt requested, of the investigation.

E. - I. …

J. A complaint may be resolved by:

1. a private letter of concern to the licensee or other appropriate parties.

2. a consent agreement and order approved by the board and entered into by the licensee.

K. - N. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:373 (April 1991), amended LR 22:356 (May 1996), LR 30:2320 (October 2004), LR 33:2200 (October 2007), LR 37:2398 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1668 (October 2016).

§505. Formal Disciplinary Hearings

A. If, after completion of the investigation, the board determines that the circumstances may warrant the withholding, denial, suspension, or revocation of a license, or other disciplinary action, the board shall initiate a formal disciplinary hearing. The board shall promptly notify the attorney general who is authorized and directed to appear on behalf of the state. The hearing shall convene in the parish in which the board is domiciled. The hearing shall be held before the board only after the involved licensee is given at least 30-days' notice by certified mail, return receipt requested. The notice shall include the following:

A.1. - K.2. …

3. Repealed.

4. issue a public letter of reprimand or concern;

5. require restitution of costs and expenses incurred by the board related to the enforcement of R.S. 37:2650 et seq.;

6. impose probationary conditions;

7. impose a fine for each violation not to exceed $1,000 per violation;

8. suspend a license;

9. revoke a license;

10. restrict the license by limiting or reducing the scope of practice; and/or

11. otherwise discipline a licensee.

L. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:357 (May 1996), LR 30:2321 (October 2004), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1669 (October 2016).

Jolie Jones
Executive Director

1610#028

RULE

Department of Health
Office of Aging and Adult Services

Spinal Cord Injury (LAC 48:I.1905)

The Louisiana Department of Health, Office of Aging and Adult Services has amended the language included in the definition of *spinal cord injury* to comply with the definition as set forth in R.S. 46:2632. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Louisiana Department of Health, Office of Aging and Adult Services, assumed the Traumatic Head and Spinal Cord Injury Trust Fund and its functions as promulgated in LR 40:84.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 1. General
Chapter 19. Traumatic Head and Spinal Cord Injury
§1905. Definitions
[Formerly LAC 67:VII.1905]

* * *

Spinal Cord Injury—an insult to the spinal cord, not of a degenerative or congenital nature but caused by an external physical force resulting in paraplegia or quadriplegia.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1253 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:84 (January 2014), amended by the Department of Health, Office of Aging and Adult Services, LR 42:1669 (October 2016).

Rebekah E. Gee MD, MPH
Secretary

1610#031

RULE

Department of Natural Resources
Office of Conservation

Carbon Dioxide Enhanced Oil Recovery
(LAC 43:XIX.Chapter 4)

The Department of Natural Resources, Office of Conservation has amended LAC 43:XIX.Subpart 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The amendment was made to implement application requirements for carbon dioxide enhanced oil recovery.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation—General Operations
Subpart 1. Statewide Order No. 29-B
Chapter 4. Pollution Control (Class II Injection/Disposal Well Regulations)

§401. Definitions

Confining Zone—a geological formation, group of formations, or part of a formation that is capable of limiting fluid or gas movement above an injection zone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 42:1670 (October 2016).

§405. Application Requirements for New Enhanced Recovery Injection and New Saltwater Disposal Wells

A. - B.5.f. …

C. Area of Review for Enhanced Oil Recovery Wells Injecting Carbon Dioxide

1. The area of review (AOR) will be the approved enhanced oil recovery (EOR) project area plus the surrounding region where USDWs may be endangered by the carbon dioxide (CO_2) injection activities, at a minimum, no less than 1/4 mile beyond the project area. The AOR shall extend no closer than 1/2 mile, at a minimum, to any EOR well injecting or permitted to inject CO_2. For EOR projects injecting CO_2 that are permitted as of the effective date of these regulations, the owner or operator of the project has 30 days from the effective date of these regulations to submit a plan to the commissioner to come into compliance with §405.C, D, and E.

2. If it is determined at any time that the injected CO_2 and associated reservoir fluids have migrated beyond the boundary of the approved EOR project area, the AOR shall be redefined to extend, at a minimum, no less than an additional 1/4 mile beyond the migrating front.

3. The owner or operator of a class II EOR CO_2 injection well must submit a plan acceptable to the commissioner to periodically reevaluate the AOR for the proposed CO_2 EOR project and perform corrective action for any identified deficient wells. The AOR must be reevaluated on a frequency not to exceed five years.

4. The owner or operator of the class II EOR CO_2 injection well must identify all penetrations within the defined AOR including active and abandoned wells, underground mines, and any other man-made penetrations that penetrate the confining zone above the permitted EOR injection zone.

5. The owner or operator must determine which wells within the AOR have been constructed and/or plugged in a manner that prevents movement of CO_2 or other fluids that may endanger USDWs, and any wells which may require corrective action to ensure protection of USDWs.

6. For phased implementation of an EOR project injecting CO_2, the commissioner may allow injection operations to commence prior to a complete evaluation of all wellbores within the AOR if the operator presents a plan acceptable to the commissioner to complete the evaluation and perform any required corrective action in advance of the injected carbon dioxide and associated reservoir fluids migration to the area. The plan must include a method to monitor the injected carbon dioxide and associated reservoir fluids to ensure that the AOR review and any corrective action is performed at least 1/2 mile ahead of the boundary of the migrating front.

D. Corrective Action for Enhanced Oil Recovery Projects Injecting Carbon Dioxide

1. Owners or operators of class II EOR CO_2 injection wells must perform corrective action on all wells in the area of review that the commissioner has determined to require corrective action.

2. Owners or operators of class II EOR CO_2 injection wells shall submit a corrective action plan acceptable to the commissioner addressing all identified deficiencies within a time specified by the commissioner.

E. Emergency and Remedial Response for Enhanced Oil Recovery Projects Injecting Carbon Dioxide

1. As part of the permit application for a class II EOR CO_2 well, the owner or operator must provide the commissioner with an emergency and remedial response plan that outlines the actions the owner or operator must take to address movement of the injection or formation fluids that may cause an endangerment to a USDW during construction and operational periods.

2. If the owner or operator obtains evidence that the injected carbon dioxide and/or associated reservoir fluids are no longer confined to the permitted EOR injection zone or may cause an endangerment to a USDW, the owner or operator must:

a. take all steps reasonably necessary to identify, characterize, and control any release;

b. notify the commissioner within 24 hours; and

c. implement the emergency and remedial response plan approved by the commissioner.

3. The owner or operator shall review the emergency and remedial response plan developed under §405.E.1 periodically, but at least once every five years. Based on this review, the owner or operator shall submit an amended emergency and remedial response plan or demonstrate to the commissioner that no amendment to the emergency and remedial response plan is needed. Any amendments to the emergency and remedial response plan must be approved by the commissioner and are subject to the permit modification requirements at §411, as appropriate. Amended plans or demonstrations shall be submitted to the commissioner as follows:

a. within one year of an AOR reevaluation;

b. following any significant changes to the EOR project, such as the addition of injection wells or the reclassification of wells; or

c. when required by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2807 (December 2000), amended LR 42:1670 (October 2016).

§423. Plugging Requirements

A. …

B. Enhanced Oil Recovery Projects Injecting Carbon Dioxide. Prior to the conclusion of the enhanced oil recovery (EOR) project, the operator shall present a plan of project abandonment (the "plan"). The commissioner shall assess

the plan to ensure that it meets all applicable legal requirements and will protect the underground sources of drinking water (USDW) and the health, safety, and welfare of the public. After reviewing the plan, the commissioner may require additional information before approval of such plan, or impose additional requirements for the EOR project abandonment to assure protection of the USDW.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2810 (December 2000), amended LR 42:1670 (October 2016).

Richard P. Ieyoub
Commissioner

1610#023

RULE

Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission

Permit Fees (LAC 55:IX.107)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, in accordance with R.S. 40:1846 and with the Administrative Procedure Act, R.S. 49:950 et seq., has amended §107 with regard to general requirements of permit holders to include a change to permit fees.

Title 55
PUBLIC SAFETY
Part IX. Liquefied Petroleum Gas
Chapter 1. General Requirements
Subchapter A. New Dealers
§107. Requirements

A. - A.5.c. …

6. Applicants shall have paid a permit fee in the amount of $150, except for class VII-E, which shall be $100, and R-1, R-2 registrations, which shall be $37.50 and class VI-X shall be in the amount of $150 for each location. For fiscal year 2014-2015, and for each subsequent fiscal year, the permit fee shall be 0.1369 of 1 percent of annual gross sales of liquefied petroleum gas with a minimum of $150 for each location. For classes not selling liquefied petroleum gases in succeeding years the permit fee shall be $150, except registrations shall be $37.50 per year.

a. Each class I and class IV dealer shall prepare and submit reports to the commission of each three month period within their annual permit fee calculation period, by the end of the month following each three-month period, in a form acceptable to the commission, the previous three month's purchases and sales. An additional five calendar days shall be granted for mail delays before a violation is issued.

6.b. - 15. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001), LR 28:2553 (December 2002), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:1140 (June 2007), effective July 1, 2007, LR 35:2201 (October 2009), LR 35:2465 (November 2009), LR 38:1256 (May 2012), LR 41:395 (February 2015), LR 42:427 (March 2016), LR 42:1671 (October 2016).

John W. Alario
Executive Director

1610#029

RULE

Department of Public Safety and Corrections
Office of the State Fire Marshal
Uniform Construction Code Council

Uniform Construction Code (LAC 17:I.Chapter 1)

The Department of Public Safety and Corrections, Office of the State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) has exercised the final rulemaking provision in accordance with R.S. 49:950 et seq., of the Administrative Procedure Act, to amend, supplement and expand portions of and readopt LAC 17:I.Chapter 1 in the state Uniform Construction Code as authorized by R.S. 40:1730.26 and R.S. 40:1730.28. Furthermore, the LSUCCC has adopted amendments of the current plumbing provisions in the *International Building Code, International Residential Code,* and the *International Plumbing Code* regarding health and safety for the public.

This Rule adoption provides greater health and safety for the public and those providing installation and maintenance on plumbing systems. This Rule was first adopted by Emergency Rule on December 9, 2015 and published in the December 2015 edition of the *Louisiana Register* (Vol. 41, No. 12). The Emergency Rule first became effective on January 1, 2016.

The Emergency Rule was readopted on May 10, 2016 to continue those provisions and was published in the May 2016 edition of the *Louisiana Register* (Vol. 41, No. 12), along with a Notice of Intent. The Rule was amended to add standards for repairs to drainage systems via reroutes and trap seals. It also amended definitions and made technical changes within the aforementioned international codes.

A notice for a public hearing was published in the "Potpourri" section of the *Louisiana Register* on July 20, 2016 (Vol. 42, No. 07). The notice included proposed substantial changes to the Rule. The public hearing was held August 23, 2016 at 10 am at the Office of the State Fire Marshal. There were no comments to the proposed changes. Therefore, the changes were adopted and the Emergency Rule became effective September 12, 2016.

Act 836 of the 2014 Regular Session of the Louisiana Legislature mandates the adoption of the plumbing provisions in the *International Plumbing Code, International Building Code and* the *International Residential Code.* This Rule addresses this mandate by providing for necessary amendments to the codes. These amendments also allow new technology and methods to be used that were not allowed in the previous Louisiana state *Plumbing Code*.

Title 17
CONSTRUCTION
Part I. Uniform Construction Code
Chapter 1. Uniform Construction Code
§101. Louisiana State Uniform Construction Code (Formerly LAC 55:VI.301.A)

A. In accordance with the requirements set forth in R.S. 40:1730.28, effective January 1, 2016 the following is hereby adopted as an amendment to the Louisiana state Uniform Construction Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2380 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:1672 (October 2016).

§107. *International Residential Code* (Formerly LAC 55:VI.301.A.3.a)

A. - A.8.d. …

i. The potable water supply to lawn irrigation systems shall be protected against backflow by an atmospheric vacuum breaker, a pressure vacuum breaker assembly or a reduced pressure principle backflow prevention assembly. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker. When an irrigation/lawn sprinkler system is provided with separate zones, the potable water supply shall be protected by a pressure vacuum breaker or reduced pressure principal backflow prevention assembly. Atmospheric vacuum breakers shall be installed at least 6 inches (152 mm) above the highest point of usage (i.e., 6 inches (152 mm) above all downstream piping and highest sprinkler head). Pressure type vacuum breakers shall be installed at least 12 inches (305 mm) above the highest point of usage (i.e., 12 inches (305 mm) above all downstream piping and the highest sprinkler head). Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow prevention assembly.

8.e. - 9.r. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2383 (November 2015), amended LR 42:1672 (October 2016).

§111. The International Plumbing Code (Formerly LAC 55:VI.301.A.5)

A. The *International Plumbing Code*, 2012 Edition. The appendices of that code may be adopted as needed, but the specific appendix or appendices shall be referenced by name or letter designation at the time of adoption. (per R.S. 40:1730.28 eff. 1/1/16)

1. Amend Chapter One.

a. Amend Section [A] 101.2, Scope.

i. Section [A] 101.2 Scope. The provisions of this code shall apply to the erection, installation, alteration, repairs, relocation, replacement, addition to, use or maintenance of plumbing systems within this jurisdiction. This code shall also regulate nonflammable medical gas, inhalation anesthetic, vacuum piping, nonmedical oxygen systems and sanitary and condensate vacuum collection systems. The installation of fuel gas distribution piping and equipment, fuel-gas-fired water heaters and water heater venting systems shall be regulated by the *International Fuel Gas Code*. Provisions in the appendices shall not apply unless specifically adopted.

(a). Nothing in this Part or any provision adopted pursuant to this Part shall prohibit the Department of Health and Hospitals from the following:

(i). Regulating stored water temperatures through enforcement of the *Sanitary Code*.

(ii). Regulating medical gas and medical vacuum systems.

[a]. Exception

[i]. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the International Residential Code.

B. Amend Chapter Two Definitions.

Adult Day Care Center—any place or facility, operated by any person for the primary purpose of providing care, supervision and guidance of 10 or more people 18 years and older, not related to the caregiver and unaccompanied by parent or guardian, on a regular basis, for a total of at least 20 hours in a continuous seven day week in a place other than the person's home.

Air Break (Drainage System)—a piping arrangement in which a drain from a fixture, appliance or device discharges indirectly into another fixture, or receptacle at a point below the flood level rim and above the trap seal. An unobstructed horizontal distance of free atmosphere between the outside of the indirect waste pipe and the inside of the waster receptor must exist so as to allow a back-flow of sewage to spill over the flood level rim of the receiving sink or other receptor to prevent such back-flow from reaching the fixture, device, appliance or apparatus served by the indirect waste pipe.

Barometric Loop—a fabricated piping arrangement rising at least 35 feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against backsiphonage backflow.

Building Drain—that part of the lowest piping of a drainage system that receives the discharge from soil, waste and other drainage pipes in side and that extends 30 inches (762 mm) in developed length of pipe beyond the exterior walls of the building and conveys the drainage to the building sewer.

NOTE: Delete definition *Combined*—a building drain that conveys both sewage and storm water or other drainage.

a. *Sanitary*—a *building drain* that conveys sewage only.

b. *Storm*—a *building drain* that conveys storm water or other drainage, but not sewage.

Building Sewer—That part of the drainage system that extends from the end of the building drain and conveys the discharge to a community sewerage system, commercial treatment facility, or individual sewerage system or other point of disposal.

NOTE: Delete definition Combined—a building sewer that conveys both sewage and storm water or other drainage.

a. *Sanitary*—a *building drain* that conveys sewage only.

b. *Storm*—a *building drain* that conveys storm water or other drainage, but not sewage.

By-Pass—Any system of piping or other arrangement whereby the water may be diverted around any part or portion of the water supply system including, but not limited to, around an installed backflow preventer.

Child Day Care Center—any place or facility, operated by any person for the primary purpose of providing care, supervision and guidance of seven or more children under the age of 18, not related to the care giver and supervision and guidance of seven or more children under the age of 18, not related to the care giver and unaccompanied by parent or guardian, on a regular basis, for a total of at least 20 hours in a continuous seven day week in a place other than the children's home. A day care center that remains open for more than 20 hours in a continuous seven day week, and in which no individual child remains for more than 24 hours in one continuous stay shall be known as a full-time day care center.

NOTE: Delete definition *Combined Building Drain*—"see building drain, combined"

NOTE: Delete definition *Combined Building Sewer*—"see Building sewer, combined"

Commercial Treatment Facility—any treatment facility which is required by the state health officer whenever the use of an individual sewerage system is unfeasible or not authorized.

Community Sewerage System—any sewerage system which serves multiple connections and consists of a collection and/or pumping system/transport system and treatment facility.

Containment—a method of backflow prevention which requires a backflow prevention device or method on the water service pipe to isolate the customer from the water main.

Continuous Water Pressure—a condition when a backflow preventer is continuously subjected to the spill over the flood level rim of the receiving sink or other receptor to prevent such back-flow from reaching the fixture, device, appliance or apparatus served by the indirect waste pipe.

NOTE: Delete definition *Lead Free Pipe and Fittings*—Containing not more than 8.0 percent lead.

NOTE: Delete definition *Lead Free Solder and Flux*—Containing not more than 0.2 percent lead.

Day Care Centers—includes adult and child day care centers.

Degree of Hazard—an evaluation of the potential risk to public health if the public were to be exposed to contaminated water caused by an unprotected or inadequately protected cross connection.

Domestic Well—a water well used exclusively to supply the household needs of the owner/lessee and his family. Uses may include human consumption, sanitary purposes, lawn and garden watering and caring for pets.

Dual Check Valve—a device having two spring loaded, independently operated check valves without tightly closing shut-off valves and test cocks. Generally employed immediately downstream of the water meter. Not an approved backflow prevention device.

Fixture Isolation—a method of backflow prevention in which a backflow preventer is located to protect the potable water of a water supply system against a cross connection at a fixture located within the structure or premises itself.

Human Consumption—the use of water by humans for drinking, cooking, bathing, showering, hand washing, dishwashing, or maintaining oral hygiene.

Indirect Waste Pipe—a waste pipe that does not connect directly with the drainage system, but that discharges into the drainage system through an *air break* or *air gap* into a trap, fixture, or *waste receptor*.

NOTE: Delete definition *Individual Water Supply*—a water supply that serves one or more families, and that is not an approved public water supply.

Individual Sewerage System—any system of piping (excluding the building drain and building sewer), and/or collection and/or transport system which serves one or more connections, and/or pumping facility, and treatment facility, all located on the property where the sewage originates; and which utilizes the individual sewerage system technology which is set forth in LAC 51:XIII.Chapter 7, Subchapter B, or a commercial treatment facility which is specifically authorized for use by the state health officer.

Infant—any child under the age of 12 months.

Lead Free—

a. in general:

i. not containing more than 0.2 percent lead when used with respect to solder and flux; and

ii. not more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures;

b. calculation:

i. the weighted average lead content of a pipe, pipe fitting, plumbing fitting, or fixture shall be calculated by using the following formula:

(a). for each wetted component, the percentage of lead in the component shall be multiplied by the ratio of

the wetted surface area of that component to the total wetted surface area of the entire product to arrive at the weighted percentage of lead of the component. The weighted percentage of lead of each wetted component shall be added together, and the sum of these weighted percentages shall constitute the weighted average lead content of the product. The lead content of the material used to produce wetted components shall be used to determine compliance with Clause a.ii above. For lead content of materials that are provided as a range, the maximum content of the range shall be used.

NOTE: Delete definition *Lead Free Pipe and Fittings*—containing not more than 8.0 percent lead.

NOTE: Delete definition *Lead Free Solder and Flux*—containing not more than 0.2 percent lead.

Master Meter—a water meter serving multiple residential dwelling units or multiple commercial units. Individual units may or may not be sub-metered.

Plumbing—the practice, materials and fixtures utilized in the installation, maintenance, extension and alteration of all piping, fixtures, plumbing appliances and plumbing appurtenances, within or adjacent to any structure, in connection with sanitary drainage or storm drainage facilities; venting systems; and public or private water supply systems. Plumbing includes yard piping connecting sanitary or storm drainage with any point of disposal or other acceptable terminal as well as the water service piping connecting to a water main or other source of water supply. Plumbing does not include the installation, alteration, repair or maintenance of automatic fire sprinklers and including the underground or overhead water supply beginning at the outlet of an approved backflow prevention device installed under the plumbing provisions of this code where water is to be used or is intended to be used exclusively for fire protection purposes.

Potable Water—water free from impurities present in amount sufficient to cause disease or harmful physiological effects and conforming to the bacteriological, physical, radiological, and chemical quality requirements of the federal Safe Drinking Water Act or the regulations of the Department of Health and Hospitals, Office of Public Health.

Potable Water Supply—a publicly owned or privately owned water supply system which purveys potable water.

Preschool—any child less than five years of age.

Private Water Supply—a potable water supply that does not meet the criteria for a public water supply including, but not limited to a domestic well.

Public or Public Utilization—in the classification of plumbing fixtures, "public" applies to fixtures in general toilet rooms of schools, gymnasiums, hotels, hotel/motel rooms, airports, busand railroad stations, public buildings, bars, public comfort stations, office buildings, stadiums, stores, restaurants, patient rooms and other installations where a number of fixtures are installed so that their utilization is similarly unrestricted.

NOTE: Delete definition *Public Water Main*—a water supply pipe for public use controlled by public authority.

Public Water Supply—public water system.

Public Water System—a particular type of water supply system intended to provide potable water to the public having at least 15 service connections or regularly serving an average of at least 25 individuals daily at least 60 days out of the year.

Putrescible Waste—waste which is subject to spoilage, rot, or decomposition and may give rise to foul smelling, offensive odors and/or is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies. It includes wastes from the preparation and consumption of food, vegetable matter, and animal offal and carcasses.

Residential Facility—any place, facility, or home operated by any person who receives therein four or more people who are not related to such person for supervision, care, lodging and maintenance with or without transfer of custody. This shall include, but not be limited to group homes, community homes, maternity homes, juvenile detention centers, emergency shelters, halfway homes and schools for the mentally retarded.

Sanitary Sewage—see *sewage*.

Sewer—a pipe or other constructed conveyance which conveys sewage, rainwater, surface water, subsurface water, or similar liquid wastes.

a. *Building Sewer*—see "building sewer."

b. *Public Sewer*—a common sewer directly controlled by a public authority or utilized by the public

c. *Sanitary Sewer*—a sewer that carries sewage and excludes storm, surface and ground water.

d. *Storm Sewer*—a sewer that conveys rainwater, surface water, subsurface water and similar liquid wastes.

Sewerage System—any system of piping (excluding the building drain and building sewer) and/or collection and/or transport system and/or pumping facility and/or treatment facility, all for the purpose of collecting, transporting, pumping, treating and/or disposing of sanitary sewage.

Waste Receptor—a *plumbing fixture* designed specifically to collect and dispose of liquid waste received from an indirect waste pipe which is connected to other *plumbing fixtures*, plumbing equipment or appliances which are required to discharge to the drainage system through either an air gap (drainage system) or air break (drainage system). The following type fixtures fall within the classification of indirect waste receptors: floor sinks, curbed cleaning facilities with floor drain, and standpipe drains with integral air gaps (drainage system) or air breaks (drainage system), and may include others when approved as such by the code official.

Water Main—a water supply pipe or system of pipes installed and maintained by a city, township, county, Public Utility Company or other public entity, on public property, in the street or in an approved dedicated easement of public or community use. This term shall also mean the principal artery (or arteries) used for the distribution of potable water to consumers by any water supplier including, but not limited to, those public water systems which are not owned by the public and which may not be on public property.

Water Supplier—a person who owns or operates a water supply system including, but not limited to, a person who owns or operates a public water system.

Water Supply System—the water service pipe, water distribution pipes, and the necessary connecting pipes, fittings, control valves and all appurtenances in or adjacent to the structure or premise. This term shall also mean the

system of pipes or other constructed conveyances, structures and facilities through which water is obtained, treated to make it potable (if necessary) and then distributed (with or without charge) for human consumption or other use.

NOTE: Delete definition *Well*—

Bored—a well constructed by boring a hole in the ground with an auger and installing a casing.

Drilled—a well constructed by making a hole in the ground with a drilling machine of any type and installing casing and screen.

Driven—a well constructed by driving a pipe in the ground. The drive pipe is usually fitted with a well point and screen.

Dug—a well constructed by excavating a large-diameter shaft and installing a casing.

C. Amend Chapter 3, General Regulations.

1. Add Section 303.5, Water Piping Quality.

a. All potable water pipes, fittings, valves, and fixtures shall be lead free and shall be evaluated and listed as conforming with NSF/ANSI 372. Any solder or flux which is used in the installation or repair of any public water system or any plumbing in a residential or nonresidential facility providing water for human consumption shall be lead free.

i. Exception. The lead free requirement above shall not apply to:

(a). leaded joints necessary for the repair of existing cast iron pipes;

(b). fire hydrants, pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or

(c). toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.

2. Amend Section [B] 309.2, Flood Hazard.

a. For structures located in flood hazard areas, the following systems and equipment shall be located and installed as required by Section 1612 of the *International Building Code*.

NOTE: Where a private water supply is used it must meet the applicable requirements of LAC 51:XII (Water Supplies) and LAC 56:I (Water Wells) shall be utilized.

i. Exception

(a). The following systems are permitted to be located below the elevation required by Section 1612 of the *International Building Code* for utilities and attendant equipment provided that the systems are designed and installed to prevent water from entering or accumulating within their components and the systems are constructed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to up to such elevation;

(i). all water service pipes;

(ii). all sanitary drainage piping;

(iii). storm drainage piping;

(iv). manhole covers shall be sealed, except where elevated to or above the design flood elevation;

(v). all other plumbing fixtures, faucets, fixture fittings, piping systems and equipment;

(vi). water heaters;

(vii). vents and vent systems.

3. Amend Section 312.1, Required Tests.

a. The permit holder shall make the applicable tests prescribed in Sections 312.2 through 312.10 to determine compliance with the provisions of this code. The permit holder shall give reasonable advance notice to the code official when the plumbing work is ready for tests. The code official shall verify the test results. The equipment, material, power and labor necessary for the inspection and test shall be furnished by the permit holder and the permit holder shall be responsible for determining that the work will withstand the test pressure prescribed in the following tests. All plumbing system piping shall be tested with either water or by air. After the plumbing fixtures have been set and their traps filled with water, the entire drainage system shall be submitted to final tests. The code official shall require the removal of any cleanouts if necessary to ascertain whether the pressure has reached all parts of the system.

4. Amend Section 312.3, Drainage and Vent Test.

a. An air test shall be made by forcing air into the system until there is a uniform gauge pressure of 5 psi (34.5 kPa) or sufficient to balance a 10-inch (254 mm) column of mercury. This pressure shall be held for a test period of not less than15 minutes. Any adjustments to the test pressure required because of changes in ambient temperatures or the seating of gaskets shall be made prior to the beginning of the test period.

5. Amend Section 312.5, Water Supply System Test.

a. Upon completion of a section of or the entire water supply system, the system, or portion completed, shall be tested and proved tight under a water pressure not less than 1.5 times the working pressure of the system, but not less than 140 psi; or, for piping systems other than plastic, by an air test of not less than 50 psi (344 kPa). This pressure shall be held for not less than 15 minutes. The water utilized for tests shall be obtained from a potable source of supply. The required tests shall be performed in accordance with this section and Section 107.

6. Amend Section 312.10, Installation, Inspection and Testing of Backflow Prevention Assemblies, Barometric Loops and Air Gaps.

a. Installation, inspection and testing shall comply with Sections 312.10.1 through 312.10.3.

7. Amend Section 312.10.1, Inspections.

a. Annual inspections shall be made of all backflow prevention assemblies, barometric loops and air gaps to determine whether they are operable, properly installed and maintained, and meet testing/code requirements. Inspections of backflow prevention devices including barometric loops and air gaps used to protect high degree of hazard cross connections shall be documented in writing and the report provided to the owner of the backflow prevention device.

8. Amend Section 312.10.2, Testing.

a. Reduced pressure principle, double check, pressure vacuum breaker, reduced pressure detector fire protection, double check detector fire protection, and spill-resistant vacuum breaker backflow preventer assemblies shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The testing procedure shall be performed in accordance with one of the following standards: ASSE 5013, ASSE 5015, ASSE 5020, ASSE 5047, ASSE 5048, ASSE 5052, ASSE 5056, CSA

B64.10.1, USC's FCCC and HR's "Manual of Cross-Connection Control", or UFL's TREEO's "Backflow Prevention—Theory and Practice". Any backflow preventer which is found to be defective shall be repaired.

9. Add Section 312.10.3, Owner Responsibilities.

a. The owner of the backflow prevention assemblies shall comply with the following.

i. It shall be the duty of the owner of the backflow prevention assembly to see that these tests are made in a timely manner in accord with the frequency of field testing specified in 312.10.2 of this code.

ii. The owner shall notify the building official, and/or water supplier (for those devices associated with containment) in advance when the tests are to be undertaken so that the building official and/or water supplier may witness the tests if so desired.

iii. Upon completion, the owner shall provide records of such tests, repairs, overhauls, or replacements to the building official or water supplier (for those devices associated with containment). In addition, all records shall be kept by the owner of the backflow prevention device or method for at least 5 years and, upon specific request, shall be made available to the building official or water supplier.

iv. All tests, repairs, overhauls or replacements shall be at the expense of the owner of the backflow preventer.

10. Add Section 314.3, Plenum.

a. No floor drain or other plumbing fixture except electric water heaters shall be installed in a room containing air handling machinery when such room is used as a plenum. When rooms are used as a plenum, equipment drains shall be conveyed through an indirect waste receptor located outside such rooms or other approved point of disposal.

11. Amend Section 316.1.2, Submittal.

a. The registered design professional engineer shall indicate on the permit application that the plumbing system is an alternative engineered design. The permit and permanent permit records shall indicate that an alternative engineered design was part of the approved installation.

D. Amend Chapter 4.

1. Amend Section 403.3.3, Location of Toilet Facilities in Occupancies other than Malls and Educational Buildings.

a. In occupancies other than covered and open mall buildings, and educational buildings, the required public and employee toilet facilities shall be located not more than one story above or below the space required to be provided with toilet facilities, and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m).

2. Add Section 403.3.7, Location of Toilet Facilities in Educational Buildings.

a. For primary schools, and other special types of institutions with classrooms, for children through 12 years of age, separate boys' and girls' toilet room doors shall not be further than 200 feet from any classroom doors. For secondary schools, and other special types of institutions with classrooms, for persons of secondary school age, separate boys' and girls' toilet room doors shall not be further than 400 feet from any classroom door. In multi-storied buildings, there shall be boys' and girls' toilet rooms on each floor, having the number of plumbing fixtures as specified in Table 403.1 of this Code for the classroom population of that floor. When new educational buildings are added to an existing campus, the restroom facilities and drinking fountains located in the existing building(s) may be used to serve the occupants of the new educational building(s) only when all of the following provisions are met:

i. covered walkways consisting of a roof designed to protect the students and faculty from precipitation having a minimum width of 6 feet and located above a slip-resistant concrete or other acceptable hard surfaces leading to and from the restrooms shall be provided whenever children or faculty have to walk outside to access the toilet room;

ii. the path of travel from the classroom door to the toilet room doors (boys' or girls') does not exceed the applicable distance specified in this Section; and

iii. the number of occupants of the new building does not cause an increase in the school population that would trigger the need for more fixtures per Table 403.1 (Minimum Number of Required Plumbing Fixtures).

3. Add Section 403.6, Other fixture requirements for licensed pre-schools, day care centers, and residential facilities.

a. Additional plumbing fixtures shall be provided in day care centers and residential facilities as required by this Section.

4. Add Section 403.6.1, Food Preparation.

a. The food preparation area in pre-schools, day cares, and residential facilities shall meet the following requirements. The food preparation, storage and handling where six or less individuals are cared for shall provide a two-compartment sink and an approved domestic type dishwasher. Where the number of individuals cared for is between 7 and 15, either a three-compartment sink, or an approved domestic or commercial type dishwashing machine and a two-compartment sink with hot and cold running water shall be provided. Where 16 or more individuals are cared for, a three-compartment sink must be provided. If a dishwasher is also utilized in these instances (16 or more individuals), it must be a commercial type and it shall be in addition to the required three-compartment sink. One laundry tray, service sink, or curbed cleaning facility with floor drain shall also be provided on the premises for cleaning of mops and mop water disposal (for facilities caring for 16 or more individuals).

5. Add Section 403.6.2, Caring for Children between 0 and 4 Years of Age.

a. In child day care facilities, a hand washing sink shall be in or adjacent to each diaper changing area. In addition, one extra laundry tray, service sink, or similar fixture is required to clean and sanitize toilet training potties immediately after each use. Such fixture shall be dedicated solely for this purpose and shall not be in the food preparation/storage, utensil washing, or dining areas. Training potties shall not be counted as toilets in determining the minimum fixture requirements of Table 403.1. Fixtures shall be size appropriate for the age of the children being cared for (toilets 11 inches maximum height and lavatories 22 inches maximum height), or if standard size fixtures are used, safe, cleanable step aids shall be provided.

6. Add Section 410.5, Minimum Required Separation from Contamination.

a. Drinking fountain fixtures shall provide a minimum requirement of 18 inches of separation from its water outlet (spigot) to any source of contamination. Combination sink/drinking fountain units shall provide a minimum of 18 inches between the drinking fountain water outlet (spigot) and the nearest outside rim of the sink bowl [or other source(s) of contamination].

i. Exception

(a). This 18 inch minimum separation may only be reduced by the use of a vertical shield made of a smooth, easily cleaned surface that is attached flush with the top surface of the unit and extends to a distance at least 18 inches in height above the drinking fountain water outlet (spigot) level.

(b). Prohibited Fixture. Combination sink/drinking fountain units which share the same sink bowl are prohibited except in individual prison cells."

7. Amend Section 412, Floor and Trench Drains.

a. Add Section 412.5, Miscellaneous Areas.

i. A floor drain shall be required in public toilet rooms, excluding hotel/motel guest rooms or patient rooms of a hospital or nursing home.

ii. A floor drain shall be required in the recess room for sterilizers in a medical facility.

iii. Floor drains are not permitted in general food storage areas, for example, a food storage closet or room.

8. Amend Section 417.3, Shower Water Outlet.

a. Waste outlets serving showers shall be not less than 2 inches (50.8 mm) in diameter and, for other than waster outlets in bathtubs, shall have removable strainers not less than 3 inches (76 mm) in diameter with strainer openings not less than 1/4 inch (6.4 mm) in least dimension. Where each shower space is not provided with an individual waste outlet, the waste outlet shall be located and the floor pitched so that waste from one shower does not flow over the floor area serving another shower. Waste outlets shall be fastened to the waste pipe in an approved manner.

9. Add Section 418.4, Handwash Sinks.

a. Dedicated handwash sinks shall be located to permit convenient use by all employees in food processing, food preparation, and other food handling areas.

b. Each commercial body art (tattoo) facility shall provide a hand washing sink to be used solely for hand washing in body art procedure area for the exclusive use of the operator. A separate instrument sink shall also be provided for the sole purpose of cleaning instruments and equipment prior to sterilization.

c. A hand washing sink may not be used for purposes other than hand washing.

d. Sinks used for food preparation or for washing and sanitizing of equipment and utensils shall not be used for hand washing.

10. Add Section 418.5, Manual Warewashing, Sink Requirements.

a. A sink with at least three compartments constructed of smooth, impervious non-corrosive material such as stainless steel or high density food grade polymer plastic shall be provided in slaughter rooms, packing rooms, retail food establishments, and other food handling areas for manual washing, rinsing and sanitizing equipment and utensils except where there are no utensils or equipment to wash, rinse and sanitize; i.e., such as in a facility with only prepackaged foods.

11. Add Section 422.11, Handwashing Facilities.

a. Medical facilities, including doctor's office and clinics, shall be provided with hand washing facilities within each patient examination and treatment room. The hand wash facility shall be provided with hot and cold water delivered via a mixing faucet.

12. Amend Section 425.2, Flushometer Valves and Tanks.

a. Flushometer valves and tanks shall comply with ASSE 1037 or CSA B125.3. I Vacuum breakers on flushometer valves shall conform to the performance requirements of ASSE 1001 or CSA B64. 1.1. Flushometer valves shall be equipped with an approved vacuum breaker. The vacuum breaker shall be installed on the discharge side of the flushing valve with the critical level at least 4 inches (102 mm) above the overflow rim of the bowl. Access shall be provided to vacuum breakers. Flushometer valves shall be of the water conservation type and shall not be used where the water pressure is lower than the minimum required for normal operation. When operated, the valve shall automatically complete the cycle of operation, opening fully and closing positively under the water supply pressure. Each flushometer valve shall be provided with a means for regulating the flow through the valve. The trap seal to the fixture shall be automatically refilled after each flushing cycle.

E. Amend Chapter 5, Water Heaters.

1. Amend Section 503.1, Cold Water Line Valve.

a. The cold water branch line from the main water supply li ne to each hot water storage tank or water heater shall be provided with a full port ball valve, located near the equipment and serving only the hot water storage tank or water heater. The valve shall not interfere or cause a disruption of the cold water supply to the remainder of the cold water system. The valve shall be provided with access on the same floor level as the water heater served.

2. Amend Section 504.7, Required Pan.

a. Where a storage tank-type water heater or a hot water storage tank is installed in a location where water leakage from the tank will cause damage, the tank shall be installed in a galvanized steel pan having a material thickness of not less than 0.0276-inch (0.7 mm), or other pans approved for such use.

i. Exception

(a). Electric water heaters may rest in a high impact plastic pan of at least 1/16-inch (1.6 mm) thickness.

3. Amend Section 504.7.1, Pan Size and Drain.

a. The drain pan shall be a minimum of 2-inches (2") (50.8 mm) in depth and shall be of sufficient size and shape to receive all dripping or condensate from the tank or water heater. The pan shall be drained by an indirect waste pipe having a diameter of not less than 1-inch (25.4 mm). Piping for safety pan drains shall be of those materials listed in Table 605.4.

F. Amend Chapter 6, Water Supply and Distribution.

1. Amend Section 602.3, Individual Water Supply.

a. Where a potable public water supply is not available, a private water supply meeting the applicable requirements of LAC 51:XII (Water Supplies) and LAC 56:I (Water Wells) shall be utilized.

i. Delete and remove Sections 602.3.1, 602.3.2, 602.3.3, 602.3.4, 602.3.5 and 602.3.5.1, Pump Enclosure.

2. Amend Section 603.2, Separation of Water Service and Sewer Lines.

a. Underground water service pipe and the building drain or building sewer shall be horizontally separated by not less than 5-feet (1524 mm) of undisturbed or compacted earth.

i. Exceptions

(a). The required separation distance shall not apply where the bottom of the water service pipe within 5 feet (1524 mm) of the sewer is not less than 12 inches (305 mm) above the top of the highest point of the sewer and the sewer pipe materials conform to Table 702.3.

(b). Water service pipe is permitted to be located in the same trench with a building drain or building sewer, provided such sewer is constructed of materials listed in Table 702.2 and the water service pipe is placed on a solid shelf excavated at one side of the common trench. The bottom of the water service pipe, at all points, shall be at least 12 inches (305 mm) above the top of the sewer line at its highest point.

(c). Any underground water service pipe which must cross a pipe that conveys sewage (e.g., building drains, building sewers, and other piping conveying sewage) shall have a minimum vertical separation of 12 inches (305 mm) above the top of the sewer. The water service pipe shall be sleeved to a point not less than 5 feet (1524 mm) horizontally from the sewer pipe centerline on both sides of such crossing with pipe materials listed in Table 605.3, 702.2 or 702.3.

3. Add Section 603.3, Potable Water (Pressure) Lines Near Soil Absorption Trenches, Sand Filter Beds, Oxidation Ponds, and any Effluent Reduction Option (Effluent Reduction Fields, Rock Plant Filters, Spray Irrigation Systems, Overland Flow Systems, Mound Systems, or Subsurface Drip Disposal Systems).

a. Underground potable water (pressure) lines shall not be located within 25 feet (7.6 m) of any soil absorption trenches, sand filter beds, oxidation ponds, or any effluent reduction option including, but not limited to effluent reduction fields, rock plant filters, spray irrigation systems (from the edge of the spray and its drainage), overland flow systems (from the discharge point and field of flow), mound systems, or subsurface drip disposal systems which have been installed for either the disposal of septic tank effluent or mechanical treatment plant effluent.

4. Add Section 603.4, Potable Water (Pressure) Lines Near Septic Tanks, Mechanical Sewage Treatment Plants, and Pump Stations.

a. Underground potable water (pressure) lines shall not be located within 10 feet (3.0 m) of any septic tank, mechanical sewage treatment plant, or sewage pump station.

5. Add Section 603.5, Potable Water (Pressure) Lines Near Seepage Pit, Cesspool, or Sanitary Pit Privy.

a. Underground potable water (pressure) lines shall not be located within 50 feet (15.2m) of any seepage pit, cesspool, or sanitary pit privy.

6. Add 603.6, Reclaimed Water Lines.

a. Reclaimed water lines shall be considered and treated as though they are sewerage lines and shall be installed in accord with the spacing requirements of this Section for the protection of potable water lines.

7. Add Section 603.7, Stop and Waste Valves and Devices.

a. Combination stop and waste valves and cocks shall not be installed underground in a water service pipe, water supply system, or a water distribution system. Any fixture or device which incorporates a stop and waste feature is prohibited if the waste opening is underground or in any location that waste water or water-borne contaminates may enter the device or water supply from the ground or other source by reversal of flow.

8. Amend Table 604.5, Minimum Sizes of Fixture Water Supply Lines.

a. Table 604.5—Minimum Sizes of Fixture Water Supply Pipes

Fixture	Minimum Pipe Size (inch)
Bathtubs[a] (60x 32 and smaller)	1/2
Bathtubs[a] (larger than 60x 32)	1/2
Bidet	3/8
Combination sink and tray	1/2
Dishwasher, domestic[a]	1/2
Drinking fountain	1/2
Hose bibbs	1/2
Kitchen sink[a]	1/2
Kitchen sink , Commercial	3/4
Lavatory	1/2
Shower, single head[a]	1/2
Sinks, flushing rim	3/4
Sinks, service	1/2
Urinal, flush tank	1/2
Urinal, flushometer valve	3/4
Wall hydrant	1/2
Water closet, flush tank	3/8
Water closet, flushometer valve	1
Water closet, flushometer tank	1/2
Water closet, one piece[a]	1/2

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm, 1 pound per square inch = 6.895 kPa.

[a] Where the developed length of the distribution line is 60 feet or less, and the available pressure at the meter is 35 psi or greater, the minimum size of an individual distribution line supplied from a manifold and installed as part of a parallel water distribution system shall be one nominal tube size smaller than the sizes indicated.

9. Amend Section 605.2, Lead content of water supply pipe and fittings.

a. Water Piping Quality. All potable water pipes, fittings, valves, and fixtures shall be lead free and shall be evaluated and listed as conforming with NSF/ANSI 372. Any solder or flux which is used in the installation or repair of any public water system or any plumbing in a residential or nonresidential facility providing water for human consumption shall be lead free.

i. Exception. The lead free requirement above shall not apply to:

(a). leaded joints necessary for the repair of existing cast iron pipes;

(b). fire hydrants, pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or

(c). toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.604.

10. Amend Section 605.3, Water Service Pipe with Corresponding Table 605.3.

a. Water service pipe shall conform to NSF 61 and shall conform to one of the standards listed in Table 605.3. Water service pipe or tubing, installed underground and outside of the structure, shall have a working pressure rating of not less than 160 psi (1100 kPa) at 73.4ºF (23ºC). Where the water pressure exceeds 160 psi (1100 kPa) piping material shall have a working pressure rating not less than the highest available pressure. Water service piping materials not third-party certified for water distribution shall terminate at or before the full open valve located at the entrance to the structure. All ductile iron water service piping shall be cement mortar lined in accordance with AWWA C104.

i. Table 605.3—Water Service Pipe

Material	Standard
Acrylonitrile butadiene styrene (ABS) plastic pipe	ASTM D 1527; ASTM D 2282
Brass pipe	ASTM B 43
Chlorinated polyvinyl chloride (CPVC) plastic pipe	ASTM D 2846; ASTM F 441; ASTM F 442; CSA B137.6
Copper or copper-alloy pipe	ASTM B 42; ASTM B 302
Copper or copper-alloy tubing (Type K, WK, L, or WL only. i.e., Type M copper is prohibited.)	ASTM B 75; ASTM B 88; ASTM B 251; ASTM B 447
Cross-linked polyethylene (PEX) plastic pipe and tubing	ASTM F 876; ASTM F 877; AWWA C904; CSA B137.5
Cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX) pipe	ASTM F 1281; ASTM F 2262; CSA B137.10M
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Ductile iron water pipe	AWWA C151/A21.51; AWWA C115/A21.15
Galvanized steel pipe	ASTM A 53
Polyethylene (PE) plastic pipe	ASTM D 2239; ASTM D 3035; AWWA C901; CSA B137.1
Polyethylene (PE) plastic tubing	ASTM D 2737; AWWA C901; CSA B137.1
Polyethylene/aluminum/polyethylene (PE-AL-PE) pipe	ASTM F 1282; CSA B137.9
Polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 2769
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11
Polyvinyl chloride (PVC) plastic pipe	ASTM D 1785; ASTM D 2241; ASTM D 2672; CSA B137.3
Stainless steel pipe (Type 304/304L)	ASTM A 312; ASTM A 778
Stainless steel pipe (Type 316/316L)	ASTM A 312; ASTM A 778

11. Amend Section 605.3.1, Dual check-valve-type backflow preventer.

a. Dual check-valve backflow preventers installed on the water supply system shall comply with ASSE 1024 or CSA B64.6. These devices, which are commonly installed immediately downstream of water meters by water suppliers, are not approved backflow prevention devices and are only allowed to be installed when no cross connections exist downstream of the device or when all downstream cross connections are properly protected by approved backflow prevention devices, assemblies, or methods in accordance with Section 608 of this code.

12. Amend Table 605.4, Water Distribution Pipe.

a. Table 605.4—Water Distribution Pipe

Material	Standard
Brass pipe	ASTM B 43
Chlorinated polyvinyl chloride (CPVC) plastic pipe and tubing	ASTM D 2846; ASTM F 441; ASTM F 442; CSA B137.6
Copper or copper-alloy pipe	ASTM B 42; ASTM B 302
Copper or copper-alloy tubing (Type K, WK, L, or WL only. *i.e.*, Type M copper is prohibited.)	ASTM B 75; ASTM B 88; ASTM B 251; ASTM B 447
Cross-linked polyethylene (PEX) plastic tubing	ASTM F 876; ASTM F 877; CSA B137.5
Cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX) pipe	ASTM F 1281; ASTM F 2262; CSA B137.10M
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Ductile iron pipe	AWWA C151/A21.51; AWWA C115/A21.15
Galvanized steel pipe	ASTM A 53
Polyethylene/aluminum/polyethylene (PE-AL-PE) composite pipe	ASTM F 1282
Polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 2769
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11
Stainless steel pipe (Type 304/304L)	ASTM A 312; ASTM A 778
Stainless steel pipe (Type 316/316L)	ASTM A 312; ASTM A 778

13. Amend Section 605.5, Fittings.

a. Pipe fittings shall be approved for installation with the piping material installed and shall comply with the applicable standards listed in Table 605.5. Pipe fittings utilized in water supply systems shall also comply with NSF 61. Ductile and gray iron pipe fittings shall be cement mortar lined in accordance with AWWA C104. For repairs all copper, brass and stainless steel joints below a building slab shall be brazed and/or welded in accordance with the

requirements of this code, as appropriate. With the exception of heat fused polypropylene, all other joints and fittings for plastic pipe below a building slab are prohibited.

14. Amend Table 605.5, Pipe Fittings.

a. Table 605.5—Pipe Fittings

Material	Standard
Acrylonitrile butadiene styrene (ABS) plastic	ASTM D 2468
Cast-iron	ASME B16.4; ASME B16.12
Chlorinated polyvinyl chloride (CPVC) plastic	ASSE 1061; ASTM D 2846; ASTM F 437; ASTM F 438; ASTM F 439; CSA B137.6
Copper or copper alloy	ASSE 1061; ASME B16.15; ASME B16.18; ASME B16.22;
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Fittings for cross-linked polyethylene (PEX) plastic tubing	ASSE 1061, ASTM F 877; ASTM F 1807; ASTM F 1960; ASTM F 2080; ASTM F 2098, ASTM F 2159; ASTM F 2434; ASTM F 2735; CSA B137.5
Fittings for polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 1807; ASTM F 2098; ASTM F 2159; ASTM F 2735
Gray iron and ductile iron	AWWA C110/A21.10; AWWA C153/A21.53
Insert fittings for polyethylene/aluminum/polyethylene (PE-AL-PE) and cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX)	ASTM F 1974; ASTM F 1281; ASTM F 1282; CSA B137.9; CSA B137.10M
Malleable iron	ASME B16.3
Metal (brass) insert fittings for polyethylene/aluminum/polyethylene (PE-AL-PE) and cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX)	ASTM F 1974
Polyethylene (PE) plastic pipe	ASTM D 2683; ASTM D 3261; ASTM F 1055; CSA B137.1
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11
Polyvinyl chloride (PVC) plastic	ASTM D 2464; ASTM D 2466; ASTM D 2467; CSA B137.2; CSA B137.3
Stainless steel (Type 304/304L)	ASTM A 312; ASTM A 778
Stainless steel (Type 316/316L)	ASTM A 312; ASTM A 778
Steel	ASME B16.9; ASME B16.11; ASME B16.28

15. Amend Section 606.1, Location of Full-Open Valves.

a. Full-open valves shall be installed in the following locations:

i. on the building water service pipe from the public water supply near the curb;

ii. on the water distribution supply pipe at the entrance into the structure;

iii. on the discharge side of every water meter;

iv. on the base of every water riser pipe in occupancies other than multiple-family residential occupancies that are two stories or less in height and in one- and two-family residential occupancies;

v. on the top of every water down-feed pipe in occupancies other than one- and two-family residential occupancies;

vi. on the entrance to every water supply pipe to a dwelling unit, except where supplying a single fixture equipped with individual stops;

vii. on the water supply pipe to a gravity or pressurized water tank;

viii. on the water supply pipe to every water heater;

ix. on each water supply branch line 1 1/2 inches or larger so as to isolate all fixtures and all pieces of equipment supplied by the branch line. The shutoff valve shall be installed in a labeled and accessible location as close to the connection to the supply main and/or riser as practical.

b. When such shutoff valve is located in the service pipe outside the building, it shall be located and accessible in a manufactured, approved, valve box with a readily removable access cover which extends to grade (G) level. When drain valves are provided for the distribution piping or other portions of the water distribution system, such drains shall be above grade (G) or otherwise located to prevent the possibility of backflow into the piping system after the system has been drained.

16. Amend Section 606.2, Location of Shutoff Valves.

a. Shutoff valves shall be installed in the following locations:

i. on the fixture supply to each plumbing fixture other than bathtubs and showers in one- and two-family residential occupancies. Such vales shall permit each fixture to be shutoff without interfering with the water supply to any other fixtures. In all buildings other than one-and two-family residential occupancies, shutoff valves shall be installed which permit the water supply to all fixtures and equipment in each separate room to be shut off without interference with the water supply to any other room or portion of the building or each individual fixture and piece of equipment shall have a shutoff valve which will permit each fixture and piece of equipment to be shut off without interfering with the water supply to other fixtures or equipment;

ii. on the water supply pipe to each sillcock;

iii. on the water supply pipe to each appliance or mechanical equipment.

17. Amend Section 606.5.5, Low-Pressure Cutoff Required on Booster Pumps.

a. A low-pressure cutoff shall be installed on all booster pumps in a water pressure booster system to prevent creation of a vacuum or negative pressure on the suction side of the pump when a positive pressure of 20 psi (137.9 kPa) or less occurs on the suction side of the pump.

18. Amend Section 607.3.2, Backflow prevention device or check valve.

a. Where a backflow prevention device, check valve or other device is installed on a water supply system utilizing storage water heating equipment, a device for controlling pressure shall be installed at an accessible location between the checking device and the water heating equipment to limit thermal expansion of the water being heated to not more than 80 psi (552 kPa) static pressure at any fixture on the system. A potable water expansion tank or auxiliary relief valve set at 80 psi (552 kPa) shall be acceptable. The auxiliary relief valve shall be in addition to the water heater safety relief valve. This thermal expansion control device shall be designed and trimmed for repeated operation. The valve shall be a minimum 1/2-inch pipe size, shall be adjustable and calibrated, and shall include a tag describing its function.

19. Amend Section 608.1, General.

a. A potable water supply system shall be designed, installed and maintained in such a manner so as to prevent contamination from non-potable liquids, solids or gases being introduced into the potable water supply through cross-connections or any other piping connections to the system. Backflow preventers shall conform to the applicable Standard referenced in Table 608.1. Backflow preventer applications shall conform to Table 608.1, except as specifically stated in Sections 608.2 through 608.16.27 and Sections 608.18 through 608.18.2.

20. Amend Section 608.4, Water Service Piping/Containment to Protect Potable Water Supplies.

a. Water service piping shall be protected in accordance with Sections 603.2. Containment to protect potable water supplies shall be achieved in accordance with 608.18 through 608.18.2.

21. Amend Section 608.6, Cross-Connection Control.

a. Cross connections shall be prohibited, except where approved backflow prevention devices, assemblies, or methods are installed to protect the potable water supply. A dual check valve type backflow preventer (i.e., device meeting ASSE 1024 or CSA B64.6 with two spring loaded, independently operating check valves without tightly closing shut-off valves or test cocks which is commonly installed immediately downstream of water meters by water suppliers) is not an approved backflow prevention device when a known cross connection exists downstream of the device. These devices are only allowed to be installed when no cross connections exist downstream of the device or when all downstream cross connections are properly protected by approved backflow prevention devices, assemblies, or methods.

22. Amend Section 608.8, Identification of Nonpotable Water.

a. Where nonpotable water systems are installed, the piping conveying the nonpotable water shall be identified either by color marking or metal tags in accordance with Sections 608.8.1 through 608.8.3. All nonpotable water outlets such as hose connections, open ended pipes, and faucets shall be identified at the point of use for each outlet with the words, "Nonpotable—not safe for drinking." The words shall be indelibly printed on a tag or sign constructed of corrosion-resistant waterproof material or shall be indelibly printed on the fixture. The letters of the words shall be not less than 0.5 inches (12.7 mm) in height and in colors in contrast to the background on which they are applied.

i. Exception

(a). Overall Exception to this Section (§608.8 of this code). Pursuant to R.S. 40:4.12, industrial-type facilities listed therein shall not be required to comply with this section (§608.8 of this code) provided that such facilities have a potable water distribution identification plan in conformity with the requirements of R.S. 40:4.12. The required formal cross-connection control survey of the facility referenced in R.S. 40:4.12 shall be performed by an individual holding a valid cross-connection control surveyor certificate issued under the requirements of ASSE 5120, or other individuals holding a surveyor certificate from a nationally recognized backflow certification organization approved by the state health officer.

23. Amend Section 608.14, Location of Backflow Preventers.

a. Access shall be provided to backflow preventers as specified by the manufacturer's instructions for the required testing, maintenance and repair. A minimum of 1-foot of clearance shall be provided between the lowest portion of the assembly and grade or platform. Elevated installations exceeding 5-feet above grade(g) shall be provided with a suitably located permanent platform capable of supporting the installer, tester, or repairer. Reduced pressure principal type backflow preventers, and other types of backflow preventers with atmospheric ports and/or test cocks (e.g., atmospheric type vacuum breakers, double check valve assemblies, pressure type vacuum breaker assemblies, etc.), shall not be installed below grade (in vaults or pits) where the potential for a relief valve, an atmospheric port, or a test cock being submerged exists.

24. Amend Section 608.14.2, Protection of Backflow Preventers.

a. Backflow preventers subjected to freezing temperatures shall protected from freezing by heat, insulation or both; or as otherwise recommended by the manufacturer.

25. Amend Section 608.15.4, Protection by a Vacuum Breaker.

a. Openings and outlets shall be protected by atmospheric-type or pressure-type vacuum breakers. The critical level of atmospheric type vacuum breakers shall be installed not less than 6 inches (152 mm) above all downstream piping and not less than 6 inches (152 mm) above the flood-level rim of the fixture receptor or device served. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker. Atmospheric vacuum breakers including, but not limited to, hose bibb vacuum breakers shall not be subjected to continuous water pressure. The critical level of pressure type vacuum breakers shall be installed not less than 12 inches (305 mm) above all downstream piping and not less than 12 inches (305 mm) above the flood-level rim of the fixture receptor or device served. Fill valves shall be set in

accordance with Section 425.3.1. Vacuum breakers shall not be installed under exhaust hoods or similar locations that will contain toxic fumes or vapors.

26. Amend Section 608.15.4.2, Hose Connections.

a. Sillcocks, hose bibbs, wall hydrants and other openings with a hose connection shall be protected against backflow by an atmospheric-type or pressure-type vacuum breaker installed in accordance with Section 608.15.4, or by a permanently attached hose connection vacuum breaker in which the highest point of usage is less than 10 feet above the hose connection vacuum breaker. Hose bib vacuum breakers shall not be subjected to continuous water pressure.

27. Amend Section 608.16, Connections to the Potable Water System.

a. Connections to the potable water system shall conform to Sections 608.16.1 through 608.16.27. These Sections (608.16.1-608.16.27) are not inclusive of all potential contamination sources which may need fixture isolation protection. For potential contamination sources not listed in Sections 608.16.1 through 608.16.27, backflow prevention methods or devices shall be utilized in accordance with Table B1 of CAN/CSA B64.10-1994. When a potential contamination source and its associated backflow prevention method or device is not identified in this code or Table B1 of CAN/CSA B64.10-1994, backflow prevention methods or devices shall be utilized as directed by the building official.

28. Amend Section 608.16.5, Connections to Lawn Irrigation Systems.

a. The potable water supply to lawn irrigation systems shall be protected against backflow by an atmospheric vacuum breaker, a pressure vacuum breaker assembly or a reduced pressure principle backflow prevention assembly. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker. When an irrigation/lawn sprinkler system is provided with separate zones, the potable water supply shall be protected by a pressure vacuum breaker or reduced pressure principal backflow prevention assembly. Atmospheric vacuum breakers shall be installed at least 6 inches (152 mm) above the highest point of usage (i.e., 6 inches (152 mm) above all downstream piping or highest sprinkler head). Pressure type vacuum breakers shall be installed at least 12 inches (305 mm) above the highest point of usage (i.e., 12 inches (305 mm) above all downstream piping and the highest sprinkler head). Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow prevention assembly.

29. Amend Section 608.16.8, Portable Cleaning Equipment.

a. Where the portable cleaning equipment connects to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, 608.13.2, 608.13.3, 608.13.5, 608.13.6, or 608.13.8. The type of backflow preventer shall be selected based upon the application in accordance with Table 608.1.

30. Add Section 608.16.11, Cooling Towers.

a. The potable water supply to cooling towers shall be protected against backflow by an air gap.

31. Add Section 608.16.12, Chemical Tanks.

a. The potable water supply to chemical tanks shall be protected against backflow by an air gap.

32. Add Section 608.16.13, Commercial Dishwashers in Commercial Establishments.

a. The potable water supply to commercial dishwashers in commercial establishments shall be protected against backflow by an air gap, atmospheric vacuum breaker, or pressure vacuum breaker. Vacuum breakers shall meet the requirements of Section 608.15.4.

33. Add Section 608.16.14, Ornamental Fountains.

a. The potable water supply to ornamental fountains shall be protected against backflow by an air gap.

34. Add Section 608.16.15, Swimming Pools, Spas, Hot Tubs.

a. The potable water supply to swimming pools, spas, or hot tubs shall be protected against backflow by an air gap or reduced pressure principal backflow prevention assembly.

35. Add Section 608.16.16, Baptismal Fonts.

a. The potable water supply to baptismal fonts shall be protected against backflow by an air gap.

36. Add Section 608.16.17, Animal Watering Troughs.

a. The potable water supply to animal watering troughs shall be protected against backflow by an air gap.

37. Add Section 608.16.18, Agricultural Chemical Mixing Tanks.

a. The potable water supply to agricultural chemical mixing tanks shall be protected against backflow by an air gap.

38. Add Section 608.16.19, Water Hauling Trucks.

a. The potable water supply to water hauling trucks/tankers shall be protected against backflow by an air gap when filled from above. When allowed to be filled from below, they shall be protected by a reduced pressure principle backflow prevention assembly. When a tanker truck is designated for the hauling of food grade products (and has been cleaned utilizing food grade cleaning procedures) and is allowed to be filled from below, a double check valve assembly shall be acceptable.

39. Add Section 608.16.20, Air Conditioning Chilled Water Systems and/or Condenser Water Systems.

a. The potable water supply to air conditioning chilled water systems and condenser water systems shall be protected against backflow by a reduced pressure principal backflow prevention assembly.

40. Add Section 608.16.21, Pot-Type Chemical Feeders.

a. The potable water supply to pot-type chemical feeders shall be protected against backflow by a reduced pressure principal backflow prevention assembly.

41. Add Section 608.16.22, Food Processing Steam Kettles.

a. The potable water supply to food processing steam kettles shall be protected against backflow by a double check valve backflow prevention assembly.

42. Add Section 608.16.23, Individual Travel Trailer Pads.

a. The potable water supply to individual travel trailer pads shall be protected against backflow by a double check valve backflow prevention assembly.

43. Add Section 608.16.24, Laboratory and/or Medical Aspirators.

a. The potable water supply to laboratory and/or medical aspirators shall be protected against backflow by an atmospheric or pressure vacuum breaker installed in accordance with Sections 608.3.1 and 608.15.4.

44. Add Section 608.16.25, Laboratory or other Sinks with Threaded or Serrated Nozzles.

a. The potable water supply to laboratory sinks or other sinks with threaded or serrated nozzles shall be protected against backflow by an atmospheric or pressure vacuum breaker installed in accordance with Sections 608.3.1 and 608.15.4.

45. Add Section 608.16.26, Mortuary/Embalming Aspirators.

a. The potable water supply to mortuary/embalming aspirators shall be protected against backflow by a pressure vacuum breaker installed in the supply line serving the aspirator. The critical level of the vacuum breaker shall be installed a minimum of 12 inches higher than the aspirator. The aspirator shall be installed at least 6 inches above the highest level at which suction may be taken. An air gap shall be provided between the outlet of the discharge pipe and the overflow rim of the receiving fixture.

46. Add Section 608.16.27, Room(s) or other Sub-Unit(S) of a Premise or Facility Receiving Water where Access is Prohibited.

a. When access is prohibited to particular areas, rooms, or other sub-units of a premise or facility which is receiving water, the potable water supply serving those areas shall be protected against backflow by a reduced pressure principal backflow protection assembly.

47. Amend Section 608.17, Protection of Individual Water Supplies.

a. An individual water supply shall be located and constructed so as to be safeguarded against contamination in accordance with the applicable requirements of LAC 51:XII (Water Supplies) and LAC 56:I (WaterWells).

48. Remove and delete Sections 608.17.1 thru 608.17.8 including Table 608.17.1.

49. Add Section 608.18, Containment Practices.

a. Backflow prevention methods or devices shall be utilized as directed by the water supplier or code official to isolate specific water supply system customers from the water supply system's mains when such action is deemed necessary to protect the water supply system against potential contamination caused by backflow of water from that part of the water system owned and maintained by the customer (for example, the piping downstream of the water meter, if provided). Minimum requirements shall be in accordance with Section 608.18.1 through 608.18.2.

50. Add Section 608.18.1, Containment Requirements.

a. As a minimum, the following types of backflow prevention assemblies or methods shall be installed and maintained by water supply system customers immediately downstream of the water meter (if provided) or on the water service pipe prior to any branch line or connections serving the listed customer types and categories.

51. Add Table 608.18.1, Containment Requirements.

a. Table 608.18.1—Containment Requirements

Air Gap
1. Fire Protection/Sprinkler System utilizing non-potable water as an alternative or primary source of water
Reduced Pressure Principle Backflow Prevention Assembly
1. Hospitals, Out-Patient Surgical Facilities, Renal Dialysis Facilities, Veterinary Clinics
2. Funeral Homes, Mortuaries
3. Car Wash Systems
4. Sewage Facilities
5. Chemical or Petroleum Processing Plants
6. Animal/Poultry Feedlots or Brooding Facilities
7. Meat Processing Plants
8. Metal Plating Plants
9. Food Processing Plants, Beverage Processing Plants
10. Fire Protection/Sprinkler Systems using antifreeze in such system (a detector type assembly is recommended on unmetered fire lines)
11. Irrigation/Lawn Sprinkler Systems with Fertilizer Injection
12. Marinas/Docks
13. Radiator Shops
14. Commercial Pesticide/Herbicide Application
15. Photo/X-ray/Film Processing Laboratories
16. Multiple Commercial Units served by a master meter
17. Any type of occupancy type or any other facility having one or more Single-walled Heat Exchangers which uses any chemical, additive, or corrosion inhibitor, etc., in the heating or cooling medium
18. Any type of occupancy type or any other facility having one or more Double-walled Heat Exchangers which use any chemical, additive, or corrosion inhibitor, etc., in the heating or cooling medium and which does not have a path to atmosphere with a readily visible discharge
19. Premises where access/entry is prohibited
Pressure Vacuum Breaker Assembly/Spill Resistant Vacuum Breaker Assembly
1. Irrigation/Lawn Sprinkler Systems
Double Check Valve Assembly
1. Fire Protection/Sprinkler Systems (a detector type double check valve assembly is recommended on unmetered fire lines)
2. Two residential dwelling units served by a master meter, unless both units are located on a parcel or contiguous parcels of land having the same ownership and neither unit is used for commercial purposes. As used herein, the term "commercial purposes" means any use other than residential.
3. Three or more residential dwelling units served by a master meter
4. Multistoried Office/Commercial Buildings (over 3 floors)
5. Jails, Prisons, and Other Places of Detention or Incarceration

52. Add Section 608.18.2, Other Containment Requirements.

a. Table 608.18.1 of this code above is not inclusive of all potential contamination sources which may need containment protection. For potential contamination sources not listed in this table, backflow prevention methods or devices shall be utilized in accordance with Table B1 of CAN/CSA B64.10-1994. When a potential contamination source and its associated backflow prevention method or device is not identified in Table 608.18.1 of this code above or Table B1 of CAN/CSA B64.10-1994, backflow prevention methods or devices shall be utilized:

i. as directed by the building code official; or

ii. as directed by the water supplier.

iii. In cases of a discrepancy regarding the particular backflow prevention assembly or method required,

the assembly or method providing the higher level of protection shall be required.

G. Amend Chapter 7, Sanitary Drainage.

1. Amend Section 701.2, Sewer Required.

a. Buildings in which plumbing fixtures are installed and premises having sanitary drainage system piping shall be connected to a community sewerage system, where available, or an approved commercial treatment facility or individual sewerage meeting the requirements of LAC 51:XIII (Sewage Disposal).

2. Amend Section701.3, Separate Sewer Connection.

a. A building having plumbing fixtures installed and intended for human habitation, occupancy or use on premises abutting on a street, alley or easement in which there is community sewerage system shall have a separate connection with the sanitary sewer. Where located on the same lot, multiple buildings shall not be prohibited from connecting to a common sanitary building sewer that connects to the community sewerage system.

3. Amend Section 701.8, Engineered Systems.

a. Engineered sanitary drainage systems shall conform to the provisions of Section 316 and 714. Single stack plumbing systems may be considered for approval by the code official for use on the upper floors of hotel and motel guest rooms but shall not be approved for condominium or apartment complexes.

4. Amend Section 701.9, Drainage Piping in Food Service Areas.

a. Exposed soil or waste piping, including vacuum drainage systems, shall not be installed above any food preparation areas, food or utensil storage areas or eating surfaces in food service establishments unless they are adequately shielded to intercept potential drips.

5. Add Section 701.10, Repairs to Drainage System via Re-Route.

a. In the case where it is determined that there is a broken underground drain line including, but not limited to, broken drain lines under the slab of a building, and a drain line re-route is performed, the existing broken underground drain line shall be cut or otherwise disconnected from the entire drainage system. At the point of such cutting or disconnection, the entire circumference of the existing pipe which remains connected to the drainage system shall have a wall thickness of not less than 1/8-inch. The existing pipe which remains connected to the drainage system shall be sealed watertight and gastight using approved plumbing materials and joining/jointing methods, e.g., properly install an approved cap, plug, or cleanout on the cut or disconnected pipe.

6. Amend Section 702.5, Chemical Waste System.

a. A chemical waste system shall be completely separated from the sanitary drainage system. The chemical waste shall be treated in accordance with Section 803.2 before discharging to the sanitary drainage system. Separate drainage systems for chemical wastes and vent pipes shall be constructed of one of the materials listed in Table 702.5 or other materials approved by the plumbing official. The material selected shall be resistant to corrosion and degradation for the concentrations of chemicals involved. Joints shall be made in conformance with the manufacturer's recommendations.

i. Table 702.5—Chemical Waste System

Material	Standard
High silicon cast iron	ASTM A 518/A 518M
Borosilicate glass	ASTM C 1053
Chlorinated poly [vinyl chloride] (CPVC)	ASTM F 2618
Polyolefin	ASTM F 1412
Polyvinylidene fluoride (PVDF)	ASTM F 1673

7. Add Section 703.6, Minimum Size Building Sewer.

a. No building sewer shall be less than 4 inches in size with the exception of force lines.

8. Delete Section 706.4, Heel- or Side-Inlet Quarter Bends.

9. Amend Section 708.3, Where Required.

a. Cleanouts shall be located in accordance with Sections 708.3.1 through 708.3.6.

10. Amend Section 708.3.1, Horizontal Drains within Buildings.

a. Horizontal drains within buildings shall be provided with cleanouts as follows.

i. All horizontal drains 3-inch nominal diameter or less, cleanouts shall be located at not more than 50 feet (15 200mm) intervals.

ii. For horizontal drains 4-inch nominal diameter through 6-inch nominal diameter, cleanouts shall be located at not more than 80 feet (24 400mm) intervals.

iii. Horizontal drains larger than 6-inch nominal diameter shall be provided with cleanouts located at not more than 100 feet (30 480 mm) intervals.

11. Amend Section 708.3.2, Building Sewers.

a. Building sewers 4-inch nominal diameter through 6-inch nominal diameter shall be provided with cleanouts located not more than 80 feet (24 400mm) apart measured from the upstream entrance of the cleanout. For building sewers 8 inches (203 mm) and larger, manholes shall be provided and located not more than 200 feet (60 960 mm) from the junction of the building drain and building sewer, at each change in direction and at intervals of not more than 400 feet (122 m) apart. Manholes and manhole covers shall be of an approved type.

12. Amend Section 708.3.3, Changes of Direction.

a. Each horizontal drainage pipe shall be provided with a cleanout at the upstream end of the pipe and in changes of direction over 45° (0.785 rad).

i. Exceptions:

(a). The following plumbing arrangements are acceptable in lieu of the upstream cleanout:

(i). "P" traps connected to the drainage piping with slip joints or ground joint connections;

(ii). "P" traps into which floor drains, shower drains or tub drains with removable strainers discharge;

(iii). "P" traps into which the straight through type waste and overflow discharge with the overflow connecting to the branch of the tee;

(iv). "P" traps into which residential washing machines discharge;

(v). test tees or cleanouts in a vertical pipe above the flood-level rim of the fixtures that the horizontal pipe serves and not more than 4-feet (1219 mm) above the finish floor.

13. Amend Section 708.3.5, Building Drain and Building Sewer Junction.

a. There shall be a cleanout within 6 feet (1829 mm) of the junction of the building drain and the building sewer. The cleanout shall be either inside or outside the building wall and shall be brought up to the finished ground level or to the basement floor level. An approved two-way cleanout is allowed to be used at this location to serve as a required cleanout for both the building drain and building sewer. The minimum size of the cleanout at the junction of the building drain and building sewer shall comply with Section 708.7.

14. Amend Section 710.1, Maximum Fixture Unit Load.

a. The maximum number of drainage fixture units connected to a given size of building sewer, building drain or horizontal branch of the building drain shall be determined using Table 710.1(1). The maximum number of drainage fixture units connected to a given size vertical soil or waste stack, or horizontal branch connecting to a vertical soil or waste stack, shall be determined using Table 710.1(2).

15. Amend Table 710.1(1).

a. Table 710.1(1)—Building Drains and Sewers

Diameter Of Pipe (Inches)	Maximum Number of Drainage Fixture Units Connected to Any Portion of the Building Drain or the Building Sewer, Including Branches of the Building Drain[a]			
	Slope Per Foot			
	1/16 inch	1/8 inch	1/4 inch	1/2 inch
1 1/4			1	1
1 1/2			3	3
2			21	26
2 1/2			24	31
3		20 (not over two water closets)	27 (not over two water closets)	36 (not over two water closets)
4	—	180	216	250
5	—	390	480	575
6	—	700	840	1,000
8	1,400	1,600	1,920	2,300
10	2,500	2,900	3,500	4,200
12	3,900	4,600	5,600	6,700
15	7,000	8,300	10,000	12,000

For SI: 1 inch = 25.4 mm, 1 inch per foot = 83.3 mm/m.

[a] The minimum size of any building drain serving a water closet shall be 3 inches.

16. Amend Table 710.1(2).

a. Table 710.1(2)—Horizontal Fixture Branches and Soil Stacks[a].

Diameter of Pipe (inches) (The minimum size of any branch or soil stack serving a water closet shall be 3".)	Maximum Number of Drainage Fixture Units (dfu)			
	Total for horizontal branch (Does not include branches of the building drain. Use 50 percent less dfu's for any circuit or battery vented fixture branches, no size reduction permitted for circuit or battery vented branches throughout the entire branch length.)	Soil Stacks[b]		
		Total discharge into one branch interval when greater than three branch intervals	Total for soil stack when three branch intervals or less	Total for soil stack when greater than three branch intervals
1 1/2	3	2	4	8
2	6	6	10	24
2 1/2	12	9	20	42
3	20 (not over two water closets)	16 (not over two water closets)	30 (not over six water closets)	60 (not over six water closets)
4	160	90	240	500
5	360	200	540	1,100
6	620	350	960	1,900
8	1,400	600	2,200	3,600
10	2,500	1,000	3,800	5,600
12	3,900	1,500	6,000	8,400
15	7,000	Note [c]	Note [c]	Note [c]

For SI: 1 inch = 25.4 mm.

[a] Does not include branches of the building drain. Refer to Table 710.1(1).

[b] Soil stacks shall be sized based on the total accumulated connected load at each story or branch interval. As the total accumulated connected load decreases, stacks are permitted to be reduced in size. Stack diameters shall not be reduced to less than one-half of the diameter of the largest stack size required.

[c] Sizing load based on design criteria.

17. Add Section 710.1.3, Minimum Size of Soil and Waste Stacks.

a. No soil or waste stack shall be smaller than the largest horizontal branch connected thereto except that a 4x3 water closet connection shall not be considered as a reduction in pipe size. The soil or waste stack shall run undiminished in size from its connection to the building drain to its connection to the stack vent.

18. Add Section 710.1.4, Minimum Size of Drain Serving a Water Closet.

a. The minimum size of any building drain serving a water closet shall be 3 inches. Not more than two water closets shall discharge into a 3-inch horizontal building drain. Not more than six water closets shall discharge into a 3-inch vertical building drain.

19. Add Section 710.3, Underground Drainage Piping.

a. Any portion of the drainage system installed underground or below a basement or cellar shall not be less than 2-inch diameter. In addition, any portion of the drainage system installed underground which is located upstream

from a grease trap or grease interceptor as well as the underground horizontal branch receiving the discharge there from shall not be less than 3-inch diameter.

20. Amend Section 713.9, Local Vents and Stacks for Bedpan Washers.

a. Bedpan washers shall be vented to open air above the roof by means of one or more local vents. The vent terminal and location of the local vent shall be the same as required for sanitary sewer vents. The local vent for a bedpan washer shall not be less than a 2-inch-diameter (51 mm) pipe. A local vent serving a single bedpan washer is permitted to drain to the fixture served.

H. Chapter 8 Indirect/Special Waste.

1. Amend Section 802.1.1, Food Handling.

a. Equipment and fixtures utilized for the storage, preparation and handling of food shall discharge through an indirect waste pipe by means of an air gap. Food handling equipment includes but is not limited to the following: any sink where food is cleaned, peeled, cut up, rinsed, battered, defrosted or otherwise prepared or handled; potato peelers; ice cream dipper wells; refrigerators; freezers; walk-in coolers or freezers; ice boxes; ice making machines; fountain type drink dispensers; rinse sinks; cooling or refrigerating coils; laundry washers; extractors; steam tables; steam kettles; egg boilers; coffee urns; steam jackets or other food handling or cooking equipment wherein the indirect waste pipe may come under a vacuum; or similar equipment.

2. Amend Section 802.2, Installation.

a. Indirect waste piping shall discharge through an air gap or air break into a waste receptor. Waste receptors and standpipes shall be trapped and vented and shall connect to the building drainage system. All indirect waste piping that exceeds 30 inches (762 mm) in developed length measured horizontally, or 54 inches (1372 mm) in total developed length, shall be trapped. The maximum length of indirect waste piping to the waste receptor shall not exceed 15 feet (4527 mm). Should an indirect waste pipe exceed 15 feet in length, a local vent shall be provided at a maximum of every 15 feet (4527 mm) in length. Indirect waste piping shall be installed as to permit ready access for flushing and cleaning.

3. Amend Section 802.2.2, Air Break.

a. An air break shall be provided between the indirect waste pipe and the trap seal of the waste receptor or standpipe. The air break (drainage system) between the indirect waste and the building drainage system shall be installed such that the level of the lowest outlet located on the fixture, device, appliance or apparatus (to which the indirect waste pipe connects) is above the flood-level rim of the receiving sink or other receptor by a vertical distance of at least twice the diameter of the effective opening of the indirect waste pipe, but in no case less than 2 inches (51 mm). In addition, the indirect waste pipe shall terminate below the flood-level rim of the receiving sink or other receptor a distance equal to not more than one-half (1/2) the diameter of the effective opening of the indirect waste pipe.

I. Delete Section 918, Air Admittance Valves in its entirety and all referring sections of the 2012 IPC.

J. Amend Chapter 10: Traps, Interceptors and Separators.

1. Amend Section 1002.1, Fixture Traps.

a. Each plumbing fixture shall be separately trapped by a liquid-seal trap, except as otherwise permitted by this code. The vertical distance from the fixture outlet to the trap weir shall not exceed 24 inches (610 mm), and the horizontal distance shall not exceed 30 inches (610 mm) measured from the centerline of the fixture outlet to the centerline of the inlet of the trap. The height of a clothes washer standpipe above a trap shall conform to Section 802.4. A fixture shall not be double trapped.

i. Exceptions

(a). This section shall not apply to fixtures with integral traps.

(b). A combination plumbing fixture is permitted to be installed on one trap, provided that one compartment is not more than 6 inches (152 mm) deeper than the other compartment and the waste outlets are not more than 30 inches (762 mm) apart.

(c). A grease interceptor intended to serve as a fixture trap in accordance with the manufacturer's installation instructions shall be permitted to serve as the trap for a single fixture or a combination sink of not more than three compartments where the vertical distance from the fixture outlet to the inlet of the interceptor does not exceed 30 inches (762 mm) and the developed length of the waste pipe from the most upstream fixture outlet to the inlet of the interceptor does not exceed 60 inches (1524 mm).

(d). One trap may be installed for a set of not more than three single-compartment sinks or laundry trays or three lavatories immediately adjacent to each other in the same room, if the waste outlets are not more than 30 inches (762 mm) apart and the trap is centrally located when three compartments are installed.

2. Amend Section 1002, Prohibited Traps.

a. The following types of traps are prohibited:

i. traps that depend on moving parts to maintain the seal;

ii. bell traps;

iii. crown-vented traps;

iv. traps not integral with a fixture and that depend on interior partitions for the seal, except those traps constructed of an approved material that is resistant to corrosion and degradation;

v. "S" traps;

vi. drum traps;

(a). exception:

(i). drum traps used as solids interceptors and drum traps serving chemical waste systems shall not be prohibited.

vii. running traps;

(a). exceptions:

(i). a running trap with cleanout may be allowed on condensate waste lines and for certain floor level fixtures installed on a combination waste and vent system.

3. Amend Section 1002.4, Trap Seals.

a. Each fixture trap shall have a liquid seal of not less than 2 inches (51 mm) and not more than 4 inches (102 mm), or deeper for special designs relating to accessible fixtures. Where a trap seal is subject to loss by evaporation, (*i.e., floor drains or similar traps where the water seal is not replenished regularly and automatically)* a trap seal primer valve shall be installed. Trap seal primer valves shall

connect to the trap at a point above the level of the trap seal. A trap seal primer valve shall conform to ASSE 1018 or ASSE 1044.

4. Add Section 1002.4.2, Drainage Type Trap Seal Primer Valves.

a. Drainage-type trap seal primers meeting ASSE 1044 shall capture liquid wastes only from:

i. the tail piece of a lavatory;

ii. the discharge side of the atmospheric vacuum breaker located downstream of a flushometer valve servicing a water closet or a clinical sink (the takeoff point on the discharge pipe must be at least 4" below the critical level of the vacuum breaker); or,

iii. the refill/hush tube of ballcocks

5. Amend Section 1003.2, Approval.

a. Interceptors and separators shall be designed and installed in accordance with the manufacturer's instructions and the requirements of this section based on the anticipated conditions of use. Wastes that do not require treatment or separation shall not be discharged into any interceptor or separator. No interceptor or separator shall be installed until its design, size, location and venting has been approved by the local jurisdictional code official. The local jurisdictional code official shall have the authority to require a grease interceptor to be serviced, repaired, or replaced with a larger unit when it is determined that a unit is not working or being maintained properly, the unit is damaged, or the mode of operation of the facility no longer meets the anticipated conditions of use (i.e., offensive odors, sewage backups or overflows, or when it is determined that grease is bypassing the grease interceptor and causing downstream blockages or interfering with sewage treatment.)

6. Amend Section 1003.3, Grease Interceptors.

a. Grease interceptors shall comply with the requirements of Sections 1003.3.1 through 1003.3.5.

7. Amend Section 1003.3.1, Grease Interceptors and Automatic Grease Removal Devices Required.

a. A grease interceptor or automatic grease removal device, sized in accordance with Section 1003.3.5 of this code, shall be required to receive the drainage from fixtures and equipment with grease-laden waste located in food preparation areas, such as in restaurants, hotel kitchens, hospitals, school kitchens, bars, factory cafeterias and clubs. Fixtures and equipment shall include pot sinks, prerinse sinks; soup kettles or similar devices; work stations; floor drains or sinks into which kettles are drained; automatic hood wash units and dishwashers. Grease interceptors and automatic grease removal devices shall receive waste only from fixtures and equipment that allow fats, oils or grease to be discharged. Other than standard detergents associated with dishwashing; emulsifiers, chemicals, enzymes or bacteria shall not discharge into a grease interceptor or automatic grease removal device. A grease interceptor or an automatic grease removal device shall not be required for individual detached one- and two-family dwelling units or any private living quarters.

8. Amend Section 1003.3.2, Hydromechanical Grease Interceptors.

a. Hydromechanical grease interceptors shall be evaluated, tested, and certified for conformance with ASME A 112.14.3, PDI-G101, or PDI-G102. Hydromechanical grease interceptors shall be equipped with devices to control the rate of water flow so that the water flow does not exceed the rated flow. The flow-control device shall be vented and terminate not less than 6 inches (152 mm) above the flood rim level or be installed in accordance with the manufacturer's instructions. To prevent odors in the kitchen or occupied space, such vent shall be directly connected to the building vent system. Hydromechanical grease interceptors shall be sized in accordance with Section 1003.3.5 of this code.

9. Amend Section 1003.3.3, Automatic Grease Removal Devices.

a. Automatic grease removal devices shall be evaluated, tested, and certified for conformance with ASME A112.14.4. Where automatic grease removal devices are installed, such devices shall be located downstream of each fixture or multiple fixtures in accordance with the manufacturer's instructions. Ready access shall be provided for inspection and maintenance. Automatic grease removal devices shall be sized in accordance with Section 1003.3.5 of this code.

10. Amend Section 1003.3.4, Gravity Grease Interceptors.

a. Gravity grease interceptors shall comply with the requirements of Sections 1003.3.4.1 through 1003.3.4.8 and shall be sized in accordance with Section 1003.3.5 of this code.

11. Amend 1003.3.4.1, Indoor Installations.

a. If a gravity grease interceptor must be installed within an enclosed building, any access covers shall be gasketed to prevent the intrusion of odors into the building.

12. Amend Section 1003.3.4.2, Distance.

a. The grease interceptor shall be placed as close to the plumbing fixture(s) discharging greasy waste as possible, but preferably on the outside of the building when feasible.

13. Add Section 1003.3.4.3, Outlet Pipe.

a. The minimum diameter of the outlet pipe shall not be less than 4 inches. The invert of the gravity grease interceptor outlet opening (i.e., lowest portion of the outlet pipe where it draws waste near the bottom of the grease interceptor), shall be located at a maximum of 6 inches and a minimum of 4 inches from the floor of the grease interceptor. This requirement also applies to any intermediate outlets in multi-compartment gravity grease interceptors.

14. Add Section 1003.3.4.4, Air Space.

a. A minimum of one foot of air space shall be provided above the static water level.

15. Add Section 1003.3.4.5, Venting.

a. A gravity grease interceptor outlet shall be properly vented in accordance with this section to prevent it from siphoning itself out. Any internally vented outlet line shall have the vent terminal extended to within 2 inches of the bottom of the access cover to prevent grease from escaping the gravity grease interceptor through the open vent terminal. For those gravity grease interceptors having a gasketed cover, the gravity grease interceptor outlet line shall not be allowed to be internally vented. In this case, the outlet line itself shall be vented with a minimum 2-inch vent pipe installed in accordance with Chapter 9 of this code.

16. Add Section 1003.3.4.6, Water Seal.

a. On unbaffled single compartment gravity grease interceptors, a 90° ell shall be used on the inlet and shall

terminate 6 inches below the static water level. On baffled single compartment gravity grease interceptors, a baffle wall shall be placed between the inlet and outlet. The inlet shall discharge into the gravity grease interceptor at a level at least 6 inches below the top of the baffle wall.

17. Add Section 1003.3.4.7, Minimum Horizontal Distance.

a. The minimum horizontal distance between the inlet and outlet piping in the gravity grease interceptor shall be 24 inches.

18. Add Section 1003.3.4.8, Access/Covers.

a. Access from the top of the gravity grease interceptor shall be provided by an easily removable cover above an access opening for proper maintenance. Additional access opening/covers shall be provided as necessary to provide accessibility to each compartment in multi-compartment or multi-baffled arrangements as well as access to both the inlet and outlet. Access opening covers shall be above or at grade (G) to provide ready accessibility. Each access cover shall be designed so that it cannot slide, rotate, or flip when properly installed in order that the opening is not unintentionally exposed. Especially for lightweight covers, mechanical fasteners are recommended to augment the safety of and ensure positive closure of the cover.

19. Amend Section 1003.3.5, Minimum Required Liquid Holding Capacity.

a. In all instances of new construction, change of occupancy classification or use of the property, a gravity grease interceptor or hydro-mechanical grease interceptor meeting the minimum capacity as required by this Section of the Code shall be installed. The minimum required capacity (volume) of the grease interceptor shall be determined based upon the maximum number of persons served during the largest meal period in accordance Section 1003.3.5.1 or 1003.3.5.2 of this code.

20. Add Section 1003.3.5.1, Without Garbage Grinder.

a. The minimum capacity for applications without a garbage grinder shall not be less than 125 gallons below the static water level. This capacity is sufficient to hold the flow from one meal long enough to accomplish proper grease separation when serving up to 50 people during a single meal period. When over 50 people are served during a single meal period, the minimum capacity shall be increased beyond 125 gallons based upon at least an additional 2 1/2 gallons per person beginning with the 51st person served and greater.

21. Add Section 1003.3.5.2, With Garbage Grinder.

a. When a garbage grinder is connected, the minimum capacity shall not be less than 500 gallons below the static water level. This capacity is sufficient to hold the flow from one meal long enough to accomplish proper grease separation when serving up to 50 people during a single meal period. When a garbage grinder is connected and over 50 people are served during a single meal period, the minimum capacity shall be increased beyond 500 gallons based upon at least an additional 2 1/2 gallons per person beginning with the 51st person served and greater.

i. Exception

(a). At the discretion of the local jurisdictional code official, a smaller, point of use type hydro-mechanical grease interceptor or automatic grease removal device may be permissible when:

(i). a concrete slab would have to be broken at an existing building or facility for the proper installation of a grease interceptor; or

(ii). an outside, unpaved area surrounding an existing building where a grease interceptor could be installed is available; however, it is determined that the area is located further than 75 feet from the plumbing fixtures that the grease interceptor would be servicing; or

(iii). the local jurisdictional code official determines that the installation is unfeasible such as when servicing a kitchen located on the upper floors of a multistoried building; or

(iv). the local jurisdictional code official determines that minimal fat, oil and grease will be produced or introduced into the sanitary drainage system based on the menu and mode of operation of the facility (i.e., snowball stands, sandwich shops, or other similar facilities with low grease production and which utilize single-service tableware and hollowware including forks, knives, spoons, plates, bowls, cups, and other serving dishes).

(b). In these instances, listed under the exception, the minimum required size of the hydromechanical grease interceptor shall be determined based upon fixture discharge rate (gpm) and grease retention capacity (pounds) in accordance with PDI G101 or ASME A 112.14.3. Automatic grease removal devices shall be sized in accordance with ASME A112.14.4. In no case shall a grease interceptor or automatic grease removal device be installed which has an approved rate of flow of less than 20 gallons per minute.

22. Amend Section 1003.10, Access and Maintenance of Interceptors and Separators.

a. Access shall be provided to each interceptor and separator for service and maintenance. A two-way cleanout shall be provided on the discharge waste line immediately downstream of all interceptors and separators. Interceptors and separators shall be maintained by periodic removal of accumulated grease, scum, oil, or other floating substances and solids deposited in the interceptor or separator.

K. Amend Chapter 11, Storm Drainage.

1. Amend Section 1101.2, Where Required.

a. All roofs, paved areas, yards, courts and courtyards shall drain into a separate storm sewer system or to an approved place of disposal. For one- and two-family dwellings, and where approved, storm water is permitted to discharge onto flat areas, such as streets or lawns, provided that the storm water flows away from the building.

2. Amend Section 1101.3, Prohibited Drainage.

a. Storm water shall not be drained into sewers intended for sewage only.

i. Exception

(a). Liquid waste from the cleaning operation and from the leakage of garbage containers and dumpsters holding putrescible wastes shall be disposed of as sewage. Methods used for this disposal shall prevent rainwater and runoff from adjacent areas from entering the sanitary sewerage system (i.e., dumpster pads may be elevated or curbed, enclosed or covered). When determined by the code official that liquid wastes or putrescible wastes contain fats, oils or grease (or, for new establishments, will likely contain fats, oils, or grease in the future), an approved grease interceptor shall be installed in the waste line in accordance with Section 1003 of this Code.

3. Amend Section 1102.2, Inside Storm Drainage Conductors.

a. Inside storm drainage conductors installed above ground shall conform to one of the standards listed in Table 702.1. Plastic piping shall be schedule 40.

4. Amend Section 1102.3, Underground Building Storm Drain Pipe.

a. Underground building storm drain pipe shall conform to one of the standards listed in Table 702.2. Plastic piping shall be schedule 40.

5. Delete Section 1103.1.

6. Delete Section 1103.2.

7. Delete Section 1103.3.

8. Delete Section 1103.4.

9. Amend Section 1104.2, Combining Storm with Sanitary Drainage Prohibited.

a. The sanitary and storm drainage systems of a structure shall be entirely separate.

10. Amend Section 1106.2, Vertical Conductors and Leaders.

a. Vertical conductors and leaders shall be sized for the maximum projected roof area, in accordance with Table 1106.2(1) and Table 1106.2(2). If a vertical offset is 45 degrees or less, the leader can be sized as a vertical pipe. If the offset is greater than 45 degrees, the pipe must be sized as a horizontal pipe.

11. Delete Section 1109.1.

12. Amend Section 1113.1, Building Subdrains.

a. Building subdrains located below the public storm sewer level shall discharge into a sump or receiving tank, the contents of which shall be automatically lifted and discharged into the gravity storm drainage system as required for building sumps. The sump and pumping equipment shall comply with Section 1114.1.

L. Amend Chapter 13, Gray Water Recycling Systems.

1. Amend Section 1301.1, Scope.

a. Gray water recycling systems shall only be considered on an individual basis and plans and specifications for any proposed gray water recycling system shall be submitted to the local jurisdictional code official for review and approval prior to construction. Such plans and specifications shall be appropriately sealed and signed by a Louisiana Registered Professional Engineer. Potable makeup water supply lines shall be protected against backflow by an air gap or reduced pressure principal backflow prevention assembly. The provisions of Chapter 13 shall govern the materials, design, construction and installation of gray water systems for flushing of water closets and urinals and for subsurface landscape irrigation. See Figures 1301.1(1) and 1301.1(2).

M. Amend Chapter 14, Referenced Standards.

1. Amend CSA Referenced Standard.

a. B64.10.1-07 Maintenance and Field testing of Backflow Prevention devices Section 312.10.2

b. B64.10-94 Manual for the Selection, Installation, Maintenance and Field testing of Backflow Prevention Devices (not including Part 6 (Maintenance and Field Testing) Section 608.16 and Section 618.2

N. Add and reserve Chapter 15 for future use.

O. Add Chapter 16, Travel Trailer and Mobile/Manufactured Home Parks.

1. Add the following definitions.

Dependent Travel Trailer—a travel trailer not equipped with a water closet.

Drain Hose—the approved type hose, flexible and easily detachable, used for connecting the drain outlet on a travel trailer to a sewer inlet connection.

Drain Outlet—the lowest end of the main drain of a travel trailer itself to which a drain hose is connected.

Independent Travel Trailer—a travel trailer equipped with a water closet and a bath or shower.

Inlet Coupling—the terminal end of the branch water line to which the mobile/manufactured home or travel trailer's water service connection is made. It may be a swivel fitting or threaded pipe end.

Intermediate Waste Holding Tank (travel trailers only)—an enclosed tank for the temporary retention of water-borne waste.

Mobile/Manufactured Home—a prefabricated home built on a permanent chassis which can be transported in one or more sections and is typically used as a permanent dwelling. Manufactured homes built since 1976 are built to the Manufactured Home Construction and Safety Standards (HUD Code) and display a HUD certification label on the exterior of each transportable section.

Park or *Mobile/Manufactured Home Park* or *Travel Trailer Park*—any lot, tract, parcel or plot of land upon which more than one travel trailer and/or mobile/manufactured homes parked for the temporary or permanent use of a person or persons for living, working or congregating.

Park Drainage System—the entire system of drainage piping within the park which is used to convey sewage or other wastes from the mobile/manufactured home or travel trailer drain outlet connection, beginning at its sewer inlet connection at the mobile/manufactured home or travel trailer site, to a community sewerage system, a commercial treatment facility, or an individual sewerage system.

Park Water Distribution System—all of the water distribution piping within the park, extending from the water supply system or other source of supply to, but not including, the mobile/manufactured home or travel trailer's water service connection, and including branch service lines, fixture devices, service buildings and appurtenances thereto.

Service Building—a building housing toilet and bathing facilities for men and women, with laundry facilities.

Sewer Inlet—a sewer pipe connection permanently provided at the travel trailer or mobile/manufactured home site which is designed to receive sewage when a travel trailer or a mobile/manufactured home is parked on such site. It is considered the upstream terminus of the park drainage system.

Travel Trailer—a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use.

Travel Trailer Sanitary Service Station—a sewage inlet with cover, surrounded by a concrete apron sloped

inward to the drain, and watering facilities to permit periodic wash down of the immediately adjacent area, to be used as a disposal point for the contents of intermediate waste holding tanks of travel trailers.

Water Service Connection—as used in conjunction with mobile/manufactured homes and travel trailers, the water pipe connected between the inlet coupling of the park water distribution system and the water supply fitting provided on the mobile/manufactured home or travel trailer itself.

2. Add Section 1601, General.

a. Add Section 1601.1, Scope.

i. The requirements set forth in this Chapter shall apply specifically to all new travel trailer and mobile/manufactured home parks, and to additions to existing parks as herein defined, and are to provide minimum standards for sanitation and plumbing installation within these parks, for the accommodations, use and parking of travel trailers and/or mobile/manufactured homes.

b. Add Section 1601.2, Governing Provisions.

i. Other general provisions of this code shall govern the installation of plumbing systems in travel trailer and mobile/manufactured home parks, except where special conditions or construction are specifically defined in this Chapter.

c. Add Section 1601.3, Sewage Collection, Disposal, Treatment.

i. Travel trailers or mobile/manufactured homes shall not hereafter be parked in any park unless there are provided plumbing and sanitation facilities installed and maintained in conformity with this code. Every travel trailer and mobile/manufactured home shall provide a gastight and watertight connection for sewage disposal which shall be connected to an underground sewage collection system discharging into a community sewerage system, a commercial treatment facility, or an individual sewerage system which has been approved by the state health officer.

d. Add Section 1601.4, Travel Trailer Sanitary Service Station.

i. At least one travel trailer sanitary service station shall be provided in all travel trailer parks that accept any travel trailers having an intermediate waste holding tank. The water supply serving the sanitary service station shall be protected against backflow by a reduced pressure principle backflow prevention assembly meeting the requirements of Section 608 of this code.

e. Add Section 1601.5, Materials.

i. Unless otherwise provided for in this Chapter, all piping fixtures or devices used in the installation of drainage and water distribution systems for travel trailer parks and mobile/manufactured home parks shall conform to the quality and weights of materials prescribed by this code.

f. Add Section 1601.6, Installation.

i. Unless otherwise provided for in this Chapter, all plumbing fixtures, piping drains, appurtenances and appliances designed and used in the park drainage, water distribution system, and service connections shall be installed in conformance with the requirements of this code.

g. Add Section 1601.7, Maintenance.

i. All devices or safeguards required by this Chapter shall be maintained in good working order by the owner, operator, or lessee of the travel trailer park or his designated agent.

3. Add Section 1602, Service Buildings.

a. Add Section 1602.1, Service Buildings for Independent Travel Trailers.

i. Each travel trailer park which serves only independent travel trailers shall have at least one service building to provide necessary sanitation and laundry facilities. Each mobile/manufactured home park which also serves one or more independent travel trailers (in addition to mobile/manufactured homes) shall have at least one service building to provide necessary sanitation and laundry facilities. When a service building is required under this Section, it shall have a minimum of one water closet, one lavatory, one shower or bathtub for females and one water closet, one lavatory, and one shower or bathtub for males. In addition, at least one laundry tray or clothes washing machine and one drinking fountain located in a common area shall be provided.

(a). Exception

(i). Temporary (6 months) travel trailers residing in mobile home parks and or where more than one travel trailer resides for the purpose of employment and or hardships, may be exempted by the local jurisdiction building official from 1602.1.

b. Add Section 1602.2, Service Building for Dependent Travel Trailers.

i. The service building(s) in travel trailer or mobile/manufactured home parks that also accommodate dependent travel trailers shall have a minimum of two water closets, one lavatory, one shower or bathtub for females, and one water closet, one lavatory, one urinal, and one shower or bathtub for males. In addition, at least one laundry tray or clothes washing machine and one drinking fountain located in a common area shall be provided. The above facilities are for a maximum of ten dependent travel trailers. For every ten additional dependent travel trailers (or any fraction thereof) the following additional fixtures shall be provided: One laundry tray or clothes washing machine, one shower or bathtub for each sex, and one water closet for females. Also, one additional water closet for males shall be provided for every 15 additional dependent travel trailers (or any fraction thereof).

c. Add Section 1602.3, Service Building Design Requirements.

i. Each service building shall conform to Sections 1302.3.1 through 1302.3.3 of this code.

d. Add Section 1302.3.1, Construction.

i. Every service building shall be of permanent construction with an interior finish of moisture resistant material which will stand frequent washing and cleaning and the building shall be well-lighted and ventilated at all times.

e. Add Section 1602.3.2, Fixture Separation.

i. The laundry tray(s) and/or clothes washing machine(s) and drinking fountain(s) shall be located in a common area. None of these fixtures shall be located within any toilet room. Each water closet, tub and/or shower shall be in separate compartments with self-closing doors on all water closet compartments. The shower stall shall be a minimum of 3 x 3 feet (914 x 914 mm) in area, with a dressing compartment.

f. Add Section 1602.3.3, Floor Drains.

i. A minimum 2-inch floor drain protected by and approved trap primer shall be installed in each toilet room and laundry room.

4. Add Section 1603, Park Drainage System.

a. Add Section 1603.1, Separation of water and sewer lines.

i. The sewer main and sewer laterals shall be separated from the park water service and distribution system in accordance with Section 603.2 of this code.

b. Add Section 1603.2, Minimum Size Pipe.

i. The minimum size pipe in any mobile/manufactured home park or travel trailer park drainage system shall be 4 inches. This includes branch lines or sewer laterals to individual travel trailers and mobile/manufactured homes.

c. Add Section 1603.3, Fixture Units.

i. Each mobile/manufactured home and travel trailer shall be considered as 6 fixture units in determining discharge requirements in the design of park drainage and sewage disposal systems.

d. Add Section 1603.4, Sewage Disposal/Treatment.

i. The discharge of a park drainage system shall be connected to a community sewerage system. Where a community sewerage system is not available, an approved commercial treatment facility or individual sewerage system shall be installed in accord with the requirements of LAC 51:XIII (Sewage Disposal).

e. Add Section 1603.5, Manholes and Cleanouts.

i. Manholes and/or cleanouts shall be provided and constructed as required in Chapter 7 of this code. Manholes and/or cleanouts shall be accessible and brought to grade.

f. Add Section 1603.6, Sewer Inlets.

i. Sewer inlets shall be 4-inch diameter and extend above grade (G) 3 to 6 inches (76 to 152 mm). Each inlet shall be provided with a gas-tight seal when connected to a travel trailer or mobile/manufactured home and have a gas-tight seal plug for use when not in service.

g. Add Section 1603.7, Drain Connections.

i. Drain connections shall slope continuously downward and form no traps. All pipe joints and connections shall be installed and maintained gastight and watertight.

h. Add Section 1603.8, Waste.

i. No sewage, waste water, or any other effluent shall be allowed to be deposited on the surface of the ground.

i. Add Section 1603.9, Testing the Park Drainage System.

i. Upon completion and before covering, the park drainage system shall be subjected to a static water test performed in accordance with Section 312 of this code.

5. Add Section 1604, Water Supply and Distribution System.

a. Add Section 1604.1, General.

i. Every mobile/manufactured home and travel trailer site shall be provided with an individual branch water service line delivering potable water.

b. Add Section 1604.2, Water Service Lines.

i. Water service lines to each travel trailer site shall be sized to provide a minimum of 8 gpm (0.505 L/s) at the point of connection with the trailer's water distribution system. Water service lines to each mobile/manufactured home site shall be sized to provide a minimum of 17 gpm (1.1 L/s) at the point of connection with the mobile/manufactured home's water distribution system. All water service lines shall be a minimum of 3/4 inch. A separate service shutoff valve shall be installed on each water service line. In instances where a backflow prevention device or assembly is installed on the water service line (see Section 608.16.23), the shutoff valve shall be located on the supply side of the device or assembly.

c. Add Section 1604.3, Water Service Connections.

i. The water service connection from the water service line to the mobile/manufactured home or travel trailer site shall be not less than 1/2-inch diameter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1) and Act836 of the 2014 of the Regular Louisiana Legislative Session. .

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2386 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:1672 (October 2016).

Lt. Colonel Jason Starnes
Chief Administrative Officer

1610#044

RULE

Department of Treasury
Board of Trustees of the Parochial Employees' Retirement System

Determination of the Unfunded Accrued Liability
(LAC 58:XI.701)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees for the Parochial Employees' Retirement System of Louisiana has approved for advertisement this Rule for the determination of the unfunded accrued liability under R.S. 11:1903(F). The rules have been adopted pursuant to R.S. 11:1983(A)(1), which provides that the Board of Trustees shall promulgate rules that facilitate the proper functioning of this system.

Title 58
RETIREMENT
Part XI. Parochial Employees' Retirement System
Chapter 7. Terminations
§701. Procedures for Determination of the Unfunded Accrued Liability

A. Procedures for Determination of the Unfunded Accrued Liability under R.S. 11:1903(F) of Parochial Employees' Retirement System of Louisiana

1. The unfunded accrued liability calculated pursuant to R.S. 11:1903(F) shall be determined in a manner consistent with statement 68 of the Governmental Accounting Standards Board.

2. That is the following: the portion of the unfunded accrued liability attributable to the employer's termination shall be a pro rata portion of the allocated share of the net pension liability (as per statement 68) for the prospective termination of the December 31 immediately preceding the date of termination. The pro rata share shall be determined as one minus the ratio of the present value of future salaries for the current active members of the terminating entity to the present value of future salaries of the active group assuming replacement of terminated employees based on a general increase in payroll as a function of the inflation assumption implicit in the valuation assumptions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 42:1691 (October 2016).

Dainna Tully
Administrative Director

1610#010

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Commercial Turtle Harvest Moratorium
(LAC 76:XV.101)

Editor's Note: The following Rule is being repromulgated to correct a submission error. The original Rule was printed in the May 20, 2016 edition of the *Louisiana Register* on page 762.

The Department of Wildlife and Fisheries and Wildlife and Fisheries Commission has placed a moratorium on the commercial harvest from the wild of razor-backed musk turtles and revised regulations to be consistent with title 56 of the *Louisiana Revised Statutes*.

Title 76
WILDLIFE AND FISHERIES
Part XV. Reptiles and Amphibians
Chapter 1. Guidelines
§101. Recreational and Commercial Harvests; Prohibitions

A. - F.2. …

G. Turtle Rules and Regulations

1. - 1.d. …

e. A reptile and amphibian collector's license is required to collect and sell turtles.

2. Restricted Turtles

a. List of restricted turtles:

i. alligator snapping turtle (*Macrochelys temminkii*);

ii. razor-backed musk turtle (*Sternotherus carinatus*);

iii. box turtles (*Terrapene sp.*).

b. Commercial Prohibition. No person shall commercially take, possess, sell, purchase, trade, barter, or exchange restricted turtles, their eggs, or any parts thereof. Except that nothing herein shall prohibit the legal commercial sale, and possession of restricted turtles by licensed turtle farmers as provided in R.S. 56:632 et seq., and R.S. 3:2358.1 et seq., which were legally acquired prior to the effective date of this prohibition or imported legally into this state which have proper records as provided for in 56:637.

c. Recreational Take and Possession Limit. Persons engaged in collection of native reptiles and amphibians shall be licensed in accordance with R.S. 56:632.3. No person shall possess restricted turtles taken with commercial gear. No person shall possess in the field more than one alligator snapping turtle, two box turtles, or two razor-backed musk turtles. No person shall possess more than four box turtles or four razor-backed musk turtles. Certified zoos, aquariums, universities, research and nature centers will be exempted from take limits.

H. - K.2. ...

L. Except as provided in Subsection K, whoever violates the provisions of this Rule shall be subject to penalties as provided for in R.S. 56:31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), (13), (15) and (25), R.S. 56:23, and R.S. 56:632.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 20:1135 (October 1994), amended LR 42:1692 (October 2016).

Bart R. Yakupzack
Chairman

1610#077

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Outlaw Quadruped, Nutria and
Beaver Night Take Permits (LAC 76:V.126)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission have promulgated rules and regulations governing the take of outlaw quadrupeds, nutria and beaver during the nighttime hours from September 1 of each year through the last day of February of the next year.

Title 76
WILDLIFE AND FISHERIES
Part V. Wild Quadrupeds and Wild Birds
Chapter 1. Wild Quadrupeds
§126. Outlaw Quadruped, Nutria and Beaver Night Take Permits

A. Purpose—to establish rules and regulations for the take of outlaw quadrupeds, nutria and beaver during the nighttime hours (one-half hour after official sunset to one-half hour before official sunrise) from September 1 of each year, through the last day of February of the next year.

B. Permits

1. On private property, the landowner, or his lessee or agent with written permission from the landowner may

obtain a permit authorizing the take of outlaw quadrupeds, nutria, or beaver during nighttime hours from September 1 through the last day of February of the next year.

2. Permit applications shall be completed on forms provided by the department, with all required information including but not limited to: applicants name, date of birth, contact information, date of application, parish information for applicant, landowner, and location of property subject to the permit, map, acreage, legal description, landowner's expressed authorization to allow night take for these species and any other information required by the department for the proper administration of the permit issuance. Any change of information requires the submission of a new permit application. Applications must be submitted to the regional enforcement office in which the property is located or to the wildlife permits coordinator at the Baton Rouge headquarters.

3. Permits may be issued during business hours by the wildlife enforcement captain located in the applicable regional enforcement office, or by electronic means at the discretion of the department.

4. Permits shall be valid for a period of one year beginning July 1 and terminating on June 30 of the following year. Permits may be renewed annually without additional application upon submission of the annual report and affirmation of the permittee's desire to renew, so long as the permittee has adhered to the rules of the permit and all information contained in the application remains accurate. The permit may be terminated by the permittee, landowner, or lessee at any time. The department may terminate any permit at any time for a violation of any regulation associated with the permit or for any violation of law committed during the participation by any person during the permitted activity. The department may also terminate permits for biological issues or specific enforcement concerns that may arise.

5. Permits are not transferrable and are only valid for the property for which they were issued.

6. No person shall be issued or obtain a permit if they have been convicted of class 3 or greater wildlife violation within a five-year period or have been prohibited in any way from legally participating in a hunting activity.

C. General Rules

1. Permit holders may take or authorize the take of outlaw quadrupeds, nutria or beaver during nighttime hours on private property for which the permit was issued from (one-half hour after official sunset to one-half hour before official sunrise) during the dates of September 1 through the last day of February of the next year.

2. Permittees are responsible for all participants and actions of such which take place as authorized by this permit.

3. Permittees and any participant shall not trespass or commit any other violations of law while conducting activities authorized by the permit.

4. No person shall be allowed to participate or be present during activities authorized by the permit if convicted of a class 3 or greater wildlife violation within the previous five years or if they have any other prohibition which would prevent the legal use of a firearm or participation in a hunting activity. Such participation will be considered a violation of the permit regulations.

5. Outlaw quadrupeds, nutria and beaver may be taken by any means of take authorized by R.S. 56.

6. The original permit or copy thereof issued by the department shall be with any permittee participating in activities under the authority of the permit.

7. Permittees shall notify the department's law enforcement 24-hour dispatch at (800) 442-2511 prior to engaging in activities authorized under the permit and identify each individual who will be participating in any way with activities authorized by the permit and permit number. Upon notification, the permittee shall be issued a confirmation number for the notification.

8. A report of activities which took place under this permit shall be required to be submitted to the department by June 30 of each year on official forms provided or as otherwise approved for this purpose by LDWF, and consist of:

a. name, permit number, and signature of permit holder;

b. number of outlaw quadrupeds (coyotes, armadillos, feral hogs), nutria and beavers killed under the permit during year.

9. Permittees hereby indemnify and hold harmless the state, department, and other applicable public agencies and employees and accept full responsibility and liability for any damages or injuries that occur during or as a result of activities related to the permit issued herein.

D. Penalties for Violation

1. If any person is found to be in violation of any provision of this Section, except for the reporting requirements as prescribed by Paragraph C.8 of this Section, or any other law during activities authorized by the permit issued pursuant to this Section, the permit shall immediately be voided and such permit shall not be reissued and shall remain void unless there is an acquittal for the offense committed.

2. Persons found in violation of rules and regulations contained herein or any other laws shall be subject to the same penalties as authorized by law as if no permit was issued, in addition, violation of these regulations will be a class 2 violation as defined in R.S. 56:32.

3. Persons failing to provide the annual report shall not be subject to the penalty and provisions herein. Any such person failing to comply with the annual report as prescribed by Paragraph C.8 of this Section shall not be reissued a permit until the reporting requirement under Paragraph C.8 of this Section is submitted to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:112, 56:115, and 56:116.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 42:1692 (October 2016).

Bart R. Yakupzack
Chairman

1610#075

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Oyster Harvester Training Program (LAC 76:VII.539)

The Wildlife and Fisheries Commission has promulgated a Rule establishing the Oyster Harvester Training Program (R.S. 56:303.6(D)), for the purpose of developing professionalism in the oyster harvest industry. This Rule establishes the requirements needed to complete the program, including training in the Louisiana Shellfish Sanitation Program and the best harvest practices for conservation of the species.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 5. Oysters
§539. Oyster Harvester Training Program

A. The following defines the requirements necessary to complete the program to develop professionalism in the commercial oyster industry pursuant to R.S. 56:303.6(D). This program shall hereafter be referred to as the Oyster Harvester Training Program.

B. Policy. Applicants for an oyster harvester license shall complete and receive a certificate for an online course within the previous three years, or within the previous year if the requirements covered in course material have substantively changed, in order to receive the oyster harvester license. The course will provide a detailed overview of the Louisiana Shellfish Sanitation Program, Chapter 3 of Part IX of Title 51 of the *Louisiana Administrative Code*, "Preparation and Handling of Seafood for Market," and cover the legalities and best management practices of oyster fishing, including but not limited to, licensing and permitting requirements, oyster harvest regulations, reporting requirements, responsible fishing, and vessel operation. The applicant will be required to view 100 percent of the course content and score a minimum of 80 percent in order to receive a certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:303.6(D).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 42:1694 (October 2016).

Bart R. Yakupzack
Chairman

1610#076

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Sabine River Largemouth Bass Size Limit
(LAC 76:VII.110)

The Wildlife and Fisheries Commission has amended the recreational harvest regulations for largemouth bass on the waters of the Louisiana-Texas boundary, specifically the Sabine River in Beauregard, Calcasieu, Sabine and Vernon Parishes in accordance with the reciprocal agreement between Louisiana and Texas.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 1. Freshwater Sports and Commercial Fishing
§110. Texas Boundary Waters Recreational Creel, Size, and Possession Limits

A. Purpose

1. Pursuant to *Louisiana Revised Statute* 56:673 and the July 1, 2010 memorandum of understanding between Louisiana Department of Wildlife and Fisheries and Texas Parks and Wildlife, the commission hereby ratifies and enters into an agreement with the Texas Parks and Wildlife Department to establish uniform and reciprocal regulations for the recreational harvest of freshwater game fish on the waters of the Louisiana-Texas boundary, specifically Toledo Bend Reservoir, Caddo Lake, and the Sabine River. Those regulations are as follows.

B. Toledo Bend Reservoir

1. The recreational daily creel limit (daily take) for largemouth bass (*Micropterus salmoides*) and spotted bass (*Micropterus punctulatus*) is set at eight fish, in aggregate. The minimum total length limit for largemouth bass (*M. salmoides*) is 14 inches. There is no minimum length limit on spotted bass. For enforcement purposes, a spotted bass shall be defined as a black bass with a tooth patch on its tongue.

2. The daily creel limit for white bass (*Morone chrysops*) is 25 fish and there is no minimum length limit.

3. There is no limit on the daily take of yellow bass (*Morone mississippiensis*).

4. The recreational daily creel limit for black crappie (*Pomoxis nigromaculatus*) and white crappie (*Pomoxis annularis*) is set at 25 fish, in the aggregate, and there is no minimum length limit.

5. The recreational daily creel limit for channel catfish (*Ictalurus punctatus*) and blue catfish (*Ictalurus furcatus*) is set at 50 fish in the aggregate, there is no minimum length limit and not more than 5 fish may exceed 30 inches in total length.

6. The recreational daily creel limit for flathead catfish (*Pylodictis olivaris*) is set at 10 fish. The minimum length limit is 18 inches.

C. Caddo Lake

1. Harvest regulations for black bass (largemouth bass, *Micropterus salmoides* and spotted bass, *Micropterus punctulatus*) on Caddo Lake are as follows.

a. Largemouth Bass Size Limits—14-18inch slot. A 14-18 inch slot limit means that it is illegal to keep or possess a largemouth bass whose maximum total length is between 14 inches and 18 inches, both measurements inclusive.

b. Spotted Bass Size Limits—no minimum length limit. For enforcement purposes, a spotted bass shall be defined as a black bass with a tooth patch on its tongue.

c. The daily creel limit (daily take) for black bass (*Micropterus spp.*) is set at 8 fish, in the aggregate, of which

no more than 4 largemouth bass may exceed 18 inches maximum total length.

2. The daily creel limit for white bass (*Morone chrysops*) is 25 fish and there is no minimum length limit.

3. There is no daily creel limit on yellow bass (*Morone mississippiensis*), and there is no minimum length limit.

4. The recreational daily creel limit for black crappie (*Pomoxis nigromaculatus*) and white crappie (*Pomoxis annularis*) is set at 25 fish, in the aggregate, and there is no minimum length limit.

5. The recreational daily creel limit for channel catfish (*Ictalurus punctatus*) and blue catfish (*Ictalurus furcatus*) is set at 50 fish in the aggregate, there is no minimum length limit and not more than 5 fish may exceed 30 inches in total length.

6. The recreational daily creel limit for flathead catfish (*Pylodictis olivaris*) is set at 10 fish. The minimum length limit is 18 inches.

D. Sabine River

1. Harvest regulations for black basses (largemouth bass, *Micropterus salmoides* and spotted bass, *Micropterus punctulatus*) on the Sabine River are as follows:

a. The river proper from Toledo Bend Dam downstream to the Interstate 10 bridge the minimum length limit for largemouth bass (*M. salmoides*) is 12 inches.

b. The river proper upstream from Toledo Bend Reservoir to the point at which the entire river enters Texas as marked by state line sign the minimum length limit for largemouth bass (*M. salmoides*) is 14 inches.

c. The recreational daily creel limit (daily take) for largemouth bass (*Micropterus salmoides*) and spotted bass (*Micropterus punctulatus*) is set at eight fish, in aggregate. There is no minimum length limit on spotted bass. For enforcement purposes, a spotted bass shall be defined as a black bass with a tooth patch on its tongue.

2. For purposes of this section, the Sabine River shall be defined as the river proper from the Toledo Bend Dam downstream to the Interstate 10 bridge and the river proper upstream from Toledo Bend Reservoir to the point at which the entire river enters Texas as marked by state line sign.

a. The daily creel limit for striped bass (*Morone saxatilis*) is set at 5 fish. There is no minimum length limit and only 2 fish may be over 30 inches in total length.

b. The daily creel limit for white bass (*Morone chrysops*) is 25 fish and there is no minimum length limit.

c. There is no daily creel limit on yellow bass (*Morone mississippiensis*), and there is no minimum length limit.

d. The recreational daily creel limit for black crappie (*Pomoxis nigromaculatus*) and white crappie (*Pomoxis annularis*) is set at 25 fish, in the aggregate, and there is no minimum length limit.

e. The recreational daily creel limit for channel catfish (*Ictalurus punctatus*) and blue catfish (*Ictalurus furcatus*) is set at 50 fish in the aggregate, there is no minimum length limit and not more than 5 fish may exceed 30 inches in total length.

f. The recreational daily creel limit for flathead catfish (*Pylodictis olivaris*) is set at 10 fish. The minimum length limit is 18 inches.

E. Daily Possession Limit: Toledo Bend Reservoir, Caddo Lake, and the Sabine River

1. The following possession limits apply to all persons while on the waters of Toledo Bend Reservoir, Caddo Lake, or the Sabine River. No person shall possess any species of fish in excess of a one day creel limit. No person shall at any time possess in excess of the daily creel limit of any species, except that a two day creel limit may be possessed on the land, if the fish were caught on more than one day and no daily creel limits were exceeded. No person shall possess any fillets of any fish species while on the water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325(C), R.S. 56:326.3, and R.S. 56:673.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:548 (August 1988), amended LR 17:278 (March 1991), LR 17:1123 (November 1991), LR 19:790 (June 1993), LR 23:999 (August 1997), LR 31:948 (April 2005), LR 37:2439 (August 2011), LR 40:802 (April 2014), LR 42:1694 (October 2016).

Bart R. Yakupzack
Chairman

1610#078

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission
Office of Fisheries

Management Targets for Selected Finfish Species
(LAC 76:VII.385)

The Wildlife and Fisheries Commission does has promulgated a Rule (LAC 76:VII.385) establishing management targets for black drum, sheepshead, and southern flounder. These rules establish biomass and fishing mortality rate targets based upon Act 205 (R.S. 56:325.4) of the 2015 Regular Session of the Louisiana Legislature. Authority for promulgation of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), 56:320.2, 56:326.1, 56:326.3, and 56:325.4.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§385. Management Targets for Selected Finfish Species

A. Policy. The stocks of black drum, sheepshead, and southern flounder shall have management targets established within this rule. Management targets shall be established utilizing a historical time-series of fisheries data, defined for each stock, as a basis of reference. The reference time-series is developed utilizing a period of time within the most recent assessment where recruitment has not been impacted and

sustainability has been demonstrated for each stock. The biomass and fishing mortality rate of each stock over this historical time-series shall be derived from the beginning of the assessed period through 2013. If data indicate that a stock is not meeting or is likely not to meet thresholds established in the assessment of the stock, the department shall provide, for the Louisiana Wildlife and Fisheries Commission's consideration, management options to ensure that a stock can remain within the management thresholds established for that particular stock.

B. Management Targets

1. Biomass targets shall be calculated as the average (geometric mean) spawning stock biomass (SSB) from each stock's historical time-series.

2. Fishing mortality rate targets shall be the fishing mortality rate that corresponds to each stock's SSB targets at equilibrium.

3. Biomass and fishing mortality rate targets shall be calculated based upon a historical time-series from the beginning of the assessed period through 2013, inclusive.

AUTHORITY NOTE: Promulgated in accordance with R.S.56:6(25)(a), R.S. 56:320.2(C), R.S. 56:326.1, R.S. 56:326.3, and R.S. 325.4.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, Office of Fisheries, LR 42:1695 (October 2016).

Bart R. Yakupzack
Chairman

1610#079

RULE

Workforce Commission
Office of Workers' Compensation Administration

Medical Treatment Guidelines
Maximum Reimbursement Allowances
(LAC 40:I.5157)

The Louisiana Workforce Commission has amended certain portions of the medical guidelines contained in the *Louisiana Administrative Code*, Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 51, regarding medical reimbursement. This Rule is promulgated by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1291 and 23:1310.1(C).

Title 40
LABOR AND EMPLOYMENT
Part I. Workers' Compensation Administration
Subpart 2. Medical Guidelines
Chapter 51. Medical Reimbursement Schedule

Editor's Note: The following Sections of this Chapter are applicable and shall be used for the Chapters in this Part governing reimbursement. These specific Chapters are: Chapter 25, Hospital Reimbursement; Chapter 29, Pharmacy; Chapter 31, Vision Care Services; Chapter 33, Hearing Aid Equipment and Services; Chapter 35, Nursing/Attendant Care and Home Health Services; Chapter 37, Home and Vehicle Modification; Chapter 39, Medical Transportation; Chapter 41, Durable Medical Equipment and Supplies; Chapter 43, Prosthetic and Orthopedic Equipment; Chapter 45, Respiratory Services; Chapter 47, Miscellaneous Claimant Expenses; Chapter 49, Vocational Rehabilitation Consultant; Chapter 51, Medical Reimbursement Schedule; and Chapter 53, Dental Care Services.

§5157. Maximum Reimbursement Allowances

A. Table 1

* * *

B. Table 2

Maximum Fee Allowance Schedule Office of Workers' Compensation						
CPT Code	**Mod**	**Description**	**Global Days**	**Maximum Allowance**	**Non-Facility Maximum**	**Facility Maximum**
* * *						
71010		Chest x-ray 1 view frontal		$45		
71010	TC	Chest x-ray 1 view frontal		$26		
71010	26	Chest x-ray 1 view frontal		$19		
71015		Chest x-ray stereo frontal		$56		
71015	TC	Chest x-ray stereo frontal		$34		
71015	26	Chest x-ray stereo frontal		$22		
71020		Chest x-ray 2vw frontal&latl		$56		
71020	TC	Chest x-ray 2vw frontal&latl		$34		
71020	26	Chest x-ray 2vw frontal&latl		$22		
71021		Chest x-ray frnt lat lordotc		$68		
71021	TC	Chest x-ray frnt lat lordotc		$40		
71021	26	Chest x-ray frnt lat lordotc		$28		
71022		Chest x-ray frnt lat oblique		$84		
71022	TC	Chest x-ray frnt lat oblique		$50		
71022	26	Chest x-ray frnt lat oblique		$34		
71023		Chest x-ray and fluoroscopy		$127		
71023	TC	Chest x-ray and fluoroscopy		$89		
71023	26	Chest x-ray and fluoroscopy		$39		
71030		Chest x-ray 4/> views		$84		
71030	TC	Chest x-ray 4/> views		$51		
71030	26	Chest x-ray 4/> views		$32		

Maximum Fee Allowance Schedule Office of Workers' Compensation						
CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
71034		Chest x-ray&fluoro 4/> views		$167		
71034	TC	Chest x-ray&fluoro 4/> views		$119		
71034	26	Chest x-ray&fluoro 4/> views		$48		
71035		Chest x-ray special views		$66		
71035	TC	Chest x-ray special views		$47		
71035	26	Chest x-ray special views		$19		
71100		X-ray exam ribs uni 2 views		$66		
71100	TC	X-ray exam ribs uni 2 views		$43		
71100	26	X-ray exam ribs uni 2 views		$23		
71101		X-ray exam unilat ribs/chest		$73		
71101	TC	X-ray exam unilat ribs/chest		$45		
71101	26	X-ray exam unilat ribs/chest		$28		
71110		X-ray exam ribs bil 3 views		$75		
71110	TC	X-ray exam ribs bil 3 views		$47		
71110	26	X-ray exam ribs bil 3 views		$28		
71111		X-ray exam ribs/chest4/> vws		$96		
71111	TC	X-ray exam ribs/chest4/> vws		$62		
71111	26	X-ray exam ribs/chest4/> vws		$34		
71120		X-ray exam breastbone 2/>vws		$59		
71120	TC	X-ray exam breastbone 2/>vws		$39		
71120	26	X-ray exam breastbone 2/>vws		$21		
71130		X-ray strenoclavic jt 3/>vws		$72		
71130	TC	X-ray strenoclavic jt 3/>vws		$49		
71130	26	X-ray strenoclavic jt 3/>vws		$23		
71250		Ct thorax w/o dye		$363		
71250	TC	Ct thorax w/o dye		$259		
71250	26	Ct thorax w/o dye		$104		
71260		Ct thorax w/dye		$461		
71260	TC	Ct thorax w/dye		$334		
71260	26	Ct thorax w/dye		$127		
71270		Ct thorax w/o & w/dye		$553		
71270	TC	Ct thorax w/o & w/dye		$413		
71270	26	Ct thorax w/o & w/dye		$141		
* * *						
72020		X-ray exam of spine 1 view		$44		
72020	TC	X-ray exam of spine 1 view		$29		
72020	26	X-ray exam of spine 1 view		$16		
72040		X-ray exam neck spine 2-3 vw		$66		
72040	TC	X-ray exam neck spine 2-3 vw		$44		
72040	26	X-ray exam neck spine 2-3 vw		$23		
72050		X-ray exam neck spine 4/5vws		$90		
72050	TC	X-ray exam neck spine 4/5vws		$58		
72050	26	X-ray exam neck spine 4/5vws		$32		
72052		X-ray exam neck spine 6/>vws		$113		
72052	TC	X-ray exam neck spine 6/>vws		$76		
72052	26	X-ray exam neck spine 6/>vws		$37		
72070		X-ray exam thorac spine 2vws		$68		
72070	TC	X-ray exam thorac spine 2vws		$45		
72070	26	X-ray exam thorac spine 2vws		$23		
72072		X-ray exam thorac spine 3vws		$69		
72072	TC	X-ray exam thorac spine 3vws		$47		
72072	26	X-ray exam thorac spine 3vws		$22		
72074		X-ray exam thorac spine4/>vw		$79		
72074	TC	X-ray exam thorac spine4/>vw		$56		
72074	26	X-ray exam thorac spine4/>vw		$22		
72080		X-ray exam thoracolmb 2/> vw		$61		
72080	TC	X-ray exam trunk spine 2 vws		$39		
72080	26	X-ray exam trunk spine 2 vws		$22		
72081		X-ray exam entire spi 1 vw		$78		
72081	TC	X-ray exam entire spi 1 vw		$51		
72081	26	X-ray exam entire spi 1 vw		$27		
72082		X-ray exam entire spi 2/3 vw		$125		
72082	TC	X-ray exam entire spi 2/3 vw		$92		
72082	26	X-ray exam entire spi 2/3 vw		$33		

Maximum Fee Allowance Schedule Office of Workers' Compensation						
CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
72083		X-ray exam entire spi 4/5 vw		$136		
72083	TC	X-ray exam entire spi 4/5 vw		$100		
72083	26	X-ray exam entire spi 4/5 vw		$36		
72084		X-ray exam entire spi 6/> vw		$162		
72084	TC	X-ray exam entire spi 6/> vw		$121		
72084	26	X-ray exam entire spi 6/> vw		$41		
72100		X-ray exam l-s spine 2/3 vws		$70		
72100	TC	X-ray exam l-s spine 2/3 vws		$47		
72100	26	X-ray exam l-s spine 2/3 vws		$23		
72110		X-ray exam l-2 spine 4/>vws		$98		
72110	TC	X-ray exam l-2 spine 4/>vws		$66		
72110	26	X-ray exam l-2 spine 4/>vws		$32		
72114		X-ray exam l-s spine bending		$125		
72114	TC	X-ray exam l-s spine bending		$92		
72114	26	X-ray exam l-s spine bending		$34		
72120		X-ray bend only l-s spine		$81		
72120	TC	X-ray bend only l-s spine		$58		
72120	26	X-ray bend only l-s spine		$23		
72125		Ct neck spine w/o dye		$371		
72125	TC	Ct neck spine w/o dye		$262		
72125	26	Ct neck spine w/o dye		$109		
72126		Ct neck spine w/dye		$460		
72126	TC	Ct neck spine w/dye		$336		
72126	26	Ct neck spine w/dye		$124		
72127		Ct neck spine w/o & w/dye		$545		
72127	TC	Ct neck spine w/o & w/dye		$415		
72127	26	Ct neck spine w/o & w/dye		$129		
72128		Ct chest spine w/o dye		$363		
72128	TC	Ct chest spine w/o dye		$260		
72128	26	Ct chest spine w/o dye		$102		
72129		Ct chest spine w/dye		$461		
72129	TC	Ct chest spine w/dye		$337		
72129	26	Ct chest spine w/dye		$124		
72130		Ct chest spine w/o & w/dye		$548		
72130	TC	Ct chest spine w/o & w/dye		$419		
72130	26	Ct chest spine w/o & w/dye		$129		
72131		Ct lumbar spine w/o dye		$361		
72131	TC	Ct lumbar spine w/o dye		$259		
72131	26	Ct lumbar spine w/o dye		$102		
72132		Ct lumbar spine w/dye		$460		
72132	TC	Ct lumbar spine w/dye		$335		
72132	26	Ct lumbar spine w/dye		$124		
72133		Ct lumbar spine w/o & w/dye		$544		
72133	TC	Ct lumbar spine w/o & w/dye		$415		
72133	26	Ct lumbar spine w/o & w/dye		$129		
72141		Mri neck spine w/o dye		$450		
72141	TC	Mri neck spine w/o dye		$299		
72141	26	Mri neck spine w/o dye		$152		
72142		Mri neck spine w/dye		$654		
72142	TC	Mri neck spine w/dye		$470		
72142	26	Mri neck spine w/dye		$183		
72146		Mri chest spine w/o dye		$450		
72146	TC	Mri chest spine w/o dye		$299		
72146	26	Mri chest spine w/o dye		$152		
72147		Mri chest spine w/dye		$646		
72147	TC	Mri chest spine w/dye		$465		
72147	26	Mri chest spine w/dye		$182		
72148		Mri lumbar spine w/o dye		$448		
72148	TC	Mri lumbar spine w/o dye		$297		
72148	26	Mri lumbar spine w/o dye		$152		
72149		Mri lumbar spine w/dye		$646		
72149	TC	Mri lumbar spine w/dye		$463		

Maximum Fee Allowance Schedule Office of Workers' Compensation						
CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
72149	24	Mri lumbar spine w/dye		$183		
72156		Mri neck spine w/o & w/dye		$763		
72156	TC	Mri neck spine w/o & w/dye		$529		
72156	26	Mri neck spine w/o & w/dye		$234		
72157		Mri chest spine w/o & w/dye		$764		
72157	TC	Mri chest spine w/o & w/dye		$531		
72157	26	Mri chest spine w/o & w/dye		$234		
72158		Mri lumbar spine w/o & w/dye		$761		
72158	TC	Mri lumbar spine w/o & w/dye		$528		
72158	26	Mri lumbar spine w/o & w/dye		$234		
72159		MR angio spine w/o&w/dye		$838		
72159	TC	MR angio spine w/o&w/dye		$654		
72159	26	MR angio spine w/o&w/dye		$184		
72170		X-ray exam of pelvis		$64		
72170	TC	X-ray exam of pelvis		$46		
72170	26	X-ray exam of pelvis		$18		
72190		X-ray exam of pelvis		$77		
72190	TC	X-ray exam of pelvis		$54		
72190	26	X-ray exam of pelvis		$22		
* * *						

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), LR 27:314 (March 2001), amended by the Workforce Commission, Office of Workers' Compensation, LR 39:1854 (July 2013), LR 40:379 (February 2014), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 42:1696 (October 2016).

Ava Dejoie
Executive Director

1610#032

Notices of Intent

NOTICE OF INTENT

Department of Culture, Recreation and Tourism
Office of Cultural Development
Division of Archeology

Fees (LAC 25:V.122)

Under the authority of the Archaeological Resources Act, R.S. 41:1608, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Division of Archaeology gives notice that procedures have been initiated to increase the curation fee and assess an annual GIS access fee.

The proposed amendment will increase the fee for depositing a box of archaeological materials with the division's curation facility, and will establish an annual fee for access to the division's online geographic information system (GIS). The curation fee increase will provide sufficient operating funds to the division to fully support its archaeological curation facility and staff without relying on state funds. The GIS fee will provide funds for the Division of Archaeology's GIS operation and maintenance. The division operates a GIS system for inhouse use and provides online access to federal agencies, state agencies, private firms, students, and academic and other researchers. Online accessibility to the system enables users to save significant time and money by accessing the system at their office rather than having to travel to Baton Rouge and use the system at the division's offices. In addition, the GIS system allows users to overlay multiple datasets and examine the data in ways that is not possible through the use of paper records. The proposed annual fee will maintain this access and provide the funds to support the operation, maintenance, and necessary upgrades of the GIS system. State agencies will not be charged the access fee, and the division will provide free online access at its Baton Rouge office for any user who does not wish to pay the access fee.

Title 25
CULTURAL RESOURCES
Part I. Office of Cultural Development
Chapter 1. Division of Archeology
Subchapter A. Regulations
§122. Fees

A. - B. ...

C. Curation of Archaeological Collections. A one-time fee of $400 shall be charged for processing and long-term curation of a standard box of artifacts deposited with the division. A standard box measures 12 x 10 x 15 inches and the contents can weigh no more than 30 pounds (13.6 kg). Oversize artifacts shall be assessed at the rate of $400 per square foot of shelf space occupied.

D.1. The division shall charge an annual, non-refundable fee for online access to the division's geographic information system (GIS). The fee will be $1,300 per state fiscal year for each public or private entity with one or more professional archaeologists on staff or an individual professional archaeologist who will use the online access.

2. Professional archaeologists at academic institutions and graduate students studying to become a professional archaeologist will not be charged the access fee.

E. Fee Adjustments. Fees may be adjusted in accordance with the division's *Archaeological Code of Louisiana*.

AUTHORITY NOTE: Promulgated in accordance with Revised Statute 41:1601-1615.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Division of Archaeology, LR 20:411 (April 1994), amended by the Department of Culture, Recreation and Tourism, Office of Cultural Development, Division of Archaeology, LR 43:

Family Impact Statement

1. The proposed amendment will not have any effect on the stability of the family.
2. The proposed amendment will not affect the authority and rights of persons regarding the education and supervision of their children.
3. This amendment will not have any effect on the functioning of the family.
4. This amendment will not affect family earnings or family budget.
5. This amendment will not affect the behavior or personal responsibility of children.
6. This amendment will not have any effect on the family or local government.

Poverty Impact Statement

The proposed amendment should not have any foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. household income, assets, and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits;
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed amendment does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments until 4 p.m., November 15, 2016, to Chip McGimsey, Division of Archaeology, P.O. Box 44247, Baton Rouge, LA 70804.

Phil Boggan
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change may result in an expenditure increase for the office of Cultural Development for implementation of online access, server and computer replacement; software upgrades and add-ons etc. Any potential increase in cost would not be incurred unless the revenue corresponding to the fee is recognized.

The proposed rule change will double the current per box curation fee from $200 to $400 per box and institute an annual fee of $1,300 for online access to the Division of Archaeology's Geographical Information System (GIS) database. The cost of operations is currently partly absorbed by existing fees and partly by the Office of Cultural Development within the Department of Culture, Recreation and Tourism. The curation fee will be used solely to support the curation facility, and the GIS fee will be used solely to support the GIS system. Neither fee will fully cover the costs for each activity.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The $1,300 GIS fee will increase revenue collections in the form of self-generated funds at the state level. Those fees will be applied to GIS operations only. Increasing the curation fee from $200 per standard box to $400 per standard box will increase revenue collections in the form of statutory dedication funds at the state level. Those fees will be applied to Curation operations only. The proposed rule changes will not effect revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Agencies and private firms conducting archaeological investigations in Louisiana will be subject to the $1,300 annual GIS fee, unless they wish to access the system at no cost at the Division's offices. Most agencies and firms have multiple staff that access the system on a daily or weekly basis. Paying the fee will be more cost-effective than sending staff on day-long trips to the Division's office. The fee will not create any increased workload or paperwork for the organizations that pay it.

Private firms undertaking archaeological investigations in Louisiana under contract to businesses or federal agencies required under the federal National Historic Preservation Act to conduct those investigations will pay the $400 per box curation fee (increased from $200) to the Division for all collections submitted. Firms are not required to deposit collections with the Division and may choose other out-of-state facilities. Nearly all archaeological collections currently obtained from Louisiana are curated with the Division, thus there will be no additional workload requirement for the private firms.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The amended fee structure will have no effect on competition and employment.

Phil Boggan
Assistant Secretary
1610#027

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Culture, Recreation and Tourism
Office of State Parks

State Parks (LAC 25:IX.Chapters 1-11)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 56:1681-1690, R.S. 56:1801-1809 and R.S. 36:201-209, the Department of Culture, Recreation and Tourism proposes to amend its regulations to perform general editing, update provisions pertaining to various facilities and programs, increase fees, and to remove outdated references pertaining to federal programs.

Title 25
CULTURAL RESOURCES
Part IX. Office of State Parks

Chapter 1. General Provisions

§101. Definitions

A. As used by the Office of State Parks (OSP) in association with the operation of its holdings and public facilities.

Assistant Secretary—the assistant secretary of the office of state parks is executive head of the office and is appointed by the lieutenant governor with consent of the Senate. This officer is subject to the overall direction and control of the secretary of the Department of Culture, Recreation and Tourism (DCRT) while having direct responsibility for the policies of the OSP, and for the administration, control and operation of the functions, programs and affairs of the office.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690, R.S. 56:1801-1809 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:90 (February 1986), amended LR 19:308 (March 1993), LR 31:1979 (August 2005), LR 36:1225 (June 2010), LR 42:

Chapter 3. General Provisions

§301. General Authority and Purpose

A. - C. …

D. The programs and activities of the OSP are open to all qualified persons regardless of race, color, national origin, religion, age or disability. If anyone believes he or she has been discriminated against in any OSP program, activity or facility, he or she may file a complaint alleging discrimination with either the OSP or the Office for Equal Opportunity, U.S. Department of the Interior, Washington, D.C. 20240.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 16:1051 (December 1990), LR 31:1980 (August 2005), LR 36:1225 (June 2010), LR 42:

§303. Park Property and Environment

A. - D. …

E. Once a carrying capacity for an OSP site has been reached, or when additional visitors would adversely impact the site, the site manager is authorized to close the site to incoming visitors.

F. - J. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 19:308 (March 1993), LR 26:25 (January 2000), LR 27:1673 (October 2001), LR 31:1980 (August 2005), LR 36:1226 (June 2010), LR 42:

§305. Vehicle Use

A. The provisions of the Louisiana Highway Regulatory Act (R.S. 32:1 et seq.) and any rules and regulations promulgated thereunder shall be enforced on all OSP sites.

B. - C. …

D. No person shall operate a vehicle in excess of 15 miles per hour on any OSP sites unless otherwise posted.

E. No motor vehicle shall be operated on OSP sites without being properly licensed by the appropriate regulatory agencies.

1. However, persons with mobility disabilities may use single-passenger, wheeled devices powered by electric motors wherever pedestrians are allowed. Multiple-passenger wheeled devices powered by electric or gas motors (e.g., golf carts) are permitted to transport persons with mobility disabilities within the campgrounds. The disabled visitor must be a passenger in the vehicle.

2. Golf carts may be driven by licensed and insured drivers on the roadways at OSP sites where such use is specifically authorized by law or by the assistant secretary.

3. Low-speed electric bicycles (electric motor of less than 750 watts, 1 h.p.) are treated like bicycles.

4. As new wheeled devices powered by electric motors are developed, exceptions to this provision may be granted in advance on a case-by-case basis.

F. - H. …

I. Off-highway vehicles (OHV) are prohibited on OSP sites, including back country trails, except as set forth in this Section.

1. OHVs are permitted on established OHV trails at South Toledo Bend State Park, subject to compliance with the following rules by OHV riders (i.e., both operators and passengers):

a. OHV riders must possess on person a valid OHV permit issued by the OSP.

i. Single use OHV permits may be obtained from the South Toledo Bend Entrance Station.

ii. Annual OHV permits may be obtained from the South Toledo Bend Entrance Station or the OSP administrative office in Baton Rouge.

b. OHV riders shall wear a U.S. Department of Transportation and/or Snell-approved helmet.

c. OHV riders should wear appropriate personal protective clothing such as eye protection, gloves, boots, long-sleeve shirt, and long pants.

d. OHV riders shall stay on established OHV trails. Cross-country riding is prohibited.

e. OHV riders shall ensure the OHV has a properly functioning spark arrestor and a muffler that does not exceed 90dB.

f. OHV riders shall not possess, consume, or be under the influence of alcoholic beverages.

g. OHV riders shall only use OHV trails while the OHV trails are open.

i. OHV trails are open from 8 a.m. to 5 p.m. from October 1 through March 31.

ii. OHV trails are open from 8 a.m. to 7 p.m. from April 1 through September 30.

iii. OHV trails may be closed by the OSP for management reasons.

h. OHV riders must be 7 years of age or older.

i. OHV riders between the ages of 7-17 must be under the continuous and direct supervision of an adult age 18 or older.

2. OHVs use is permitted on other OSP sites only by OSP staff, contractors, and agents or with prior written consent of the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 26:25 (January 2000), LR 31:1980 (August 2005), LR 39:1264 (May 2013), LR 42:

§307. Watercraft

A. Federal, state, and local laws, rules and ordinances related to the use of watercraft shall be enforced. All watercraft located on or adjacent to any site must be operated in a careful and reasonable manner, and such operation is subject to the rules of safety imposed by the laws of Louisiana and by the United States Coast Guard. Boaters must abide by posted park operational hours.

B. …

C. Watercraft shall be launched only from designated boat ramps or launching areas within a site.

D. A person renting a watercraft must return the watercraft to the original docking location after use, and secure the boat from unauthorized use.

E. No watercraft may be operated in a designated swimming area or in any other area designated as a non-boating area by signs or any area otherwise restricted from boat operation or docking.

F. Watercraft left docked and unattended must be properly secured in designated areas only. The OSP will not be responsible for any loss, theft or damage to watercraft, equipment, personal property or supplies left unattended.

G. Watercraft will be considered abandoned if left unattended for more than seven consecutive days unless the proper permit or advanced written approval is granted by the site manager.

H. Commercial boats (defined as any watercraft capable of carrying five or more persons for hire; any watercraft having a water displacement of five tons or more, whatever the length; or any watercraft from which commercial activities are conducted, e.g., shrimping, crabbing, fishing, etc.) are prohibited from using any OSP facility without the written consent of the assistant secretary. Prohibited uses include, but are not limited to, loading or unloading of

materials, boarding of persons, operating power equipment and non-emergency repair work.

I. …

J. Water skiing and related activities such as wake boarding, knee boarding, tubing, and banana rides are permitted only in designated areas, and at the participants' own risk.

K. Personal watercrafts (defined as any one or more person jet propelled craft such as a Jet Ski or Sea-Doo) are prohibited at Poverty Point Reservoir, Chicot Lake, Hodges Gardens Lake and in any portion of any site posted as a "no ski zone."

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 26:26 (January 2000), LR 31:1981 (August 2005), LR 36:1226 (June 2010), LR 39:1265 (May 2013), LR 42:

§308. Poverty Point Reservoir State Park

A. All of the restrictions on and requirements for operating watercraft in Poverty Point Reservoir State Park listed in this section are in addition to those restrictions and requirements found elsewhere in these OSP rules and regulations. These section rules apply only to Poverty Point Reservoir State Park's visitors. No part of this section however, shall be construed so as to nullify, in whole or in part, any other section of the OSP rules and regulations as they exist.

B. Watercraft owners and their invitees must enter the Marina from designated entry points.

C. Operation of Watercraft. Individuals are prohibited from all of the following:

1. operating a watercraft at a speed greater than headway speed (i.e., the minimum speed required to maintain steering) within 50 feet of a shoreline, structures or swimmers;

2. operating a watercraft at a speed greater than 20 mph or minimum planing speed (whichever is less) between sunset and sunrise;

3. operating a watercraft where the idle volume is greater than 85 decibels. Further, if a watercraft is equipped with an optional exhaust noise suppression device, the device must be engaged while the watercraft is within a no-wake zone;

4. operating a watercraft without a current day use receipt or "Resident Boat Permit."

D. No person shall moor any watercraft to any buoy or other man-made structure not specifically intended for mooring.

E. Skiing and/or towing of persons behind a watercraft is prohibited outside of designated skiing areas.

F. Skiing and/or towing of persons behind a watercraft is prohibited in all areas between sunset and sunrise.

G. Use of the Marina Complex. All visitors to the marina, whether watercraft owners or their invitees, are prohibited from:

1. storing hazardous or flammable materials in the slip area (with the exception of normal fuel storage in moored watercraft);

2. performing or allowing to be performed any major repairs or maintenance to a watercraft moored in the marina. Major repairs or maintenance include any activities that pose a safety hazard or nuisance or infringe on the enjoyment of the marina by others;

3. - 5. …

6. fueling, or allowing to be fueled any watercraft outside designated fueling areas;

7. - 10. …

H. All watercraft owners must complete and submit a signed "marina slip rental agreement" along with any required payments and/or deposits due prior to using a rental slip.

I. Watercraft owners and their invitees shall be responsible for maintaining the marina facilities available for their use. To that end, every watercraft owner and invitee shall:

1. remove all refuse from the watercraft and slip and place in the designated receptacles;

2. …

3. place all storage lockers only on the end of dock fingers so as not to interfere with the view or access of other watercraft owners;

4. provide the park office with keys to both the storage locker and the watercraft to be used for emergency purposes only;

5. - 6. …

J. Personal watercraft are prohibited at Poverty Point Reservoir.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 31:1981 (August 2005), amended LR 36:1226 (June 2010), LR 42:

§309. Horseback Riding, Livestock, Animals and Pets

A. …

B. Any pet brought on OSP property must be leashed, caged or crated. Leashes shall not exceed 6 feet in length. With the exception of service animals, pets are not permitted within buildings or other enclosed structures on site, nor are they allowed near designated swimming areas and in overnight facilities. Owners of pets shall be fully responsible for any injury and/or damage caused by their pet.

C. No person shall allow livestock to run or graze on any OSP site, except in specially designated areas and/or as part of special programs or events approved in advance by the assistant secretary.

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 14:773 (November 1988), LR 26:26 (January 2000), LR 31:1982 (August 2005), LR 36:1226 (June 2010), LR 42:

§310. Litter, Sanitation and Health

A. - B. …

C. No person shall clean fish or other food, or wash clothing or articles of household use except in designated areas. No person shall clean, field dress, or have in open view on OSP property any harvested animal or animals,

except in association with an OSP approved management hunt or event.

D. - G. …

H. A person may enter an OSP site for the sole purpose of using the dump station facilities. General admission fees plus a $5 dump station use fee apply to such use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 26:26 (January 2000), LR 31:1982 (August 2005), LR 36:1227 (June 2010), LR 42:

§313. Fishing, Hunting, Trapping, and the Use of Firearms or Fireworks

A. All wildlife in OSP sites, including reptiles and amphibians, is under strict protection and must not be hunted, molested, disturbed, trapped, destroyed, fed or removed, except for scientific or management purposes when approved by the assistant secretary.

B. Bringing or keeping any hunting dogs on OSP property for the purpose of hunting inside or adjacent to a site is prohibited unless approved in advance and in writing by the assistant secretary.

C. - E. …

1. No more than 50 yo-yos or trigger devices allowed per person.

2. Each yo-yo or trigger device must be clearly tagged with the name, address and telephone number of the owner/user.

3. All fish or any wildlife caught or hooked must be immediately removed from the device.

4. Each yo-yo or trigger device must be re-baited at least once every 24 hours.

5. The placement of any artificial object to anchor a yo-yo or trigger device is prohibited.

6. Except for an object used strictly in the construction of a pier, boathouse, seawall, or dock, no object which is driven into the lake bottom, a stump, tree, or shoreline shall be used to anchor a yo-yo or trigger device. *Object* means rebar or other metal material, cane, PVC tubing, construction material, or any other type of material.

F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:773 (November 1988), LR 16:1052 (December 1990), LR 19:308 (March 1993), LR 31:1982 (August 2005), LR 36:1227 (June 2010), LR 39:1265 (May 2013), LR 42:

§314. Swimming

A. ….

B. All children under 12 years of age must be accompanied by an adult at any swimming area or water playground.

C. - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 26:27 (January 2000), amended LR 31:1983 (August 2005), LR 36:1227 (June 2010), LR 39:1265 (May 2013), LR 42:

§317. Disorderly Conduct

A. Disorderly or boisterous conduct is prohibited.

B. The site manager and his designees are authorized to control the use and consumption of alcoholic beverages at a site. This includes the authority to prohibit the consumption of alcohol in designated areas within an OSP site. The lawful consumption of alcoholic beverages may be allowed to the extent that such activity does not adversely affect the use and enjoyment of the site by other OSP site users.

C. - C.3. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 31:1983 (August 2005), LR 39:1265 (May 2013), LR 42:

§321. Fines and Enforcement

A. - B. …

C. Site visitors may be required to furnish specific information upon admission or registration, including but not limited to, vehicle license plate number and a driver's license number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 27:1673 (October 2001), LR 31:1983 (August 2005), LR 36:1227 (June 2010), LR 39:1266 (May 2013), LR 42:

§329. Closures

A. The assistant secretary or his designee may direct the closing of a site or a facility to public use when or if any natural or man-made occurrence has affected, or is expected to affect, the operation and management of the site to a degree that normal public use and enjoyment are altered, or when such use may impair the health, safety, and well-being of the public or employees of the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 42:

§330. Day-Use Facilities

A. - B. …

C. Permittees waive and release all claims against the state of Louisiana for any damage to person or property arising from the privileges granted by any use permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 19:308 (March 1993), LR 26:28 (January 2000), LR 31:1984 (August 2005), LR 42:

§331. Overnight Use Facilities

A. - A.5. …

6. Established time schedules (check-in and check-out) are strictly enforced. Failure to comply without

advanced approval of the park manager may result in additional charges and denial of future use of OSP facilities.

7. Overnight users must observe quiet hours between the hours of 9 p.m. and 6 a.m. Playing music or other loud activities that adversely affect the use and enjoyment of the site by other site users is a violation of quiet hours.

8. Overnight users shall not erect or display unsightly, obscene, or inappropriate structures or features which, in the opinion of the site manager, may create a disturbing or otherwise unpleasant condition detrimental to the general site use.

9. …

10. No person shall be permitted to reside at any OSP site, except for assigned OSP staff and their immediate family.

11. - 12. ….

13. Upon departure, the user must ensure that the facility is vacated in good repair and in the same condition in which it was occupied. Trash must be disposed of and all fires extinguished. Permittees will be responsible for any and all damages resulting from their use of the facility. Failure to comply may result in denial of future use of OSP facilities.

B. Camping

1. With the exception of a campground host and long term stay campsites, overnight camping and group camp, lodge and cabin use are limited to 15 consecutive days. After 15 consecutive days of occupancy at an OSP site, the visitor must vacate the site for seven consecutive days before occupancy may be resumed. No person shall occupy a campsite for more than 23 days in any 30 day period. However, at the site manager's discretion, and subject to availability, overnight camping may be extended on a weekly basis. No campsite may be vacated for longer than a 24-hour continuous period under any permit agreement.

2. OSP campgrounds are intended for tents and recreational vehicles only.

3. Campsite occupancy is limited to six persons. Day use guests may visit overnight campers at their campsites between the hours of 8 a.m. and 9 p.m.

4. At designated group camping areas occupancy limits are set by the site manager or his designee.

5. - 5.e. …

6. Upon termination of any use permit, the facility must be vacated in good repair and in the same condition in which it was occupied. Where applicable, all water taps shut, and all fires extinguished. Permittees will be responsible for any and all damages resulting from their use of the facility. Failure to comply may result in denial of future use of OSP facilities.

C. - C.3. …

4. The maximum overnight (9 p.m. to 8 a.m.) capacity for cabins and lodges is the listed bedding accommodations. A $15 fee per person will be charged to the permittee for additional persons up to the listed maximum sleeping capacity of the facility.

5. The maximum overnight (9 p.m. to 8 a.m.) capacity for a group camp is the maximum sleeping capacity of the group camp facility.

6. The maximum daytime (8 a.m. to 9 p.m.) capacity for cabins, lodges and group camps is double the sleeping capacity or posted fire marshall occupancy of the facilities. Exceptions may be granted by the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1053 (December 1990), LR 19:308 (March 1993), LR 26:28 (January 2000), LR 27:1673 (October 2001), LR 31:1984 (August 2005), LR 36:1227 (June 2010), LR 39:1266 (May 2013), LR 42:

§333. Boundary Designation/Property Posting

A. - B. …

* * *

C. Criteria for Posting and Establishing Boundaries

1. Except where posting is deemed unnecessary, boundaries of developed and undeveloped property shall be posted in accordance with OSP policies and procedures approved by the assistant secretary.

D. Penalties

1. - 2. …

3. No person shall enter an OSP site when the OSP site is closed.

4. No person shall enter an OSP site without proper registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 11:100 (February 1985), amended LR 12:89 (February 1986), LR 31:1985 (August 2005), LR 42:

Chapter 5. Procedures and Fees

§500. Admission Fees and Exemptions

A. State Parks—General Admission Fees

1. Except as otherwise provided in this Chapter, a general admission fee is charged at all state parks as follows.

	State Parks	Hodges Gardens SP
Visitors (age 4 – 61) in non-commercial vehicles, walk-in visitors, visitors on bicycles	$3 per person, per day	$7 per person, per day
Children 3 and under	Free	Free
Seniors 62 and older	Free	Free
Persons, regardless of age, arriving by bus	$75 per bus, per day	$75 per bus, per day

Bus—a bus used as a public conveyance, whether privately or commercially owned and operated, that is capable of transporting 20 or more persons.

2. St. Bernard State Park General Admission Fees

a. The general admission fee at St. Bernard State Park is $2 per person 16 years of age and older and $1 per person under 16 years of age with a maximum of $5 per vehicle for all passengers in that vehicle.

b. Except there shall be no admission fee for St. Bernard and Plaquemines parish residents on Sundays.

c. An annual vehicle permit may be obtained from the park office by St. Bernard and Plaquemines parish residents only. The annual vehicle permit fee is $25. The annual vehicle permit will be in the form of a windshield decal. There will be no admission charge at any time for anyone entering the park as a passenger or driver of a vehicle with a decal.

d. OSP will replace the annual permit decal, free of charge, when presented with a current year decal if a windshield or vehicle has been replaced.

B. …

1. General Admission Fees for State Historic Sites

a. Except as otherwise provided in this Chapter, a general admission fee of $4 per person is charged at all state historic sites.

b. Children age 3 and under are free.

c. …

2. Locust Grove SHS and Los Adaes SHS have no general admission fee.

3. - 3a. …

i. $15 per adult (ages 18 to 61);

ii. $10 per senior citizen (ages 62 and over);

iii. $6 per child (ages 4 to 17);

iv. free for children (ages 3 and under).

b. …

i. $7 per adult (ages 18 to 61);

ii. $7 per senior citizen (ages 62 and over);

iii. $5 per student (ages 4 to 17);

iv. free for children (ages 3 and under).

c. Organized groups of 20 or more are requested to notify the site manager in advance of their arrival. Special entry rates may apply to organized groups, set by the assistant secretary or his designee.

4. - 4.a.…

i. $10 per adult (ages 18 to 61);

ii. $8 per senior citizen (ages 62 and over);

iii. $5 per student (ages 4 to 17);

iv. free for children (ages 3 and under).

b. …

i. $5 per person (ages 4 and over);

ii. free for children (ages 3 and under).

5. Organized groups of 10 or more are requested to notify the site manager in advance of their arrival. Except as otherwise provided in this chapter, there is no additional fee for SHS visitors arriving by bus.

6. Admission entitles visitors to all facilities and regular programs that may be offered at the historic site. Special programs and events may include special admission rates.

C. …

D. All admission fees include applicable state and local taxes.

E. Admission fees may be subject to a discount or surcharge in association with special events and uses, if approved by the assistant secretary.

F. A self-service fee system may be used to collect user fees on areas not normally served by an entrance control station.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 19:309 (March 1993), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1986 (August 2005), LR 36:1228 (June 2010), LR 39:1266 (May 2013), LR 42:

§501. Day-Use Fees; Miscellaneous Services, Privileges, and Facility Fees

A. Boating

1. Boat Launch Fees

a. In addition to the general admission fee and all other applicable user fees, a boat launch fee of $5 is charged to all vehicles entering the park with motorized watercraft.

b. An annual boat launch permit can be purchased at a cost of $75 from the OSP administrative office in Baton Rouge. The permit includes admission for one person; all others pay the general admission fee.

2. OSP rental boats. Rental boats, including flat bottom, motor, canoes, and kayaks, are available at most parks. The use of motors on these boats is limited to the manufacturer's recommended horsepower capacity. Boats may be rented from OSP at the following rates.

a. Flat bottom boats with three life jackets and two paddles may be rented for $20 per boat per day.

b. Canoes with two life jackets and two paddles may be rented for $7 per hour or $25 per vessel, per day.

c. Kayaks with life jacket(s) and paddle(s) and paddle boats with life jacket(s) may be rented for $7 per hour or $35 per vessel, per day. Number of included life jackets and paddles equals watercraft seating capacity.

d. A guided canoe float trip is charged $30 per canoe, per trip. All fees include paddles and life jackets.

e. All fees include indicated number of life jackets and paddles. Additional paddles and life jackets are available at a rental fee of $2 each per day.

3. At some sites rental boats, kayaks, canoes and other watercraft may be available through a concessionaire. Visitors should contact the site to check availability and rates. Visitors utilizing these services are subject to general admission fees.

B. Swimming Pools

1. In addition to the general admission fee and all other applicable user fees, the fees to enter the Bayou Segnette SP wave pool are:

Visitors 48” in height or taller	$13 per person, per day
Visitors under 48” in height	$10 per person, per day

i. The price includes one flotation device per person.

ii. Discount coupons are available when purchased in quantity lots.

2. In addition to the general admission fee and all other applicable user fees, the fee to enter any other OSP swimming pool complex is $3 per person, per day.

C. Golf Carts

1. A golf cart usage fee of $10 a day is charged for all approved golf carts.

2. An annual golf cart pass can be purchased at a cost of $100 by contacting the OSP Administrative Office in Baton Rouge.

D. Marina Boat Slips

1. Boat slips in the Poverty Point Reservoir State Park marina are available for $15 per night or, under an annual contract, for $625 per year.

E. Trail Riding

1. Equestrian. Designated trails are available for equestrian use, subject to the following fees:

a. In addition to the general admission fee and all other applicable user fees, an equestrian trail use fee of $3 is charged per horse. Visitors are required to produce documents for each animal as proof the animal is reasonably free of contagious pathogens (e.g. Equine Infectious Anemia Laboratory Test showing proof of negative Coggins Test).

b. At some OSP sites horseback riding may be available through a concessionaire. Visitors should contact the site to check availability and rates. Visitors utilizing these services are subject to general admission fees.

2. Off-highway Vehicle (OHV). OHVs are permitted on designated trails at South Toledo Bend State Park.

a. A single-use OHV permit fee of $15 per OHV may be purchased at South Toledo Bend SP entrance station.

b. An annual OHV permit fee of $100 per OHV may be purchased by contacting the OSP Administrative office in Baton Rouge and the entrance station of South Toledo Bend SP. Permits are valid for permit holder and one OHV only. These are the only annual permits valid for OHV Trail use.

3. Bicycles. Where available, bicycles may be rented for $7 per hour or $25 per day.

F. Group Rental Pavilions

1. Group rental pavilions are available at most state parks and state historic sites.

2. Exclusive use of a group pavilion can only be made by a rental permit and payment of a rental fee. These group pavilions can be reserved in advance with payment of the rental fee.

3. Reserved pavilions will be posted, indicating the name of the party and date of use. When such pavilions are not so posted or reserved, they are available to the site visitors on a first come, first served basis.

4. In addition to the rental fee, users of the reserved group pavilions will also be charged the general admission fee to the OSP site.

5. The carrying capacity of a group rental pavilion is based on its size, facilities and available parking, and may not be exceeded as determined by the site manager.

6. There are three types of rental pavilions, as follows:

a. Type I Pavilion. These pavilions, usually located in the day-use area, accommodate a standard of 40 people.

b. Type II Pavilion. These pavilions, usually located in the day-use area, accommodate 60 people.

c. Type III Pavilion. These pavilions are usually separated from the day-use area, affording more group privacy than the other pavilion types. They may accommodate 100 people.

7. Fees for Group Rental Pavilions

Type I Pavilion	$50 per day
Type II Pavilion	$70 per day
Type II Pavilion	$120 per day

G. Meeting Rooms. Meeting rooms used to accommodate meetings and functions of private groups, clubs and other organizations are available during normal park operating hours. Kitchen facilities may be used, if available. Meeting room rates are as follows.

$100	Type I e.g., North Toledo Bend, Palmetto Island, Arboretum, Poverty Point Reservoir, Lake Claiborne, Chemin-à-Haut
$160	Type II e.g., Chicot, South Toledo Bend, Fontainebleau, Lake D'Arbonne
$220	Type III e.g., Lake Fausse Pointe, Bogue Chitto

H. Fees for pavilion and meeting room rentals are subject to applicable state and local taxes. Fees for general admission and miscellaneous day use services, permits, and privileges include applicable state and local sales taxes

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1052 (December 1990), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1986 (August 2005), LR 36:1228 (June 2010), LR 39:1266 (May 2013), LR 42:

§502. Fees and Exemptions; Exemptions/Discounts

A. …

B. Active Duty Military. Active duty military personnel and one immediate family member shall receive a 50 percent discount for general admission to a state park or state historic site by presenting a current, valid military photo ID.

C. School Groups. Any child who is on a field trip conducted as part of the curriculum of the school and any classroom teacher, parent, bus driver and any other person accompanying a school child on such a field trip are exempt from paying the general admission charge to any OSP site.

D. National Parks and Federal Recreation Lands Passes. Any citizen of the United States who possesses a national parks and federal recreation lands senior pass (formerly the golden age passport) or access pass (formerly the golden access passport) issued by any agency of the United States, pursuant to 16 U.S.C. section 460 L-65, upon presentation of the pass and proper identification to any OSP authorities, shall be exempt from the general admission fee to any OSP site and/or receive a 50 percent discount on camp site rental fees provided that the state park system of the citizen's domicile as reflected on his presented identification also recognizes such passes for discounted access and services.

E. Non-Profit Community Home-Based Organization. Any child age 18 or under who is retained in the legal custody of the state through a bona fide contractual service agreement with a public, non-profit community home-based organization or provider shall be exempt from paying the general admission fees or any other day-use fee at any site. Such use must be in conjunction with an organized group outing or event sponsored and supervised by the public, non-profit organization or provider.

1. - 2. …

F. Annual Day-Use Permits

1. Permits are available at a cost of $80 per year. This permit, in the form of a wallet I.D. card, allows the holder individually or as a passenger in a single, private non-commercial vehicle entry to all sites in lieu of the normal admission fee. All people accompanying a permit holder as occupants in a single, private non-commercial vehicle in

which the permit holder is a passenger or driver are also admitted without charge

a. The wallet permit may be exchanged for a vehicle decal which shall be permanently affixed to a vehicle, if this is a more convenient permit arrangement.

b. The annual day-use permits are valid for a period of one year from the date of purchase. Permits may be obtained at any site.

c. Price does not include applicable state and local taxes.

2. The annual day-use permits are valid for exemption of the general admission day-use charge only.

G. Pursuant to R.S. 56:1692, any person accompanying a citizen of the state of Louisiana who is sixty-two years of age or older, as the driver of a single, private, noncommercial vehicle, or alternatively, the exempted person's spouse and children accompanying him or her where entry to the area is by any means other than private, noncommercial vehicle, shall be exempt from paying the general admission charge to any state park in Louisiana.

H. Discounts and Fee Waivers. The assistant secretary or his designee may grant written approval for a waiver or discount of entrance fees and facility use fees in accordance with guidelines adopted by the Louisiana State Parks and Recreation Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 19:309 (March 1993), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1987 (August 2005), LR 36:1229 (June 2010), LR 39:1267 (May 2013), LR 42:

§503. Fees and Exemptions; Special Promotions

A. From time to time, as deemed appropriate by the assistant secretary, special programs, promotions, occupancy regulations, discounts or waivers on user fees may be offered in order to encourage visitation. These special promotional offers must be reviewed and reauthorized annually.

B. As approved by the assistant secretary and subject to the limits set forth herein, overnight use rates may be subject to a surcharge based on demand. In no event shall campsite rental fees exceed $40 per night, cabin rental fees exceed $350 per night, lodge rental fees exceed $400 per night, nor group camp rental fees exceed $1000 per night.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1988 (August 2005), LR 42:

§504. Fees and Exemptions; Overnight Accommodations

A. Camping Fees and Exemptions

1. Campsites

a. A premium campsite is an improved campsite with sewer or is pull-through or is in a prime location.

b. An improved campsite has water and electrical hookup available.

c. An unimproved campsite does not have utility hook-ups. These are typically located in campgrounds where utilities or bathhouses are nearby.

d. Backcountry campsites typically only have a tent pad and fire ring and are located in undeveloped areas of an OSP site, where no facilities are provided. These sites are accessed by backpacking or by non-motorized watercraft.

i. A permit is required for all overnight backcountry camping or backpacking use and may be obtained at the park entrance station.

ii. A copy of the backcountry camping or backpacking regulations can be obtained at the park entrance station.

e. For information regarding campsite reservation fees, see §505, Reservation Policy.

f. Each campsite is restricted to use by one camping unit as defined in §331.B.5.

g. The winter season is October 1-March 31 and the summer season is April 1-September 30.

	Summer Weekend	Summer Weekday	Winter Weekend	Winter Weekday
Premium Campsite	$33	$30	$33	$25
Improved Campsite	$28	$25	$28	$20
Unimproved Campsite	$18	$18	$18	$18
Backcountry Campsite	$9	$9	$9	$9

2. Primitive Group Camping Areas. Designated primitive areas accommodating organized groups (Boy Scouts, Girl Scouts, etc.) are available for camping at $35 to $60 per night based on capacity. Capacity will be set by the site manager.

3. Rally camping areas are those designated and reserved for use by organized groups of overnight campers. These areas differ from the normal state park campgrounds since they are available for group use only.

a. Fees

i. A fee of $60 per night is assessed to the group for the exclusive use of the area, and each individual camper rig is also charged the improved campsite rate.

ii. The day-use fee for a rally campground is $60 per day for the group, in addition to the standard general admission fees per person.

b. Carrying Capacity. A maximum carrying capacity for rally areas is established by individual site managers, and information concerning these capacities is available through the individual site offices.

4. Long-Term Stays. No fee exemption or discount provided for by rule may be applied to a long-term stay.

B. Cabins, Lodges, Group Camps—Fees and Exemptions

1. Cabins

a. Except as otherwise set forth in this Chapter, cabins may be rented in accordance with the following rates.

Classification	Standard Weekday Rate	Standard Weekend Rate	Bedding Accommodations	Maximum Capacity
Deluxe	$150	$175	6-8	8
Standard	$85	$95	4-6	6-8

b. The rental fee for all cabins at Hodges Gardens S.P. and modular cabins at Sam Houston Jones S.P. will be the standard weekday rate year round.

2. Park Lodges. Lodges are large overnight structures equipped with kitchen, bath and sleeping facilities and can accommodate a large family or several family groups. Except as otherwise set forth in this Chapter, lodges may be rented at the following rates.

Classification	Standard Weekday Rate	Standard Weekend Rate	Bedding Accommodations	Maximum Capacity
Standard	$155	$210	varies	varies
Deluxe	$175	$225	14	16

3. Group Camps. Group camps are available at certain parks for organized group use, for day or overnight use. The capacity, type of facility, and rates are as follows.

Classification	Overnight Rate	Maximum Capacity
Class III	$600	100+
Class II	$300	99
Class I	$240	49

4. Special Research Dormitory Facilities at Poverty Point SHS

a. Purpose. The primary purpose of the research dormitory is to provide living space and sleeping accommodations for professional researchers and students who are actively conducting on-site research. The dormitory can be used on a first come, first served basis by other individuals who meet the requirements as set forth in this policy statement.

b. Eligible Users. The dormitory is available to college students, professional archaeologists and other scientists and professionals who are studying the site and/or actively conducting research which relates to or directly involves the site or nearby sites of significance.

i. Requests for use of the dormitory by individuals or groups not meeting the above criteria will be reviewed to determine merit and appropriateness.

c. Application Process. Requests for use of the dormitory must be made by letter addressed to the site manager. The site manager and the assistant secretary will review the request and respond in writing to the applicant.

d. Facility Use Agreement

i. All parties granted permission to use the dormitory must execute a "facility use agreement."

ii. The user must execute the agreement and return it to the site manager before occupying the dormitory.

e. Research Dormitory Fees. All user groups, unless otherwise authorized by the assistant secretary, will be required to pay a $125 per night fee for overnight use. The rental fee must be received within 10 days after the user receives written approval to use the dormitory.

f. Research Dormitory Occupancy Requirements

i. Registration with the site manager is required of all boarders before occupying the dormitory. This information will include name, organization, address, and home or business phone numbers.

ii. Keys to the dormitory can be obtained from the site manager. One group leader will assume responsibility for the keys and return them to the manager before leaving.

iii. General cleanup of this facility will be the responsibility of the user. The user will follow established cleanup and housekeeping procedures distributed by the manager.

iv. Research dormitory checkout time is 2 p.m.

g. Special Conditions. All programs and activities conducted by groups or individuals using the dormitory must be approved in writing by the site manager.

h. The site manager has the administrative responsibility for all matters relating to the daily operation of the dormitory building and site facilities.

5. Prices for the facilities listed in this Section do not include applicable state and local taxes.

6. Prices are subject to discounts, waivers, or surcharges due to special events, demand, occupancy, use that exceeds capacity, or use that is deemed to fall outside of the type of use for which the facility is designed, managed, and staffed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:638 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 26:30 (January 2000), LR 27:1674 (October 2001), LR 31:1988 (August 2005), LR 36:1229 (June 2010), LR 39:1267 (May 2013), LR 42:

§505. Reservation Policy

A. - A.1. …

2. The call center will operate 7:30 a.m. to 6 p.m. (Central Standard Time), Monday-Friday. Inbound telephone reservation services will be closed on the following holidays: New Year's Day, Good Friday, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. Based upon demand, the center's hours may be extended by the assistant secretary or his designee.

3. Reservations are accepted only from persons 21 years of age or older. All persons under 21 years of age must be accompanied by adults when using reserved facilities. Exceptions may be approved by the assistant secretary or his designee.

4. Deposit in full deposit amount must be received within 10 days of the date the reservation is made; otherwise, the reservation is canceled. Payment may be made by credit card, in-state personal check or money order. A $35 NSF fee will be charged for checks written on accounts with insufficient funds. If the reservation is made within 14 days or fewer of the usage date, payment shall be by credit card only.

5. Cancellation of a reservation initiated by the site user is subject to a surcharge. The cancellation fee is a minimum of $10 per facility. If the reservation is canceled within 14 days of the first day of intended use, the cancellation fee is the cost of one day's stay or $10 per

facility, whichever is more. Transfer of reservation dates will be treated as a cancellation as well as a new reservation; therefore subject to the cancellation surcharge. There is no charge to transfer a reservation from a facility to the same type of facility located within the same site. Requests for waivers of the cancellation fee must be made in writing to the assistant secretary or his designee and will be granted only for extreme situations.

6. - 7. …

8. For cabins, lodges, group camps, rally shelters and campsites a two-night minimum reservation is required for weekends and a three-night minimum reservation is required for weekdays. Weekdays nights are considered Sunday through Thursday and Weekends are Friday through Saturday. The weekend minimum applies to any reservation containing a weekend night consecutive with other nights. The weekday minimum applies to any reservation not containing a weekend night. If facilities are not reserved in advance, they may be rented on weekends or weekdays for one night to walk-up users using the facilities that day. Exceptions may be granted by the assistant secretary or his designee. Minimum night reservations terms may be adjusted site by site or periodically by the assistant secretary or his designee in order to encourage visitation or to correlate with special events.

9. Up to five campsites in a park may be designated for long-term stays during the winter season, October 1 through March 31, with assistant secretary approval. A long-term stay shall not exceed 60 consecutive nights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:640 (December 1982), amended LR 12:89 (February 1986), LR 14:777 (November 1988), LR 16:1051 (December 1990), LR 26:32 (January 2000), LR 27:1674 (October 2001), LR 31:1989 (August 2005), LR 36:1230 (June 2010), LR 39:1267 (May 2013), LR 42:

§507. Special Uses and Restrictions

A. Special Use. Any function requiring special or restricted use of any facility or area within an OSP site must be approved by the assistant secretary and the fee for such will be computed on a negotiated rate unless otherwise established. Special use for an organized group event (e.g. weddings, tournaments, fundraiser, runs/walks, etc.) will typically require a facility use agreement (FUA). The determination for the requirement of a FUA will be made by the assistant secretary. Written request for special use of a facility must be received at the Office of State Parks, Box 44426, Baton Rouge, LA 70804-4426 at least 30 days prior to the scheduled event. No telephone requests are accepted.

B. - B.3. …

4. It has also been determined that the use of state historic sites for such activities and events as fairs, circuses, carnivals, amusement rides, and other promoter sponsored, commercial activities and events is not deemed in the best interest of the state historic sites. Such uses fail to achieve the intent outlined in the preservation purpose and may increase the potential for serious damage to the quality and character of the area, adversely affecting the experience of the visitor. However, at Rebel State Historic Site, musical events sponsored by promoters will be permitted with the approval of the assistant secretary or his designee. In addition, PowWows will be allowed, where appropriate, with the approval of the assistant secretary or his designee.

B.5 - C.2. …

D. Use of OSP sites for commercial film-making, videography, or commercial still photography including but not limited to the production of motion picture, television programs, video or print advertising commercials, or commercial video tapings, any of which involves the exclusive use and occupancy of OSP property and/or facilities must be arranged and negotiated with the Office of State Parks' administrative office, Public Information Officer for location agreement.

1. Such use shall only be permitted in accordance with a signed location agreement. Each location agreement is unique depending on the site, the proposed use, and other relevant factors and is negotiated accordingly. Contact the Office of State Parks' administrative office, public information officer for location agreement.

2. Exempt from this rule and policy are photographers and videographers who enter OSP property at the request of the DCRT, in response to a press release, or otherwise; to cover an event, conduct interviews, capture footage of the OSP site or program, or else to gather information for a news or feature story or DCRT project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:779 (November 1988), LR 19:313 (March 1993), LR 26:32 (January 2000), LR 27:1674 (October 2001), LR 31:1989 (August 2005), LR 36:1230 (June 2010), LR 42:

Chapter 9. Division of Outdoor Recreation Administration

§921. LandWCF Application Preparation, Review and Selection Process

A. Applications for LandWCF funds must be submitted to the DOR through an online application available on the Louisiana State Parks website. Applications must be submitted by April 1 (annually). Receipt of an application initiates an extensive and highly competitive process involving DOR preparation of the federal application package, securing clearinghouse approval, evaluation and rating. Project applications will be ranked by score from the Open Project Selection Process (OPSP) and forwarded to the National Park Service for federal approval. Assistance is available from the DOR staff for completion of the online application at any time throughout the year.

1. Initial Evaluation. DOR staff initially review all application submittals on the first business day following April first annually. Identification of all required documents is completed. Applications with substantial missing required documentation are not eligible for further consideration. Sponsors of projects found to have existing compliance issues are also ineligible to apply until actions are completed to meet National Park Service standards. Sponsors of existing active projects are also not eligible to apply until formal federal closeout procedures by the National Park Service are finalized upon completion of the scope of work for the active project. All project sponsors of applications

deemed ineligible are notified in writing in regards to the eligibility to participate. Proposed project sites are visited for initial inspection and evaluation by DOR staff.

2. Review and Preparation of Application. Eligible applicants with complete documentation are evaluated through the OPSP and ranked in priority order. The OPSP is developed in accordance with the most recent publication of the Statewide Comprehensive Outdoor Recreation Plan and approved by the National Park Service (NPS). This determination of suitability results in a priority order of projects for consideration. Projects are presented to the State Parks and Recreation Commission (SPARC) for review. Upon determination of eligible federal LandWCF monies, all eligible projects are forwarded to the NPS Regional Office within the limits of funding.

3. - 8. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1232 (June 2010), amended LR 39:1268 (May 2013), LR 42:

§923. Recreational Trail Program Summarized[3]

A. - B. …

C. Program Funding. The RTP funds come from the Federal Highway Trust Fund, and represent a portion of the motor fuel excise tax collected from non-highway recreational fuel use: fuel used for off-highway recreation by snowmobiles, all-terrain vehicles, off-highway motorcycles, and off-highway light trucks. The RTP funds are distributed to the states by legislative formula: half of the funds are distributed equally among all states, and half are distributed in proportion to the estimated amount of non-highway recreational fuel use in each state.

[3]Title 23 United States Code §206, Recreational Trails Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1233 (June 2010), amended LR 42:

§929. RTP Application Preparation, Review and Selection Process

A. - E. …

F. Division of Outdoor Recreation staff will monitor the construction phase and complete a site inspection at the completion of the project. Project sites are subject to periodic inspection after completion by Division of Outdoor Recreation staff and federal partners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1234 (June 2010), amended 39:1268 (May 2013), LR 42:

§931. Louisiana Recreational Trails Advisory Committee

A. The Louisiana Recreational Trails Advisory Committee is composed of selected individuals to represent a cross section of trail users and trail providers. The committee meets at a minimum of once per the federal fiscal year.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1234 (June 2010), amended LR 42:

Chapter 11. Black Bear Golf Course

Editor' Note: This Chapter 11 (§§1101-1131) has been moved from LAC 25:XI.Chapter 5 (§§501-531).

§1101. Definitions
[Formerly LAC 25:XI.501]

A. …

* * *

Director of Golf (Director)—under the direction of the manager of Poverty Point Reservoir State Park, the director is the top supervisor directly in charge of day-to-day management of the course. The *director* is responsible for enforcing all rules set forth in this Part and for enforcing all course policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:249 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1268 (May 2013), LR 42:

§1111. Business Solicitation
[Formerly LAC 25:XI.511]

A. No person may sell or offer for sale any merchandise or service at the course without the written consent of the assistant secretary, subject to applicable laws, rules, and policies of the state.

B. No person may distribute, post, place, or erect any advertising device at the course without the written consent of the assistant secretary, subject to applicable laws, rules, and policies of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1269 (May 2013), LR 42:

Family Impact Statement

The proposed Rule has no known or foreseeable impact on any family as defined by R.S. 49:972(D) on family formation, stability and autonomy. Specifically there is no known or foreseeable effect on:

1. the stability of the family;
2. the authority and right so parents regarding the education and supervision of their children;
3. The functioning of the family;
4. Family earnings and family budget;
5. The behavior and personal responsibility of the children.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. household income, assets, and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits;
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons are invited to submit written comments on the proposed Rule to Sharon Broussard, Public Information Officer, Office of State Parks, P.O. Box 44426, Baton Rouge, LA 70804. Such comments must be received no later than October 10, 2016.

Brandon Burris
Deputy Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: State Parks

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed technical and non-technical rule changes may result in negligible costs associated with updating signage and other related media. The modifications to Title 25 reflect new fees, increased fees, inclusion of taxes in fees, and other State park specific changes such as: 1) guidance on off-highway vehicle and watercraft use; 2) dump station use; and 3) guidelines and use of certain devices while fishing, hunting, and trapping.

Office of State Parks (OSP) has a sign making shop located at one of its facilities. The sign shop produces two main sizes of signs, which cost the agency $50 and $100 to create. OSP estimates it will need ten (10) signs for new boating fees, twenty-two (22) for dump station fees, ten (10) for golf cart fees, and twenty (20) for various other posted changes. The new signs will have an estimated one-time cost of $6,200. This cost will not result in an increase in OSP's budget.

In addition, OSP will have to reprint tri-fold brochures reflecting proposed fee modifications. OSP handles printing in-house and the estimated one-time cost is $500. This cost will not result in an increase in OSP's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

OSP estimates, the proposed rule changes will generate approximately the following estimated revenues on an annual basis:

- Increased Overnight Fees $1,125,000
- Proposed Day Use Fee $895,000
- New Tax responsibility $817,000
- Proposed Boat Launch Fee $182,000
- Proposed Golf Cart Fee $255,000

Total $3,274,000

OSP is proposing to increase fees for overnight accommodations such as cabins, group camps, lodges, and campsites. The estimated effect on revenue collected for overnight accommodations is an increase of approximately $1,125,000 annually.

Additionally, OSP is proposing an increase of $1 for day use visitors, from $2 to $3. For FY 16 OSP had a total of 1,993,553 visitors. Approximately 45% of all visitors pay a day use fee. OSP estimates to generate $895,000 additional revenue annually by increasing the day use fee.

Historically, OSP's published fee schedule included local taxes and hotel/motel taxes. In the proposed Title 25 changes, visitors will pay taxes on cabins, group camps, lodges, and campsites. For FY 15/16, OSP paid approximately $817,000 in taxes. OSP estimates that excluding taxes from the published fees will generate $817,000 in revenue for OSP annually. Local governmental units will realize a modest revenue increase associated with the application of relevant sales and hotel/motel taxes on the increased fee base.

OSP is proposing a new boat launch fee. On an average day approximately 100-125 boats are launched at state parks. The new fee will generate between $182,500 to $273,750 annually.

OSP is proposing a new golf cart fee. The fee will be charged to the two specific parks that currently allow golf carts and plans to allow golf carts at five additional parks. OSP plans to implement golf cart fees at a total of seven parks and estimates the fees will generate $255,500 to $306,000 annually.

The basis for the fee increase is the need to generate additional revenue to counteract the rising costs of keeping parks operational. The fee increases were determined by analyzing current occupancy reports per each type of overnight facility provided. Due to the high occupancy figures, some state parks operate at almost a hundred percent occupied during times of the year, OSP adjusted the fees to price the public demand of each facility. In addition, a comparison was created of Louisiana fees versus those of other southern state park agencies.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated cost to the individual park user will vary depending on the services they utilize during a typical visit. Day use visitors will realize a modest increase per visit and overnight guest will see a more significant increase. The fees generated in the park will be utilized for operations, repairs, and improvements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Brandon Burris	Evan Brasseaux
Deputy Assistant Secretary	Staff Director
1610#038	Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development
Office of Business Development
Office of Entertainment Industry Development

Motion Picture Investor Tax Credit Program
(LAC 61:I.Chapter 16)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Economic Development has initiated rulemaking procedures to make amendments to the Rules for the Motion Picture Investor Tax Credit Program to better align the rules with current statutory provisions and administrative practices.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 16. Louisiana Entertainment Industry Tax Credit Programs
Subchapter A. Motion Picture Investor Tax Credit Program

§1605. Definitions

A. - B. …

* * *

Cost Report of Production Expenditures—a report of production expenditures formatted in accordance with LED accounting guidelines, which may be issued with initial certification, posted on LED's website or otherwise communicated by LED to applicant in writing.

* * *

Louisiana Publisher—a company primarily engaged in trade, professional or scholarly publishing, which sells or licenses copyrights or the right of use of copyrights in its ordinary course of business, and has a physical location in Louisiana with at least one full-time employee working at such a location on a regular basis. Registering with the Louisiana Secretary of State or appointing a registered agent in Louisiana does not establish a physical location in Louisiana. A procurement company shall not be considered a Louisiana publisher.

Louisiana Resident—a natural person who is a legal resident, who has been domiciled in and maintained a permanent place of abode in Louisiana for no less than twelve consecutive months, and who has filed a Louisiana state income tax return.

* * *

Louisiana Screenplay—

a. a screenplay created by a Louisiana resident or

b. a screenplay purchased, optioned, licensed or otherwise acquired from a Louisiana publisher, in each case, as evidenced by documents such as certificate of authorship, a WGA registration certificate, the records of the United States Copyright Office, or a reasonable legal opinion issued to the office.

* * *

Procurement Company—any person or entity that purchases, leases or otherwise obtains goods or services from sources outside of the state, for the ultimate use, benefit or enjoyment of a state certified production company.

* * *

Qualified Louisiana Production Company—an LED approved motion picture production company, meeting the eligibility criteria for §1615, Louisiana Screenplay Credit.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:53 (January 2010) amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 43:

§1615. Louisiana Screenplay Credit

A.1. For state certified productions initially certified on or after July 1, 2015, with expenditures occurring on or after July 1, 2015, a state certified production company which demonstrates that it owned or optioned to own a Louisiana screenplay, which has been held by a qualified Louisiana production company for a minimum of 12 months prior to production, may be eligible for an additional 15 percent of base investment tax credit.

2. *Louisiana Screenplay*—

a. a screenplay created by a Louisiana resident; or

b. a screenplay purchased, optioned, licensed or otherwise acquired, from a Louisiana publisher;

i. in each case, as evidenced by documents such as certificate of authorship, a WGA registration certificate, the records of the United States Copyright Office, or a reasonable legal opinion issued to the office.

3. *Qualified Louisiana Production Company* (*QLPC*)—a motion picture production company, organized under Louisiana law, or otherwise domiciled and authorized to do business in Louisiana, having its principal place of business in Louisiana, which files Louisiana income tax returns and can also demonstrate:

a. the power and authority to make creative decisions with respect to a motion picture being produced by a state certified production company, including but not limited to final cut authority; and

b. either of the following:

i. Louisiana ownership—must be able to prove that the company is one hundred percent owned by a Louisiana resident or residents, who are natural persons who have been domiciled in and maintained a permanent place of abode in Louisiana for no less than twelve consecutive months prior to beginning of pre-production; or

ii. Louisiana employees—must be able to prove that the company has directly employed a minimum of three full-time Louisiana residents for a minimum of twelve months prior to beginning of pre-production.

3. LED shall post on its website a listing of approved Louisiana publishers and qualified Louisiana production companies.

B. If LED determines that an expenditure is a related party transaction, after review of CPA's verification report and any other supplemental support documentation, in addition to any other appropriate limitations or exclusions, such related party transactions shall not qualify for the additional fifteen percent copyright credit.

C. LED shall not issue a final certification letter certifying any credits pursuant to the provisions of this section, until promulgation of a rule in the *Louisiana Register*, pursuant to the Administrative Procedure Act.

D. LED staff are available to assist interested parties in understanding the eligibility criteria and applying for this additional credit, and would suggest the following sequence of steps.

1. Interested motion picture production companies should apply to LED for approval as a QLPC.

2. Interested publishing house companies should apply to LED for approval as a Louisiana Publisher.

3. Following QLPC approval, QLPC's may apply to LED for project approval of state certified productions as usual, applying either on their own behalf, or their associated project company may apply, but at time of application it must be able to demonstrate the relationship between QLPC and state certified production company applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 43:

§1621. Louisiana Filmmaker Credit

A. For state certified productions initially certified on or after July 1, 2015, with expenditures occurring on or after July 1, 2015, to be eligible for the 30 percent base investment tax credit, motion picture production applicants with base investments in excess of $50,000 but less than $300,000, must be able to demonstrate at time of request for final certification that 90 percent of the Louisiana base investment expended on above the line services has been expended for the services of Louisiana residents and that at least 90 percent of the total production jobs have been filled by Louisiana residents. No credits shall be earned by applicant, and LED shall void any initial certification letter issued and deny final certification requests if applicant fails to demonstrate such compliance.

B. Compensation for above the line services performed in Louisiana shall be paid directly to a Louisiana resident, and any payments made to a loan-out company shall not be considered Louisiana resident payroll for the purposes of above the line percentage calculations.

C. Production jobs may include, but not be limited to cast and crew positions customarily considered below the line in the film and television industry, such as: production manager, cinematographer, set designer, make-up artist. Extras shall not be considered a production job for purposes of production job percentage calculations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 43:

Family Impact Statement

It is anticipated that the proposed Rule amendment will have no significant effect on the: stability of the family, authority and rights of parents regarding the education and supervision of their children, functioning of the family, family earnings and family budget, behavior and personal responsibility of children, ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed rulemaking will have no provider impact as described in HCR 170 of 2014.

Small Business Statement

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

Public Comments

Interested persons should submit written comments on the proposed Rules to Stephen Hamner through the close of business on Tuesday, November 29, 2016 at 1051 N. Third St., Baton Rouge, LA 70802 or via email to stephen.hamner@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 11 a.m. on Wednesday, November 30, 2016 at the Department of Economic Development, 1051 N. Third St., Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Motion Picture Investor Tax Credit Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units due to the implementation of the proposed rules because they set forth guidelines required by portions of Act 134 of 2015 and Act 417 of 2015, The proposed rules align the administrative rules with statutory provisions and administrative practices. Any administrative duties brought about by the proposed rules will be absorbed utilizing existing personnel and resources presently included in the LA Dept. of Economic Development's (LED) FY 17 appropriation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes enact provisions of Act 134 of 2015, increasing the potential for more credits to be issued to Louisiana-based productions under the Motion Picture Investor Tax Program. Presently productions can qualify for a 40% credit comprised of a 30% credit for the base investment and 10% of payroll associated with the production. Regarding the issuance of credits, the act provides for two new credit provisions in accordance with these proposed LED rules, which set forth criteria a production company must meet to qualify for; 1) an additional 15% tax credit (for 45% total film tax credit) on the total base investment for expenditures based upon a Louisiana screenplay, and 2) a new base investment credit of 30% for certain Louisiana filmmakers spending between $50,000-$300,000 (with 90% of above-the-line expenditures and 90% of below-the line jobs with LA residents). A Louisiana resident must reside in the state for 12 consecutive months and payments made to a loan-out company are considered separate from payroll for both the Louisiana resident credit and above the line percentage calculations. Essentially, Act 134 of 2015 expands the available potential credit rate by 15%, from 40% to 55%, on the total base investment in the event the production is sourced to Louisiana and qualifies for the additional 15% credit.

Act 134 of 2015 also placed an exposure cap of $180 M that the state may incur from FY 16 to FY 18. These changes in program composition are expected to occur under the annual program cost cap of $180 M during FY 16-18, pursuant to Act 134 of 2015.. The fiscal note for Act 134 indicates an expected increase in state general fund revenue of $77M in FY 16 and $70M annually in FY 17 and FY 18 as a result of the $180 M cap.

However, a potential exposure to the state fisc exists beyond FY 18, when the $180 M cap expires. While Act 134 of 2015 limited the state's annual Motion Picture Investor Tax Program cost exposure to $180 million for FY 16-18 reallocated the limited amounts of credits to projects with more resident content & participation, the cap does not limit LED's

authority to issue credits. Credits certified in a given fiscal year that are not covered by the $180 M cap are rolled forward to the ensuing fiscal year and are credited against that year's cap. Assuming current activity levels and greater percentages of credits issued (conceivable that companies may qualify for 55% credit rate: 30% base+15% additional base for LA copyright credit+10% LA payroll) it is possible that exposure to the state fisc could build up and be realized in FY 19 to the extent credits are certified in excess of the $180 M cap in FYs 17 and 18 and are rolled forward to the program's cost in FY 19.

For reference, the current version of the statute was established in 2009, to date over 700 applications have been received, and $1.25 billion issued in total credits certified as follows: $49 million in FY 2010, $186 million in FY 2011, $138 million in FY 2012, $348 million in FY 2013, $133 million in FY 2014, $308 million in FY 2015 and $87 million certified to date in FY 2016.

There is no impact to local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The income of businesses participating in the program may increase due to the increased credit rates and new eligibility criteria. However, due to the $180 M cap, businesses participating in the program may see a delay in the issuance of their credit to the extent the amount of credits certified are in excess of $180 M in a given fiscal year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will continue to gain competitively over companies that do not receive the program's benefits

Anne G. Villa
Undersecretary
1610#056

Gregory Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Board of Regents
Office of Student Financial Assistance

Scholarship/Grant Programs
(LAC 28:IV.703 and 1903)

The Louisiana Board of Regents announces its intention to amend its Scholarship/Grant rules (LSA-R.S. 17:3021-3025, LSA-R.S. 3041.10-3041.15, LSA-R.S. 17:3042.1, LSA-R.S. 17:3048.1, LSA-R.S. 17:3048.5 and LSA-R.S. 17:3048.6).

This rulemaking adds AP Computer Science A as a course which will be graded on a 5.0 grading scale beginning with the graduating class of 2018 and adds an expiration date to the provision requiring a postsecondary institution to list an amount designated as Tuition Only which shall be the same as the TOPS Award Amount to be paid to eligible students attending that school. (SG17173NI)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards
§703. Establishing Eligibility

A. - A.5.a.ii.(e). …

(f). For students graduating in academic year (high school) 2017-2018 and after, the courses listed in the tables below have been approved by the Board of Regents and the state Board of Elementary and Secondary Education to be converted to a 5.00 scale when used to complete the core curriculum, and shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a.

(i). Advanced Placement Courses

TOPS Core Course	Advanced Placement
Art	AP Art History AP Studio Art: 2-D Design AP Studio Art: 3-D Design AP Studio Art: Drawing
Biology II	AP Biology
Calculus	AP Calculus AB AP Calculus BC
Chemistry II	AP Chemistry
Chinese	AP Chinese Language and Culture
Economics	AP Macroeconomics AP Microeconomics
English III	AP English Language and Composition
English IV	AP English Literature and Composition
Environmental Science	AP Environmental Science
European History	AP European History
Fine Arts Survey	AP Music Theory
French	AP French Language and Culture
German	AP German Language and Culture
Italian	AP Italian Language and Culture
Japanese	AP Japanese Language and Culture
Latin	AP Latin
Mathematics	AP Computer Science A
Physics I	AP Physics I: Algebra Based AP Physics II: Algebra Based AP Physics C: Electricity and Magnetism AP Physics C: Mechanics
Probability and Statistics	AP Statistics
Spanish	AP Spanish Language and Culture
US Government or Civics	AP U.S. Government and Politics: Comparative AP U.S. Government and Politics: United States
US History	AP U.S. History
World Geography	AP Human Geography
World History	AP World History

A.5.a.ii.(f).(ii). - J.4.b.ii. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612

(December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:651, 664 (April 2015), LR 41:1486 (August 2015), LR 41:2596, 2599 (December 2015), LR 43:

Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions

§1903. Responsibilities of Post-Secondary Institutions

A. - B.10.c. …

11.a. Beginning with the spring semester of 2014 through the spring semester of 2016, for a public college or university to be permitted to bill for a TOPS award amount under the provisions of Section 1903.B.6 of these rules, the college or university must include on the student fee bill line items entitled:

i. "Tuition Only" that equals the TOPS award amount listed on the fee bill;

ii. "TOPS Award Amount" as defined in Section 301; and

iii. "TOPS Stipends" for TOPS Honors and Performance Award stipends. These amounts shall not be included in the "Tuition Only" or "TOPS Award Amount" line items.

b. There shall be no reference to a tuition amount on a student's fee bill other than as provided herein.

C. - G.2. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111, 3114 (December 2005), LR 33:1340 (July 2007), LR 35:1233 (July 2009), LR 35:1490 (August 2009), LR 35:1491 (August 2009), LR 36:2857 (December 2010), LR 40:282 (February 2014), LR 40:1003 (May 2014), LR 41:667 (April 2015), LR 41:2599 (December 2015), LR 43:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in LSA-R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in LSA-R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG17173NI) until 4:30 p.m., November 10, 2016, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P. O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE:

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local government expenditures. Previous rulemaking added the AP Computer Science A course as an equivalent (substitute) course to Advance Mathematics for the purpose of meeting the TOPS core curriculum requirements effective for students graduating during the 2013-2014 high school academic year and thereafter. This proposed rule change is technical and adds this course to the list of courses that are graded on a 5.0 grading scale beginning with the graduating class of 2018. This proposed rule change also sunsets the current requirement pertaining to the way charges are reflected on students' fee bills. The changes stem from Act 18 of the 2016 Regular Legislative Session, which sets the TOPS award amount at the FY 17 level and the award amount can only be raised by an act of the legislature.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated effects on economic benefits to directly affect persons or non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

Robyn Rhea Lively	Evan Brasseaux
Senior Attorney	Staff Director
1610#015	Legislative Fiscal Officer

NOTICE OF INTENT

Department of Insurance
Office of the Commissioner

Regulation 105—Applications for Rate Increases
(LAC 37:XIII.Chapter 147*)*

The Department of Insurance, pursuant to the authority of the *Louisiana Insurance Code*, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to adopt Regulation 105—Applications for Rate Increases.

Every insurer whose rates are subject to regulation pursuant to subpart O of part IV of chapter 4 of title 22 of the *Louisiana Revised Statutes*, comprised of R.S. 22:1451 to 1488, is required to file with the commissioner every manual, minimum, class rate, rating schedule, or rating plan and every other rating rule and every modification of any of the foregoing that it proposes to use. The commissioner of

insurance has the exclusive authority to accept, review, and approve any application for insurance rates or rate changes for all lines of property and casualty insurance. The purpose of Regulation 105 is to regulate the frequency of applications for rate increases in furtherance of the purposes of subpart O.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 147. Regulation 105—Applications for Rate Increases

§14701. Purpose

A. The purpose of Regulation 105 is to establish limitations on the frequency of applications for rate increases and exceptions to such limitations in furtherance of Subpart O of Part IV of Chapter 4 of Title 22 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1451(B), 22:1464(A)(1), and 22:1473(D).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§14705. Authority

A. Regulation 105 is promulgated by the Commissioner of Insurance pursuant to authority granted under the Louisiana Insurance Code, R.S. 22:1 et seq, particularly 22:1473(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1451(B), 22:1464(A)(1), and 22:1473(D).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§14707. Exemptions

A. Regulation 105 shall not apply to an insurer's rate filing that would result in a zero percent overall statewide rate change or an overall statewide rate decrease for any property and casualty insurance product or program. Furthermore, Regulation 105 shall not apply to any rate filing submitted pursuant to R.S. 22:1451(D), 1464(E), or 2303.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1451(B), 22:1464(A)(1), and 22:1473(D).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§14709. Definitions

A. For purposes of Regulation 105, the definitions detailed below shall apply.

Rate—as defined in R.S. 22:1452.

Property and Casualty Insurance Product or Program—product or program of an insurer regulated by Subpart O of Part IV of Chapter 4 of Title 22 of the Louisiana Revised Statutes, comprised of R.S. 22:1451 to 1488, except as provided by §14707.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1451(B), 22:1464(A)(1), and 22:1473(D).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR

§14711. Application for Rate Increase

A. The commissioner will not accept an application for an overall statewide rate increase for any property and casualty insurance product or program if such application requests that the rate increase be implemented within 12 months of the effective dates of the most recently approved overall statewide rate increase. However, the commissioner, at his discretion, may accept the application if the applicant presents compelling evidence along with an affidavit setting forth the reasons why the application should be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1451(B), 22:1464(A)(1), and 22:1473(D).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

Family Impact Statement

1. Describe the effect of the proposed regulation on the stability of the family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the proposed regulation on the functioning of the family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed regulation on family earnings and budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed regulation on the behavior and personal responsibility of children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

Poverty Impact Statement

1. Describe the effect on household income, assets, and financial security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the effect on early childhood development and preschool through postsecondary education development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the effect on employment and workforce development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety,

environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and estimate of the number of the small businesses subject to the proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed Rule, including the type of professional skills necessary for preparation of the report or record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed amended regulation will have no effect.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed amended regulation will have no effect.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed amended regulation will have no effect.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than November 20, 2016, by 4:30 p.m. and should be addressed to Lynette Roberson, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214, faxed to (225) 342-1632, or emailed to lroberson@ldi.la.gov. If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North 3rd Street, Baton Rouge, LA 70802.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 105—Applications for Rate Increases

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed regulation will not result in costs or savings to the state or local governmental units. The purpose of Regulation 105 is to regulate the frequency of applications for rate changes for all lines of property and casualty insurance. The commissioner will not accept an application for an overall statewide rate increase for any property and casualty insurance product if such application requests that the rate increase be implemented within 12 months of the effective date of the most recently approved rate. This regulation shall not apply to an insurer's rate filing that would result in a zero percent overall statewide rate change or an overall statewide rate decrease or filings submitted pursuant to R.S. 22:1451(D), 1464(E), or 2303.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed regulation will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed regulation limits the frequency of applications for rate increases for all lines of property and casualty insurance products. The regulation will reduce rate increases to no more than once every 12 months.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed regulation will have no impact upon competition and employment in the state.

Denise Brignac
Deputy Commissioner
1610#033

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Office of State Lands

Granting of Rights-of-Way to Corporations or Individuals
(LAC 43:XXVII.2701)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 41:1173, that the Office of State Lands proposes to amend Chapter 27 to increase the fees associated with pipeline rights-of-way. The Office of State Lands currently charges $25, $35, and $45 for the three classes of pipeline that traverse State property. The Office of State Lands intends to double these rates, bringing Louisiana's rates closer to those of neighboring states.

Title 43
NATURAL RESOURCES
Part XXVII. State Lands
Subpart 2. Use and Management of State Lands
Chapter 27. Rights-of-Way
§2701. Granting Rights-of-Way to Corporations or Individuals

A - L. …

M. Fees for permits shall be as follows.

1. Class 1. Pipe 2 inches up to 19 inches outside diameter with a minimum of 75 feet right-of-way during construction to revert to 35 after construction is completed with the additional right of ingress and egress for the purpose of maintenance, repairs, removal or modification—$50 per rod.

2. Class 2. Pipe 19 inches up to 36 inches outside diameter with a maximum of 100 feet right-of-way during construction to revert to 50 feet after construction is completed with the additional right of ingress and egress for the purpose of maintenance, repairs, removal or modification—$70 per rod.

3. Class 3. Pipe over 36 inches outside diameter with a maximum of 200 feet right-of-way during construction to revert to 60 feet after construction is completed with the additional rights of ingress and egress for the purpose of maintenance, repairs, removal or modification—$90 per rod.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1173.

HISTORICAL NOTE: Adopted by the State Land Office, LR 1:147 (February 1975), amended by the Department of Natural Resources, Office of the Secretary, LR 3:314 (July 1977), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19:493 (April 1993), amended LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Les Rosso, Office of State Lands, P.O. Box 44124 Baton Rouge, LA 70804. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Monday, November 28 at 9:30 a.m. in Room G-150, Claiborne Building, 1201 North Third St., Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Mark Gates
Assistant Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Granting of Rights-of-Way to Corporations or Individuals

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no projected implementation costs to state or local governmental units. The proposed rule change will double the fee paid by right-of-way grantees from $25, $35 or $45 per rod (16.5 feet) depending on the diameter of the pipeline, to $50, $70 or $90 respectively.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The state is estimated to collect an additional $280,000 in right-of-way fees on an annual basis as a result of the proposed rule change. The total projected collections through the end of FY 2021 will total $1,260,000.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

New right-of-way grantees will realize additional costs of approximately $280,000 annually and $1,260,000 in total over the next five (5) fiscal years as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to effect competition or employment in the public or private sectors.

Mark Gates
Assistant Director
1610#055

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Racing Commission

License Information (LAC 46:XLI.1903)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission proposes to amend LAC 46:XLI.1903. This amendment creates an additional licensing requirement of licensed training tracks requiring them to provide proof that the Racing Commission be a notified party on the policy so that it receives notice of all renewals and any lapses in coverage.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLI. Horseracing Occupations
Chapter 19. Training Tracks
§1903. License Information

A. - B.5. …

6. name of liability insurer, policy number, name of insureds, certificate of insurance in an amount not less than $1,000,000, and proof that the Louisiana State Racing Commission is listed as a notified party on the insurance policy and certificate in such a manner that the Louisiana

State Racing Commission receives notice of all renewals and any lapses in coverage;

7. …

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

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 4:289 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 38:1018 (April 2012), LR 43:

Family Impact Statement

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

Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or Larry Munster, Assistant Executive Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule for a period up to 20 days exclusive of weekends and state holidays from the date of this publication to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: License Information

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in any costs or savings to state or local governmental units. The proposed rule change creates an additional licensing requirement of the four licensed training tracks, requiring them to list the Racing Commission as a notified party on their insurance policies. As a notified party on the insurance policy, the Racing Commission will receive notices of all renewals, changes, and any lapses in policy coverage. Furthermore, the proposed rule requires the training tracks to provide proof to the Racing Commission that the Commission has been added as a notified party on their insurance policies.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Licensed training tracks must add the Racing Commission as a notified party in the event there are revisions or changes to their insurance policies, which has no expected cost. The proposed rule change may have a minimal impact on insurance companies depending on which process they use to notify the Louisiana State Racing Commission in regards to lapses or revisions to the licensed training tracks' insurance policies.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of the proposed rule change.

Charles A. Gardiner III
Executive Director
1610#002

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Board of Dentistry

Advertising and Soliciting by Dentists and Complaints and Investigation (LAC 46:XXXIII.701 and 1509)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760 (8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.701 and 1509.

The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.701 so it will read more clearly. The rule was unclear that the limits did not apply to hygienists working in school or public institution.

The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.1509 because the initial office permit rule should have included the requirement that dentists treating pediatric patients who have been sedated by a third party must hold a current pediatric advanced life support (PALS) certification. The rule currently requires that any dentist treating a patient who has been sedated (by either a third party or the dentist) be currently certified in advanced cardiac life support (ACLS) to better ensure the patient's safety; however, ACLS is only for adult patients whereas PALS is for patients below the age of 13. Currently, a dentist sedating the patient is required to hold PALS certification. This Rule requires that all children sedated in dental offices will be treated by dentists who are certified in PALS regardless of who sedates or anesthetizes the pediatric patient. Requiring the dentist to hold current PALS certification ensures that both the dentist and the third party anesthesia provider can both assist the child patient in the case of an emergency.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Profession
Chapter 7. Dental Hygienists
§701. Authorized Duties

A. …

B. A person licensed to practice dentistry in the state of Louisiana may delegate to any dental hygienist any chairside dental act which said dentist deems reasonable, using sound professional judgment. Such act must be performed properly and safely on the patient. Furthermore, the act must be under the direct on-premises supervision of the treating dentist. A dentist may not delegate to a dental hygienist:

B.1. - G.2. …

3. No duly licensed and registered dentist in a private practice shall supervise a dental hygienist for more than five consecutive business days or for more than 20 total days in

any calendar year. These limits do not apply to a hygienist working at a school or public institution.

4. - 6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:22 (January 1996), LR 22:1217 (December 1996), LR 24:1116 (June 1998), LR 27:1892 (November 2001), LR 32:2056 (November 2006), LR 37:590 (February 2011), LR 37:1406 (May 2011), LR 42:

Chapter 15. Anesthesia/Analgesia Administration

§1509. Third-Party Sedation/Anesthesia

A. …

B. In order to utilize a third-party to administer sedation and/or anesthesia as described in Subsection A, a dentist must obtain an office permit for each office location at which a third-party anesthetist will be administering sedation or anesthesia, subject to the exceptions in R.S. 37:793(H). This permit will only be issued after an office inspection by the board to assure that the office meets the minimum requirements for facilities, personnel and equipment for sedation/anesthesia procedures. Additionally, the dentist who is performing the dental work but not performing the sedation/general anesthesia must have current certification in advanced cardiac life support (ACLS) as described in §1503.E and, if children are to be sedated, must also have current certification in pediatric life support (PALS) as described in §1504.A.4. If a dentist's practice is restricted to treating only children, the certification in pediatric life support (PALS) described in §1504.A.4 will suffice as a substitute for ACLS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:54 (January 2016), amended LR 42:

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed rulemaking should not have any know or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comment

Interested persons may submit written comments on these proposed Rule to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the Board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of the publication of this notice.

Public Hearing

A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur F. Hickham, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Advertising and Soliciting by Dentists and Complaints and Investigation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated one-time implementation cost to the Board of Dentistry for the publication of the proposed notice and rules in the State Register is approximately $500 in FY 17. There are no other implementation cost or savings to state or local governmental units through promulgation of the proposed rules changes.

The proposed rule change clarifies that the current general supervision annual daily limits and consecutive daily limits for dental hygienist do not apply to hygienist that are working in a school or public institution. In addition, the proposed rule changes require dentists to have a Pediatric Advanced Life Support (PALS) certification in the event they use a third-party to anesthetize pediatric patients.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections by the board, state, or local governmental units through promulgation of the proposed rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes are anticipated to impact dental hygienists and dentists. The proposed rule change clarifies that the current general supervision requirement for dental hygienist does not apply to hygienist that are working in a school or public institution.

The propose rule changes to LAC 46:XXXIII.1509 will impact dentists. If the dentist is not currently certified in PALS and children are to be sedated using a third-party, the dentist will now incur a cost to take the required certification in PALS.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The rule changes to LAC 46:XXXIII.701 and LAC 46:XXXIII.1509 should not impact public competition or employment. The current rule requires that any dentist treating a patient who has been sedated (by either a third party or the

dentist) be currently certified in Advanced Cardiac Life Support (ACLS) to better ensure the patient's safety. ACLS certification is only for adult patients whereas PALS certification is for patients below the age of 13.

The proposed rule changes require dentists to have PALS certification when treating patients below the age of 13 who have been sedated by the doctor or by a third party. This requirement ensures that both the dentist and the third party anesthesia provider can both assist the child patient in the case of an emergency.

Arthur F. Hickham, Jr
Executive Director
1610#074

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Board of Medical Examiners

Physician Licensure and Practice; Telemedicine
(LAC 46:XLV.408 and Chapter 75)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1270, the Board intends to amend its Rules governing the use of telemedicine as to patients who are located in this state, LAC 46XLV.408 and .7501 et seq. The proposed amendments are needed to conform the board's telemedicine rules to Acts 630 and 252 of the 2016 Regular Session of the Louisiana Legislature. Among other items, the proposed changes: remove the requirement that a physician practicing medicine by telemedicine maintain a physical practice location in this state or have an arrangement with physician who does (§408.A, §408.D.3; §7503.A, §7507.A.1.-2); authorize the use of telemedicine by interactive audio, without the need for video, provided certain conditions are satisfied (§7503.A, §7505.B); delete the requirement for at least one in-person visit by a physician who prescribes controlled substances by telemedicine for patients being treated in a healthcare facility required to be licensed by this state, which possesses a current registration with the U.S. Drug Enforcement Administration (§7513.C.3.a); provide that a physician refer a patient to another physician in this state or arrange for follow-up care within the state if indicated (§7507.B.2.d); and better provide for board access to patient records (§7509.A.5). The amendments also clarify the status of a telemedicine permit (§408.A), and provide for documentation of telemedicine encounters (§7509.A.1).

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 2. Licensure and Certification
Chapter 3. Physicians
Subchapter H. Restricted Licensure, Permits
§408. Telemedicine Permit Qualifications, Procedure, Issuance, Expiration and Renewal

A. Requirement for Permit/Qualifications. A physician who does not possess a Louisiana medical license shall not engage in the practice of medicine in this state via telemedicine, as defined in Chapter 75 of these rules, unless he or she holds a telemedicine permit issued by the board. A telemedicine permit is a limited license that provides lawful authority to a physician who does not hold a current, unrestricted Louisiana medical license to practice telemedicine with respect to patients located in this state. To be eligible for a telemedicine permit an applicant shall:

A.1. - C. …

D. Application. Application for a telemedicine permit shall be made in a format approved by the board and shall include:

1. - 2. …

3. the primary location(s) from which telemedicine will be utilized by the applicant;

D.4. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275, 1276.1 and 1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1532 (August 2009), amended 41:2144 (October 2015), LR

Subpart 3. Practice
Chapter 75. Telemedicine
Subchapter A. General Provisions
§7503. Definitions

A. As used in this Chapter and in §408 of these rules, unless the content clearly states otherwise, the following words and terms shall have the meanings specified.

* * *

Medical Practice Act or the Act—R.S. 37:1261-92, as may from time to time be amended.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a current license or a telemedicine permit duly issued by the board.

* * *

Telemedicine—the practice of health care delivery, diagnosis, consultation, treatment, and transfer of medical data by a physician using interactive telecommunication technology that enables a physician and a patient at two locations separated by distance to interact via two-way video and audio transmissions simultaneously. Neither an electronic mail message between a physician and a patient, or a true consultation constitutes *telemedicine* for the purposes of this Part. A physician practicing by telemedicine may utilize interactive audio without the requirement of video if, after access and review of the patient's medical records, the physician determines that he or she is able to meet the same standard of care as if the healthcare services were provided in person.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015), LR 43:

§7505. Patient Relationship; Standard of Care; Location of Participants

A. …

B. Standard of Care. The practice of medicine by telemedicine, including the issuance of any prescription via electronic means shall be held to the same prevailing and usually accepted standards of medical practice as those in

traditional (face-to-face) settings. An online, electronic or written mail message does not satisfy the standards of appropriate care.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015) LR 43:

§7507. Prerequisite Conditions; Disclosures

A. The practice of medicine is deemed to occur at the location of the patient. Therefore, no physician shall utilize telemedicine to provide medical services to patients located in this state unless the physician:

1. holds an unrestricted Louisiana medical license; or

2. holds a telemedicine permit as provided in §408 of these rules.

B. A physician utilizing telemedicine with respect to patients located in this state shall have:

1. …

2. if required by the standard of care applicable to the diagnosis or treatment of the patient's complaints in a traditional (face-to-face) setting, the ability:

a. - c. …

d. to refer the patient to another physician in this state or arrange for follow-up care within this state as may be indicated for that purpose.

C. - C.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015), LR 43:

§7509. Patient Records

A. Patient records shall be:

1. created and maintained for every telemedicine visit according to the same standards of care as in an in-person visit. The record shall clearly reflect and state that the patient encounter occurred by telemedicine;

2. - 3. …

4. made available to the patient or a physician to whom the patient may be referred within a reasonable period of time; and

5. made available to the board upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275, and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2146 (October 2015), LR 43:

§7513. Prohibitions

A. - B. …

C. No physician shall utilize telemedicine:

1. - 2. …

3. to authorize or order the prescription, dispensation or administration of any controlled substance unless;

a. the physician has had at least one in-person visit with the patient within the past year; provided, however, the requirement for an in-person visit shall not apply to a physician who holds an unrestricted license to practice medicine in this state and who practices telemedicine upon any patient being treated at a healthcare facility that is required to be licensed pursuant to the laws of this state and which holds a current registration with the U.S. Drug Enforcement Administration;

C.3.b. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1534 (August 2009), amended LR 41:2146 (October 2015), LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Impact Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., November 21, 2016.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on November 28, 2016 at 10:30 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Eric D. Torres
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Physician Licensure and Practice; Telemedicine

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation costs to the Louisiana State Board of Medical Examiners are approximately $492 in FY

2017 for the notice and rule publication costs. There are no estimated implementation savings to the state or local government units through promulgation of the proposed rule changes, which are needed to conform the Board's telemedicine rules to Acts 630 and 252 of the 2016 Regular Session of the Louisiana Legislature. Among other items, the proposed rule changes implement the following actions:

(i) Remove the requirement that a physician practicing medicine by telemedicine maintain a physical practice location in this state or have an arrangement with physician who does (408A, 408D.3; 7503A, 7507A.1.-2);

(ii) Authorize the use of telemedicine by interactive audio without the need for video if the physician determines that he or she can satisfy the same standard of care as if the services were provided in person (7503A, 7505B);

(iii) Delete the requirement for at least one in-person visit by a physician who prescribes controlled substances by telemedicine for patients being treated in a healthcare facility required to be licensed by this state, which possesses a current registration with the U.S. Drug Enforcement Administration ("DEA") (7513C.3.a);

(iv) Maintain the need that a physician be capable of referring a patient to another physician or arranging for follow-up care within the state if indicated (7507B.2.d);

(v) Provide for Board to have access to patient records (7509A.5);

(vi) Clarify the status of a telemedicine permit (408A), and provide for documentation of telemedicine encounters (7509A.1).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the Board's revenue collections or those of any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes are not anticipated to have a material effect on costs, paperwork, or workload of physicians and/or income of licensees or non-governmental groups. The proposed rule changes may affect physicians in the following ways:

(i) Out-of-state physicians who possess a license or apply for a telemedicine permit will no longer need a referral arrangement with a physician who maintains a physical practice location in this state;

(ii) Physicians are authorized to use telemedicine by interactive audio without the need for video if the physician determines that he or she can satisfy the same standard of care as if the services were provided in person;

(iii) Eliminates the requirement for at least one in-person visit by a physician who prescribes controlled substances by telemedicine to a patient being treated in a facility licensed by the state which possesses a current DEA registration.

Because there is no information or data available either as to the number of physicians who utilize telemedicine in their practice, or the extent to which the changes will impact those that do, the Board is not in a position to estimate the impact of the proposed changes. However, the propose rule changes may provide an economic benefit to the public by enhanced access to medical services via telemedicine and may reduce the costs associated with the delivery of certain medical services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule changes will have any impact on competition or employment in either the public or private sector.

Eric D. Torres	Gregory V. Albrecht
Executive Director	Chief Economist
1610#071	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Board of Medical Examiners

Physician Practice; Marijuana for Therapeutic Use by Patients Suffering From a Debilitating Medical Condition (LAC 46:XLV Chapter 77)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1270, the Board intends to amend its Rules governing physicians who utilize therapeutic marijuana in the treatment of their patients who are suffering from a debilitating medical condition, LAC 46:XLV Chapter 77. The proposed amendments are needed to conform the Board's rules to Act 96 of the 2016 Regular Session of the Louisiana Legislature. Among other items, the proposed changes: incorporate changes in definitions made to the law e.g., changing a *prescription* to a *recommendation* (§7705) and a *qualified medical condition* to a *debilitating medical condition* (§7701, §7705); expand the conditions for which therapeutic marijuana may be recommended from three to ten (§7705); provide for instances where the United States Food and Drug Administration may subsequently approve therapeutic marijuana for a debilitating medical condition in the same or a different form (§7709A.2); consistent with the law, provide that physicians who recommend therapeutic marijuana must be domiciled in this state (§7711A.3); incorporate certain changes to provisions on medical diagnoses and independent medical judgment consistent with guidance by the Federation of State Medical Boards and update provisions relative to the treatment plan and patient informed consent (§7717); remove the delay in rule implementation so that the rules will be effective upon promulgation (§7725); and update the suggested form for physician recommendation for therapeutic marijuana consistent with the changes to the law (§7729).

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 3. Practice
Chapter 77. Marijuana for Therapeutic Use by Patients Suffering from a Debilitating Medical Condition
Subchapter A. General Provisions
§7701. Preamble, Warning, and Suggested Consultation

A. Preamble—State Law. Pursuant to Act 261, R.S. 40:1046, of the 2015 Session of the Louisiana Legislature, as amended and supplemented by Act 96 of the 2016 Session of

the Louisiana Legislature, the Louisiana State Board of Medical Examiners was directed to:

1. promulgate rules and regulations authorizing physicians licensed to practice in this state to recommend marijuana for therapeutic use by patients clinically diagnosed as suffering from a debilitating medical condition; and

A.2. - C. …

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2631 (December 2015), amended by the Department of Health Hospitals, Board of Medical Examiners, LR 43:

§7703. Scope of Chapter

A. This Chapter is being adopted in order to comply with the obligations imposed upon the board by Act 261, R.S. 40:1046, of the 2015 Session of the Louisiana Legislature, as amended and supplemented by Act 96 of the 2016 Session of the Louisiana Legislature, and govern a physician's recommendation for the therapeutic use of marijuana for a patient suffering from a debilitating medical condition with whom the physician has established a bona-fide physician-patient relationship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

§7705. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

* * *

Conventional Treatment or Conventional Medicine—therapeutic modalities and medications offered or employed by a physician in the treatment of a debilitating medical condition which are generally accepted and recognized as falling within the standard of care in the course of medical practice based upon medical training, experience and peer reviewed scientific literature.

Debilitating Medical Condition (also referred to in this Chapter as a *Qualifying Medical Condition*)—cancer, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, cachexia or wasting syndrome, seizure disorders, epilepsy, spasticity, Crohn's disease, muscular dystrophy, or multiple sclerosis, and/or such other diseases or conditions that may subsequently be identified as a debilitating medical condition by amendment of R.S. 40:1046 or other state law.

* * *

Qualifying Medical Condition—a debilitating medical condition, as defined in this Section.

Recommend or *Recommendation* (also referred to in this Chapter as a *Written Request* or Recommendation—a physician's written direction transmitted in a form and manner specified in §7721 of this Chapter, to a licensed therapeutic marijuana pharmacy. The issuance of a recommendation must be in good faith and in the usual course of the physician's professional practice.

* * *

Step Therapy or *Fail First Protocols*—as used in this Chapter means that if the USFDA approves the use of therapeutic marijuana for a debilitating medication condition, in a form or derivative that is different than provided for in this Chapter, the USFDA form or derivative shall be used first. If the physician determines that such USFDA approved form or derivative has been ineffective in the treatment of the patient's debilitating medical condition, the physician may then recommend a form of therapeutic marijuana provided in this Chapter for use by the patient as medically necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

Subchapter B. Prohibitions and Exceptions

§7709. Exceptions

A. This Chapter is subject to the following exceptions.

1. The rules of this Chapter shall not apply to a physician's prescription of cannabinoid derived pharmaceuticals that are approved by the USFDA for administration to patients.

2. If the USFDA approves the use of therapeutic marijuana:

a. in the same form provided for in this Chapter for a debilitating medical condition, identified in §7705.A, that medical condition shall no longer be covered by this Chapter;

b. in a form or derivative different than provided for in this Chapter for a debilitating medical condition, identified in §7705.A, that disease state shall remain covered by this Chapter. However, the patient shall first be treated through utilization of step therapy or fail first protocols.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

Subchapter C. Registration

§7711. Registration, Physician Eligibility

A. To be eligible for registration under this Chapter a physician shall, as of the date of the application:

1.-2. …

3. be domiciled in and practice at a physical practice location in this state; and

4.-D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015), amended by the Department of Health, Board of Medical Examiners LR 43:

Subchapter D. Marijuana for Therapeutic Purposes, Limitations, Access to Records

§7717. Use of Marijuana for Therapeutic Purposes, Limitations

A. …

1. Medical Diagnosis. A medical diagnosis of a debilitating medical condition shall be clinically established

and clearly documented in the patient's medical record, based on an in-person physical examination. The diagnosis shall be supported by an assessment of the patient which, at a minimum, shall include a review of the patient's present illness, medical and surgical history, social history, alcohol and substance use history (including addiction, mental illness and psychotic disorders), prescription history, and an assessment of current coexisting illnesses, diseases, or conditions.

2. …

3. Independent Medical Judgment. A physician's decision to utilize marijuana in the treatment of a patient must be based on the physician's independent medical judgment. The indication, appropriateness, and safety of the recommendation shall be evaluated in accordance with current standards of practice and in compliance with the laws of this state and the rules of this Chapter.

4. Treatment Plan. An individualized treatment plan shall be formulated and documented in the patient's medical record which includes medical justification for the use of marijuana. In addition, the plan shall include documentation:

a. that conventional treatment for the patient's debilitating medical condition have been considered, are being undertaken or have been attempted without adequate or reasonable success or a statement that the patient has refused such methods;

b. whether therapeutic marijuana could interfere with any ongoing conventional treatment; and

c. the intended role of therapeutic marijuana within the overall plan.

5. Informed Consent. A physician shall explain the potential risks and benefits of both the therapeutic use of marijuana and any alternative conventional treatment to the patient. Among other items, informed consent should caution against driving, operating machinery or performing any task that requires the patient to be alert or react when under the influence of the drug and the need for secure storage to reduce the risk of exposure to children or diversion by others. Unless approved by the USFDA for treatment of the patient's debilitating medical condition, a physician shall also advise patients that therapeutic marijuana is experimental, unconventional, and has not been approved by the USFDA for the treatment of the patient's debilitating medical condition, and that possession may be viewed as illegal under federal law and subject to federal (and workplace) enforcement action. Discussion of the risks and benefits should be clearly noted in the patient's record. If the patient is a minor a custodial parent or legal guardian shall be fully informed of the risks and benefits and consent to such use.

A.6. - B.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

§7721. Form of Written Request or Recommendation

A. Required Contents. A written request or recommendation for therapeutic marijuana shall include:

1. - 3. …

4. the form, amount, dosage and instructions for use of therapeutic marijuana in an amount which is not greater than that necessary to constitute an adequate supply to ensure uninterrupted availability for a period of one month, including amounts for topical treatment; and

A.5. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2634 (December 2015), amended by the Department of Health, Board of Medical Examiners LR 43:

Subchapter E. Sanctions, Severability

§7725. Effective Date

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2635 (December 2015), repealed by the Department of Health, Board of Medical Examiners LR 43:

§7729. Appendix—Form for Recommendation for Therapeutic Marijuana

—THIS IS NOT A PRESCRIPTION—

PHYSICIAN RECOMMENDATION FORM

* * *

Section C. Patient's Debilitating Medical Condition(s) (Required)

This patient has been diagnosed with the following debilitating medical condition: (A minimum of one condition must be checked)
___ Acquired Immune Deficiency Syndrome ___ Cachexia or Wasting Syndrome ___ Cancer ___ Crohn's Disease ___ Epilepsy ___ Multiple Sclerosis ___ Muscular Dystrophy ___ Positive Status for Human Immunodeficiency Virus ___ Spasticity ___ Seizure Disorders

* * *

Section E. Certification, Signature and Date (Required)

By signing below, I attest that the information entered on this recommendation is true and accurate. I further attest that the above-named individual is my patient, who suffers from a debilitating medical condition and that this recommendation is submitted by and in conformity with Louisiana Law, R.S. 40:1046, and administrative rules promulgated by the Louisiana State Board of Medical Examiners, LAC 46:XLV.Chapter 77.
Signature of Physician: X_____
Date:_____

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2635 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Impact Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., November 21, 2016.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on November 28, 2016 at 11:30 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Eric D. Torres
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Physician Practice; Marijuana for Therapeutic Use by Patients Suffering From a Debilitating Medical Condition

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation costs to the Louisiana State Board of Medical Examiners are approximately $752 in FY 2017 for the notice and rule publication costs. There are no estimated implementation savings to the state or local government units through promulgation of the proposed rule changes, which are needed to conform the Board's rules to Act 96 of the 2016 Regular Session of the Louisiana Legislature. Among other items, the proposed rule changes implement the following actions:

(i). Incorporate various definitional changes embodied in the law by changing the term to describe: a physician's decision to order therapeutic marijuana for a patient from a *prescription* to a *recommendation* (7705); a condition for which therapeutic marijuana may be utilized from a *qualified medical condition* to a *debilitating medical condition* (7701, 7705);

(ii) Expand from three to ten the medical conditions for which therapeutic marijuana may be recommended (7705);

(iii) Provide for exceptions to the rules in instances where the United States Food and Drug Administration may subsequently approve the use of therapeutic marijuana for a debilitating medical condition in the same form or in a different form provided by state law and, in the latter instance, provide for step therapy or fail first protocols (7709A.2);

(iv) Provide that physicians who recommend therapeutic marijuana be domiciled in this state (7711A.3) to be consistent with R.S. 40:1046A(1);

(v) Incorporate certain changes to the provisions dealing with medical diagnoses and independent medical judgment consistent with guidance by the Federation of State Medical Boards and update provisions relative to the treatment plan and patient informed consent (7717);

(vi) Remove the delay in the effective rule implementation date so that the rules will be effective upon promulgation (7725); and (vii) update the suggested form for a physician recommendation for therapeutic marijuana consistent with the changes to the law (7729).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the Board's revenue collections or any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes are not anticipated to have a material effect on costs, paperwork, or workload of physicians and/or income of licensees or non-governmental groups. The proposed rule changes expand from three to ten debilitating medical conditions for which therapeutic marijuana may be recommended by a physician for the treatment of a patient.

Based on information received by the Fiscal Office from the Department of Insurance, insurance companies in the short-run will not be covering medical marijuana, therefore the additional eligible medical conditions is not anticipated to increase costs to insurance companies. It is anticipated at this time the prescription cost of the medical marijuana will be paid directly by the patient.

Physicians who recommend, and patients who receive therapeutic marijuana on their physician's recommendation, will be directly affected by the proposed rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule changes will have any impact on competition or employment in either the public or private sector.

Eric D. Torres	Gregory V. Albrecht
Executive Director	Chief Economist
1610#072	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Forensic Supervised Transitional Residential
and Aftercare Facilities
Licensing Standards
(LAC 48:I.Chapters 72)

The Department of Health, Bureau of Health Services Financing proposes to repeal and replace LAC 48:I.Chapter 72 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 28:31-28:37. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated licensing standards for forensic supervised transitional residential and aftercare (FSTRA) facilities (*Louisiana Register*, Volume 37, Number 4). The department now proposes to repeal and replace the provisions governing FSTRA licensing standards to include language related to the culture change movement in nursing facilities, to update language to be consistent with licensing and enforcement processes, and to be more concise in providing regulatory information to providers and the public.

Title 48
PUBLIC HEALTH—GENERAL
Part 1. General Administration
Subpart 3. Licensing and Certification
Chapter 72. Forensic Supervised Transitional Residential and Aftercare Facilities Licensing Standards
Subchapter A. General Provisions
§7201. Introduction

A. These rules and regulations contain the minimum licensure standards for forensic supervised transitional residential and aftercare (FSTRA) facilities, pursuant to R.S. 28:31-28:37. These licensing regulations contain core requirements as well as module specific requirements, depending upon the services provided by the forensic supervised transitional residential and aftercare facility. The modules to be licensed under a FSTRA license are:

1. secure community supervised transitional/ residential facility; and
2. secure forensic facility.

B. A forensic supervised transitional residential and aftercare facility serves clients referred by state forensic hospitals or state forensic inpatient psychiatric units operated

by the Department of Health, including persons who are court ordered and persons who are on court ordered conditional release status. A FSTRA facility shall operate seven days per week, 24 hours a day.

C. The care and services to be provided through arrangement or by the facility shall include, but are not limited to, the following:

1. behavioral health services;
2. nutritional services;
3. medication management;
4. assistance with independent living skills;
5. recreational services; and
6. transportation services.

D. Key administrative personnel shall include the administrator, physician/psychiatrist and the registered nurse supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7203. Definitions

Activities of Daily Living (ADLs)—the functions or tasks which are performed by an individual in a typical day, either independently or with supervision/assistance. Activities of daily living may include, but are not limited to, bathing, dressing, eating, grooming, walking, transferring and/or toileting.

Administrator—the person responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

Assistance with Activities of Daily Living—services that provide assistance with activities of daily living. Such assistance may be the actual performance of the task for the individual, or may provide hands-on assist with the performance of the tasks, or may be supervision and prompting to allow the individual to self-perform such tasks.

Behavior Management—techniques, measures, interventions and procedures applied in a systematic fashion to promote positive behavioral or functional change which fosters the client's self-control, and to prevent or interrupt a client's behavior which threatens harm to the client or others.

Cessation of Business—FSTRA is non-operational and/or has stopped offering or providing services to the community.

Department—the Louisiana Department of Health (LDH).

Division of Administrative Law (DAL)—the administrative law tribunal authorized by law to hear and decide the administrative appeals for the department.

Forensic Clients—persons transitioned from a forensic facility established pursuant to R.S. 28:25.1(A) or (B).

Forensic Supervised Transitional Residential and Aftercare Facility—a facility that provides supervised transitional residential and aftercare services to forensic clients, including persons who are court ordered or who are on court ordered conditional release status. A forensic supervised transitional residential and aftercare facility shall provide clients, referred by state operated forensic facilities/hospitals and under court order or court ordered forensic conditional release, with individualized services to develop daily living skills and to prepare for vocational adjustment and reentry into the community.

Forensic Psychiatrist—a physician, currently licensed to practice medicine in Louisiana, who:

1. signs the order admitting the individual to the FSTRA facility;
2. maintains overall responsibility for the client's medical management; and
3. is readily available for consultation and collaboration with the FSTRA facility staff.

Health Standards Section (HSS)—the licensing and certification section of the Louisiana Department of Health.

Instrumental Activities of Daily Living (IADLs)—the functions or tasks that are not necessary for fundamental functioning but assist an individual to be able to live in a community setting. These are activities such as light house-keeping, food preparation and storage, grocery shopping, laundry, reminders to take medication, scheduling medical appointments, arranging transportation to medical appointments and accompanying the client to medical appointments.

Licensee—the person, partnership, company, corporation, association, organization, professional entity or other entity to whom a license is granted by the licensing agency and upon whom rests the ultimate responsibility and authority for the conduct of and services provided by the FSTRA facility.

Non-operational—the FSTRA facility is not open for continuous business operation 24 hours a day, seven days per week as stated on the licensing application and business location signage.

Secure Community Supervised Transitional/Residential Facility—a secure residential facility within the community that provides individualized services to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit. These services enable such persons to develop daily living skills and to prepare for vocational adjustment and reentry into the community.

Secure Forensic Facility—a secure residential facility located on the grounds of a state owned/operated hospital that provides individualized services, including personal care services and medication administration, to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit. These services prepare such persons for transition to a less restrictive environment before transitioning to the community.

Therapeutic—process of intervention, in accordance with the treatment plan, that has the desirable effect of modifying or redirecting a client's behavior and/or emotional state in a positive or beneficial manner.

Treatment Plan—a comprehensive plan developed by the facility for each client that includes the services each client needs. It shall include the provision of medical/psychiatric, nursing and psychosocial services.

Unit—an integral, separate, segregated living space utilized only by either male, or by female clients, and who reside in that space of the licensed facility. Living spaces include the client's sleeping quarters and bathroom facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7205. Licensing Requirements

A. Any person or entity applying for a FSTRA license shall meet all of the core licensing requirements contained in this Subchapter as well as module specific requirements, unless otherwise specifically noted herein.

B. All facilities providing forensic supervised transitional residential and aftercare services shall be licensed by the department. A FSTRA facility shall not be established, opened, operated, managed, maintained or conducted in this state without a license issued by the Department of Health and Hospitals. Each facility shall be separately licensed.

C. The Department of Health is the only licensing authority for FSTRA facilities in the state of Louisiana. It shall be unlawful to operate a FSTRA facility without possessing a current, valid license issued by the department.

D. Each FSTRA license shall:

1. be issued only to the person or entity named in the license application;

2. be valid only for the facility to which it is issued and only for the specific geographic address of that facility;

3. be valid for one year from the date of issuance, unless revoked, suspended or modified prior to that date, or unless a provisional license is issued;

4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the facility;

5. not be subject to sale, assignment, donation or other transfer, whether voluntary or involuntary; and

6. be posted in a conspicuous place on the licensed premises at all times.

E. In order for the FSTRA facility to be considered operational and retain licensed status, the facility shall meet the following conditions.

1. When clients are present, the facility shall provide 24 hours a day, seven days per week supervision and the care and services sufficient to meet the needs of the clients, including but not limited to:

a. at least three direct care staff persons during the day and two awake staff during the night;

b. at least two direct care staff persons in each building and/or unit; and

c. a functional security system on all points of ingress and egress with 24-hour, seven days per week continuous monitoring by awake staff.

2. There shall be staff employed and available to be assigned to provide care and services to each client during all operational hours consistent with the behavioral health needs of each client.

3. The facility shall have provided services to at least two clients in the preceding 12-month period in order to be eligible to renew its license.

F. The licensed FSTRA facility shall abide by and adhere to any state law, rules, policy, procedure, manual, or memorandums pertaining to such facilities.

G. A separately licensed FSTRA facility shall not use a name which is substantially the same as the name of another such facility licensed by the department, unless the facility is under common ownership with other FSTRA facilities.

H. No branches, satellite locations or offsite campuses will be authorized for a FSTRA facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7207. Initial Licensing Application Process

A. An initial application for licensing as a FSTRA facility shall be obtained from the department. A completed initial license application packet for a facility shall be submitted to and approved by the department prior to an applicant providing services. An applicant shall submit a completed initial licensing packet to the department, which shall include:

1. a completed facility licensure application and the non-refundable licensing fee as established by statute;

2. a copy of the approval letter of the architectural facility plans from the Office of the State Fire Marshal and any other office/entity designated by the department to review and approve the facility's architectural plans;

3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal;

4. a copy of the health inspection report with approval of occupancy from the Office of Public Health;

5. a copy of the statewide criminal background checks on the following persons:

a. all individual owners with a 5 percent or more ownership interest in the FSTRA facility entity;

b. facility administrators; and

c. members of the facility's board of directors, if applicable;

6. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least $50,000;

i. any state agency operating a FSTRA facility, or any entity operating a facility pursuant to a cooperative endeavor agreement (CEA) with a state agency, shall be exempted from the line of credit requirement;

b. general and professional liability insurance of at least $300,000; and

c. worker's compensation insurance;

7. if applicable, Clinical Laboratory Improvement Amendments (CLIA) certificate or CLIA certificate of waiver;

8. a letter-sized floor sketch or drawing of the premises to be licensed; and

9. any other documentation or information required by the department for licensure.

B. If the initial licensing packet is incomplete when submitted, the applicant will be notified of the missing information and will have 90 days from receipt of the notification to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a facility shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

C. Once the initial licensing application packet has been approved by the department, notification of such approval shall be forwarded to the applicant. Within 90 days of receipt of the approval of the application, the applicant shall notify

the department that the facility is ready and is requesting an initial licensing survey. If an applicant fails to notify the department within 90 days, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a licensed facility shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

D. When issued, the initial forensic supervised transitional residential and aftercare facility license shall specify the capacity of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7209. Types of Licenses

A. The department shall have the authority to issue the following types of licenses.

1. Full Initial License. The department shall issue a full license to the facility when the initial licensing survey finds that the facility is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees. The license shall be valid until the expiration date shown on the license unless the license is modified, revoked, or suspended.

2. Provisional Initial License. The department shall issue a provisional initial license to the facility when the initial licensing survey finds that the facility is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the individuals receiving services. The provisional license shall be valid for a period not to exceed six months.

3. Full Renewal License. The department shall issue a full renewal license to an existing licensed facility which is in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license unless the license is modified, revoked, or suspended.

B. The department, in its sole discretion, may issue a provisional license to an existing licensed facility for a period not to exceed six months for the following reasons.

1. The existing facility has more than five deficient practices or deficiencies cited during any one survey.

2. The existing facility has more than three validated complaints in one licensed year period.

3. The existing facility has been issued a deficiency that involved placing a client at risk for serious harm or death.

4. The existing facility has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey.

5. The existing facility is not in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules regulations and fees at the time of renewal of the license.

C. When the department issues a provisional license to an existing licensed facility, the department shall conduct an on-site follow-up survey at the facility prior to the expiration of the provisional license, and shall issue written notice of the results of the follow-up survey.

1. If the on-site follow-up survey determines that the facility has corrected the deficient practices and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the facility license.

2. If the on-site follow-up survey determines that the facility has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional license shall expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee, if no timely informal reconsideration or administrative appeal of the deficiencies cited is filed pursuant to this Chapter.

a. At the sole discretion of the department, the provisional license may be extended for a period, not to exceed 90 days, in order for the facility to correct the noncompliance or deficiencies.

D. When the department issues a provisional license as a result of the initial licensing survey, the facility shall submit a plan of correction to the department for approval, and shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct an on-site follow-up survey at the facility prior to the expiration of the provisional license and shall issue written notice to the facility of the results of the follow-up survey.

1. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, a full license will be issued.

2. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional license shall expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee and any applicable facility need review approval for licensure.

a. At the sole discretion of the department, the provisional license may be extended for an additional period, not to exceed 90 days, in order for the facility to correct the noncompliance or deficiencies.

E. The license for a facility shall be valid for one year from the date of issuance, unless revoked, suspended or modified prior to that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7211. Licensing Surveys

A. Prior to the initial license being issued to the facility, an initial licensing survey shall be conducted on-site at the facility to assure compliance with licensing standards. The facility shall not provide services until the initial licensing survey has been performed and the facility found in compliance with the licensing standards. The initial licensing survey shall be an announced survey.

B. In the event that the initial licensing survey finds that the facility is compliant with all licensing laws, regulations and other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the facility.

C. In the event that the initial licensing survey finds that the facility is noncompliant with any licensing laws or

regulations, or any other required statutes, laws, ordinances, rules or regulations, that present a potential threat to the health, safety, or welfare of clients, the department shall deny the initial license.

D. Once an initial license has been issued, the department shall conduct licensing and other surveys at intervals deemed necessary by the department to determine compliance with licensing standards and regulations, as well as other required statutes, laws, ordinances, rules, regulations, and fees. These surveys shall be unannounced.

E. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

1. An acceptable plan of correction may be required from a facility for any survey where deficiencies have been cited.

2. If deficiencies have been cited, regardless of whether an acceptable plan of correction is required, the department may issue appropriate sanctions, including, but not limited to:

a. civil monetary penalties;

b. directed plans of correction;

c. license revocations; and

d. denial of license renewal.

F. LDH surveyors and staff shall be:

1. given access to all areas of the facility and all relevant files during any licensing or other survey; and

2. allowed to interview any facility staff, or client as necessary to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7213. Changes in Licensee Information or Personnel

A. A facility license shall be valid only for the person or entity named in the license application and only for the specific geographic address listed on the license application.

B. Any change regarding the facility name, "doing business as" name, mailing address, phone number, or any combination thereof, shall be reported in writing to the department within five days of the occurrence. Any change regarding the facility name or "doing business as" name requires a change to the facility license and the required fee for the reissuance of an amended license.

C. Any change regarding the facility's key administrative personnel shall be reported in writing to the department within five days of the change.

1. Key administrative personnel include the administrator, physician/psychiatrist and the registered nurse supervisor.

2. The facility's notice to the department shall include the individual's:

a. name;

b. facility address;

c. hire date; and

d. qualifications.

D. A change of ownership (CHOW) of the facility shall be reported in writing to the department within five days of the change of ownership.

1. The license of a facility is not transferable or assignable. The license of a facility cannot be sold.

2. In the event of a CHOW, the new owner shall submit the legal CHOW document, all documents required for a new license, and the applicable licensing fee. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

3. A facility that is under license suspension, revocation, denial of license renewal or provisional licensure shall not undergo a CHOW.

E. Any request for a duplicate license shall be accompanied by the required fee.

F. A facility that intends to change the physical address of its geographic location is required to have plan review approval, Office of State Fire Marshall approval, Office of Public Health approval, compliance with other applicable licensing requirements, and an on-site licensing survey prior to the facility relocation.

1. Written notice of intent to relocate shall be submitted to the licensing section of the department when plan review request is submitted to the department for approval.

2. The relocation of the facility's physical address results in a new anniversary date and the full licensing fee shall be paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7215. Renewal of License

A. License Renewal Application. The facility shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

1. the license renewal application;

2. a copy of the current on-site inspection with approval for occupancy from the Office of the State Fire Marshal;

3. a copy of the current on-site inspection report with approval of occupancy from the Office of Public Health;

4. proof of financial viability, comprised of the following:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least $50,000; any state agency operating a FSTRA facility, or any entity operating a FSTRA facility pursuant to a CEA with a state entity, shall be exempt from the line of credit requirement;

b. general and professional liability insurance of at least $300,000; and

c. worker's compensation insurance;

5. the license renewal fee; and

6. any other documentation required by the department.

B. The department may perform an on-site survey and inspection upon annual renewal of a license.

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license will result in the voluntary non-renewal of the FSTRA license.

D. The renewal of a license or the denial of a renewal application does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7217. Denial of License, Revocation of License, Denial of License Renewal

A. In accordance with the provisions of the Administrative Procedure Act, the department may:

1. deny an application for a license;
2. deny a license renewal; or
3. revoke a license.

B. Denial of an Initial License

1. The department shall deny an initial license when the initial licensing survey finds that the facility is noncompliant with any licensing laws or regulations or with any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of the clients who will be served by the facility.

2. The department may deny an initial license for any of the reasons in this Chapter that a license may be revoked or denied renewal.

C. Voluntary Non-Renewal of a License

1. If a facility fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the facility.

2. If a facility fails to timely renew its license, the facility shall immediately cease and desist providing services, unless the facility is actively treating clients, in which case the facility shall comply with the following:

a. immediately provide written notice to the department of the number of clients receiving treatment at the facility;

b. immediately provide written notice to the prescribing physician and to the client or legal representative of the following:

i. notice of voluntary non-renewal;
ii. notice of closure; and
iii. plans for orderly transition of the client(s);

c. discharge and transition of each client within 15 days of voluntary non-renewal; and

d. notify the department of the location where records will be stored and the contact person for the records.

3. If a facility fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning a FSTRA facility for a period of two years.

D. Revocation of License or Denial of License Renewal. A facility license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the FSTRA facility licensing laws, rules and regulations or with other required statutes, laws, ordinances, rules or regulations;

2. failure to comply with the terms and provisions of a settlement agreement or education letter with or from the department, the Attorney General's office, any regulatory agency or any law enforcement agency;

3. failure to uphold clients' rights whereby deficient practices result in harm, injury, or death of a client;

4. negligent failure to protect a client from a harmful act of an employee or other client including, but not limited to:

a. mental or physical abuse, neglect, exploitation, or extortion;

b. any action posing a threat to a client's health and safety;

c. coercion;

d. threat or intimidation;

e. harassment; or

f. criminal activity;

5. failure to notify the proper authorities, as required by federal or state law, rules or regulations, of all suspected cases of:

a. mental or physical abuse, neglect, exploitation, or extortion;

b. any action posing a threat to a client's health and safety;

c. coercion;

d. threat or intimidation;

e. harassment; or

f. criminal activity;

6. knowingly making a false statement in any of the following areas, including but not limited to:

a. application for initial license or renewal of license;

b. data forms;

c. clinical records, client records or facility records;

d. matters under investigation by the department or the Office of the Attorney General; or

e. information submitted for reimbursement from any payment source;

7. knowingly making a false statement or providing false, forged, or altered information or documentation to department employees or to law enforcement agencies;

8. the use of false, fraudulent or misleading advertising;

9. fraudulent operation of a facility by the owner, administrator, manager, member, officer or director;

10. an owner, officer, member, manager, administrator, director or person designated to manage or supervise client care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court. For purposes of these provisions, conviction of a felony includes a felony relating to any of the following:

a. violence, abuse, or negligence of a person;

b. misappropriation of property belonging to another person;

c. cruelty, exploitation, or sexual battery of a person with disabilities;

d. a drug offense;

e. crimes of sexual nature;

f. a firearm or deadly weapon;

g. fraud or misappropriation of federal or state funds, including Medicare or Medicaid funds;

11. failure to comply with all reporting requirements in a timely manner as required by the department;

12. failure to allow or refusal to allow the department to conduct an investigation or survey, or to interview provider staff or clients;

13. failure to allow or refusal to allow access to facility or client records by authorized departmental personnel; or

14. failure to maintain all required elements of the proof of financial viability without interruption.

E. If an existing facility has been issued a notice of license revocation or suspension and the facility's license is due for annual renewal, the department shall deny the license renewal. The denial of the license renewal does not affect in any manner the license revocation.

F. If a facility license is revoked or renewal is denied, any owner, officer, member, director, manager or administrator of such facility may be prohibited from opening, managing, directing, operating or owning another FSTRA facility for a period of two years from the date of the final disposition of the revocation or denial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7219. Notice and Appeal of License Denial, License Revocation and Denial of License Renewal

A. Notice of a license denial, license revocation or denial of license renewal shall be given to the provider in writing.

B. A facility has a right to an informal reconsideration of the license denial, license revocation or denial of license renewal. There is no right to an informal reconsideration of a voluntary non-renewal or surrender of a license by the facility.

1. The facility shall request the informal reconsideration within 15 calendar days of the receipt of the notice of the license denial, license revocation or denial of license renewal. The request for informal reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section.

2. The request for informal reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an informal reconsideration is received by the Health Standards Section, an informal reconsideration shall be scheduled and the facility will receive written notification of the date of the informal reconsideration.

4. The facility shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the denial, revocation or denial of license renewal shall not be a basis for reconsideration.

6. The informal reconsideration process is not in lieu of the administrative appeals process.

7. The facility will be notified in writing of the results of the informal reconsideration.

C. A facility has a right to an administrative appeal of the license denial, license revocation, or denial of license renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the facility.

1. The facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the results of the informal reconsideration of the license denial, license revocation, or denial of license renewal. The facility may forego its rights to an informal reconsideration, and if so, the facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the license denial, license revocation, or denial of license renewal. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law (DAL).

2. The request for administrative appeal shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the DAL, the administrative appeal of the license revocation or denial of license renewal shall be suspensive, and the facility shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

a. If the secretary of the department determines that the violations of the facility pose an imminent or immediate threat to the health, welfare, or safety of a client, the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency of the administrative appeal. The facility shall be notified of this determination in writing.

4. Correction of a violation or a deficiency which is the basis for the denial, revocation or denial of license renewal shall not be a basis for the administrative appeal.

D. If a timely administrative appeal has been filed by the facility on a license denial, denial of license renewal or license revocation, the DAL shall conduct the hearing in accordance with the Administrative Procedure Act.

1. If the final agency decision is to reverse the license denial, the denial of license renewal or the license revocation, the facility's license will be re-instated or granted upon the payment of any licensing or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final agency decision is to affirm the denial of license renewal or the license revocation, the facility shall discharge any and all clients receiving services. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where its records will be stored.

E. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional license to a new facility. A facility that has been issued a provisional license is licensed and operational for the term of the provisional license. The issuance of a provisional license to an existing facility is not considered to be a denial of license, a denial of license renewal, or a license revocation.

F. A facility with a provisional initial license or an existing facility with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey, shall have the right to an informal reconsideration and the right to an administrative appeal regarding the deficiencies cited at the follow-up survey.

1. The facility has five calendar days from the receipt of the department's notice of the results of the follow-up survey to submit a written request for informal reconsideration of the follow-up survey findings.

2. The informal reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

3. The correction of a violation, noncompliance, or deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

4. The facility has 15 calendar days from the receipt of the department's notice of the results of the follow-up survey to submit a written request for an administrative appeal.

G. A facility with a provisional license that expires under the provisions of this Chapter shall cease providing services and discharge clients unless the DAL issues a stay of the expiration.

1. A stay may be granted by the DAL upon application by the provider at the time the administrative appeal is filed and only:

a. after a contradictory hearing; and

b. upon a showing that there is no potential harm to the clients being served by the facility.

H. If a timely administrative appeal has been filed by a facility with a provisional license that has expired under the provisions of this Chapter, the DAL shall conduct the hearing in accordance with the Administrative Procedure Act.

1. If the final agency decision is to remove all deficiencies, the facility's license will be reinstated upon the payment of any licensing or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final agency decision is to uphold the deficiencies and affirm the expiration of the provisional license, the facility shall discharge all clients receiving services. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7221. Complaint Surveys

A. The department shall conduct complaint surveys in accordance with R.S. 40:2009.13, et seq.

B. Complaint surveys shall be unannounced surveys.

C. A follow-up survey may be conducted for any complaint survey where deficiencies have been cited to ensure correction of the deficient practices. If the department determines that other action, such as license revocation, is appropriate, a follow-up survey may not be required. The facility will be notified of any action.

D. The department may issue appropriate sanctions, including but not limited to, civil monetary penalties, directed plans of correction, and license revocations for deficiencies and non-compliance with any complaint survey.

E. LDH surveyors and staff shall be given access to all areas of the facility and all relevant files during any complaint survey. LDH surveyors and staff shall be allowed to interview any facility staff, client, or participant, as necessary or required to conduct the survey.

F. A facility which has been cited with violations or deficiencies on a complaint survey has the right to request an informal reconsideration of the validity of the violations or deficiencies. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department must receive the written request within 10 calendar days of the facility's receipt of the notice of the violations or deficiencies.

G. A complainant shall have the right to request an informal reconsideration of the findings of the complaint survey or investigation. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department must receive the written request within 30 calendar days of the complainant's receipt of the results of the complaint survey or investigation.

H. An informal reconsideration for a complaint survey or investigation shall be conducted by the department as an administrative review. The facility or complainant shall submit all documentation or information for review for the informal reconsideration, and the department shall consider all documentation or information submitted. There is no right to appear in person at the informal reconsideration of a complaint survey or investigation. The facility's correction of the violation or deficiency shall not be the basis for the reconsideration. The facility and/or the complainant shall be notified in writing of the results of the informal reconsideration.

I. Except as provided pursuant to R.S. 40:2009.13, et seq., the informal reconsideration shall constitute final action by the department regarding the complaint survey or investigation, and there shall be no right to an administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7223. Statement of Deficiencies

A. The following statements of deficiencies issued by the department to a facility shall be posted in a conspicuous place on the licensed premises:

1. the most recent annual survey statement of deficiencies; and

2. any subsequent complaint survey statement of deficiencies.

B. Any statement of deficiencies issued by the department to a facility shall be available for disclosure to the public 30 calendar days after the facility submits an acceptable plan of correction of the deficiencies or 90 calendar days after the statement of deficiencies is issued to the facility, whichever occurs first.

C. Unless otherwise provided in statute or in this Chapter, a facility shall have the right to an informal reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the deficient practice, of the violation, or of the noncompliance shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be submitted in writing within 10 calendar days of receipt of the statement of deficiencies, unless otherwise provided for in these provisions.

3. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section.

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.11, et seq., and as provided in this Chapter for license denials, revocations, and denial of license

renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

5. The facility shall be notified in writing of the results of the informal reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7225. Cessation of Business

A. A cessation of business or closure is deemed to be effective the date on which the facility stops providing services to the community or residents.

1. Except as provided in §7227 and §7228 of this Chapter, a license shall be immediately null and void if a FSTRA ceases to operate.

B. A cessation of business is considered to be a voluntary action on the part of the facility. As such, there is no right to an informal reconsideration and no right to an administrative appeal of a cessation of business or closure.

C. Upon the cessation of business, the facility shall immediately return the original license to the department.

D. A facility that intends to close or cease operations shall comply with the following procedures:

1. give 30 days' advance written notice to the:

a. department;

b. forensic psychiatrist; and

c. ordering court of any conditional release client(s); and

2. provide for an orderly discharge and transition of all clients admitted to the facility.

E. In addition to the 30 days' advance written notice, the facility shall submit a written plan for the disposition of patient medical records for approval by the department. The plan shall include the following:

1. the effective date of the closure;

2. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed facility's patients medical records;

3. an appointed custodian(s) who shall provide the following:

a. access to records and copies of records to the patient or authorized representative, upon presentation of proper authorization(s); and

b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and

4. public notice regarding access to records in the newspaper with the largest circulation in close proximity to the closing facility, at least 15 days prior to the effective date of closure.

F. If a facility fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning a FSTRA facility for a period of two years.

G. Once the facility has ceased doing business, the facility shall not provide services until the facility has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7227. Temporary Inactivation of a License Due to a Declared Disaster or Emergency

A. A facility licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

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

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

b. the facility intends to resume operation as a FSTRA facility in the same service area;

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

d. includes an attestation that all clients have been properly discharged or transferred to another facility; and

e. provides a list of all clients and to where each client has been discharged or transferred;

2. the facility resumes operating as a FSTRA in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the FSTRA continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

4. the FSTRA continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate a FSTRA license, the department shall issue a notice of inactivation of license to the FSTRA.

C. Upon completion of repairs, renovations, rebuilding or replacement, the FSTRA which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. The FSTRA shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening.

a. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

b. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

2. The facility resumes operating as a FSTRA in the same service area within one year.

D. Upon receiving a completed written request to reinstate a FSTRA license, the department shall conduct a licensing survey. If the FSTRA meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the FSTRA license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity of the FSTRA at the time of the request to inactivate the license.

E. No change of ownership in the FSTRA shall occur until such FSTRA has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as a FSTRA.

F. The provisions of this Section shall not apply to a FSTRA which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the FSTRA license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7228. Inactivation of License due to Non-Declared Emergency or Disaster

A. A FSTRA in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

1. the FSTRA shall submit written notification to the Health Standards Section within 30 days of the date of the non-declared emergency or disaster stating that:

a. the FSTRA has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

b. the FSTRA intends to resume operation as a FSTRA in the same service area;

c. the FSTRA attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the FSTRA's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility.

NOTE: Pursuant to these provisions, an extension of the 30 day deadline for initiation of request may be granted at the discretion of the department.

2. the FSTRA continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

3. the FSTRA continues to submit required documentation and information to the department, including but not limited to cost reports.

B. Upon receiving a completed written request to temporarily inactivate a FSTRA license, the department shall issue a notice of inactivation of license to the FSTRA.

C. Upon the FSTRA's receipt of the department's approval of request to inactivate the FSTRA's license, the FSTRA shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility to OSFM and OPH as required.

D. The FSTRA shall resume operating in the same service area within one year of the approval of renovation/construction plans by OSFM and OPH as required.

1. Exception. If the FSTRA requires an extension of this timeframe due to circumstances beyond the FSTRA's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the FSTRA's active efforts to complete construction or repairs and the reasons for request for extension of the FSTRA's inactive license. Any approvals for extension are at the sole discretion of the department.

E. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a FSTRA which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. the FSTRA shall submit a written license reinstatement request to the licensing agency of the department;

2. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey; and

3. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

F. Upon receiving a completed written request to reinstate a FSTRA license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the FSTRA has met the requirements for licensure including the requirements of this Section.

NOTE: The licensed bed capacity of the reinstated license shall not exceed the licensed bed capacity of the FSTRA at the time of the request to temporarily inactivate the license.

G. No change of ownership of the FSTRA shall occur until such facility has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a FSTRA.

H. The provisions of this Section shall not apply to a FSTRA which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the FSTRA license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7229. Temporary Inactivation of Licensed FSTRA Beds Due to Major Alterations

A. A FSTRA which is undergoing major alterations to its physical plant may request a temporary inactivation of a certain number of licensed beds providing that:

1. The FSTRA submits a written request to the licensing agency of the department seeking temporary inactivation of a certain number of its licensed bed capacity. Such written request shall include the following:

a. that the FSTRA has experienced or will experience a temporary interruption in the provisions of services to its licensed bed capacity as a result of major alterations;

b. an attestation that the renovations are the sole causal factor in the request for temporary inactivation of a certain number of its licensed beds;

c. the anticipated start date of the temporary inactivation of a certain number of licensed beds;

d. the anticipated end date of the temporary inactivation of a certain number of licensed beds; and

e. the number of licensed beds requested to be inactivated temporarily;

2. the FSTRA ensures the health, safety and welfare of each client during the major alterations; and

3. the FSTRA continues to provide, and each client continues to receive, the necessary care and services to attain or maintain the client's highest practicable physical, mental, and psychosocial well-being, in accordance with each client's comprehensive assessment and plan of care.

B. Upon receiving a completed written request for temporary inactivation of a certain number of the licensed bed capacity of a FSTRA, the department shall issue a notice of temporary inactivation of a certain number of the FSTRA's licensed beds.

C. No change of ownership in the FSTRA shall occur until such FSTRA has completed the major alterations and has resumed operating at prior approved licensed bed capacity.

D. Upon completion of the major alterations and receiving a completed written request to reinstate the number of licensed beds of a FSTRA, the department may conduct a physical environment survey. If the FSTRA meets the requirements for licensure and the requirements under this Subsection, the department may issue a notice of reinstatement of the FSTRA's licensed bed capacity.

NOTE: The licensed bed capacity after major alterations are completed shall not exceed the licensed bed capacity of the FSTRA at the time of the request to temporarily inactivate a certain number of its licensed bed capacity prior to renovations.

E. The provisions of this Subsection shall not apply to a FSTRA which has voluntarily surrendered its license and ceased operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter B. Administration and Organization

§7231. Governing Body

A. A FSTRA shall have an identifiable governing body with responsibility for, and authority over, the policies and activities of the program/facility.

B. A FSTRA shall have documents identifying the following information regarding the governing body:

1. names and addresses of all members;
2. terms of membership;
3. officers of the governing body; and
4. terms of office of any officers.

C. When the governing body of a FSTRA is comprised of more than one person, the governing body shall hold formal meetings at least twice a year. There shall be written minutes of all formal meetings and bylaws specifying frequency of meetings and quorum requirements.

D. When the governing body is composed of only one person, this person shall assume all responsibilities of the governing body.

E. Responsibilities of a Governing Body. The governing body of a FSTRA shall:

1. ensure the FSTRA's compliance and conformity with the facility's charter or other organizational documents;

2. ensure the FSTRA's continual compliance and conformity with all relevant federal, state, local, and municipal laws and regulations;

3. ensure that the FSTRA is adequately funded and fiscally sound;

4. review and approve the FSTRA's annual budget;

5. designate a person to act as Administrator and delegate sufficient authority to this person to manage the facility (a sole owner may be the administrator);

6. formulate and annually review, in consultation with the administrator, written policies concerning the FSTRA's philosophy, goals, current services, personnel practices, job descriptions and fiscal management;

7. annually evaluate the administrator's performance (if a sole owner is not acting as administrator);

8. have the authority to dismiss the administrator (if a sole owner is not acting as administrator);

9. meet with designated representatives of the department whenever required to do so;

10. inform designated representatives of the department prior to initiating any substantial changes in the services provided by the FSTRA; and

11. notify the Health Standards Section in writing at least 30 days prior to any change in ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7233. Policy and Procedures

A. The FSTRA shall establish procedures to assure written communication among staff to ensure safety and continuity of services to all clients.

B. Direct care employees shall have access to information concerning clients that is necessary for effective performance of the employee's assigned tasks.

C. Confidentiality and Security of Files. A FSTRA shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records and to whom records may be released.

D. The FSTRA shall allow designated representatives of the department, in the performance of their mandated duties, to inspect all aspects of the FSTRA's practices which impact clients and to interview any staff member or client relevant or as required for any survey or investigation.

1. The FSTRA shall make any information or records that the facility is required to have and any information reasonably related to assessment of compliance with these requirements available to the department.

2. The client's rights shall not be considered abridged by this requirement.

E. Procedures shall address the following.

1. Confidentiality of Records

a. The FSTRA shall maintain the confidentiality of all clients' records. Employees of the facility shall not disclose or knowingly permit the disclosure of any information concerning the client or his/her family, directly, or indirectly, to any unauthorized person.

b. The FSTRA may use material from records for teaching and research purposes, if names are deleted and other identifying information is disguised or deleted.

2. Release of Information

a. A FSTRA shall obtain the client's or legal representative's written, informed permission prior to releasing any information from which the client or his/her family might be identified, except to the department.

b. Identifying information may be given to appropriate authorities in cases of an emergency.

c. The FSTRA shall have a procedure by which representatives or family of clients is given an opportunity to receive information about the individual client in care of the facility.

3. Publicity

a. The FSTRA shall have written policies and procedures regarding the photographing and audio or audiovisual recordings of clients.

b. No client shall be photographed or recorded without the client's prior informed, written consent. Such consent cannot be made a condition for admission into, remaining in, or participating fully in the activities of the facility.

i. Consent agreements shall clearly notify the client of his/her rights under this regulation, shall specify precisely what use is to be made of the photograph or recordings, and are valid for a maximum of one year from the date of execution.

ii. Clients are free to revoke such agreements at any time, either orally or in writing.

c. All photographs and recordings shall be used in a way that respects the dignity and confidentiality of the client.

F. Personnel Policies. The FSTRA shall have written personnel policies that include:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members;

2. written job descriptions for each staff position including volunteers;

3. policies which provide for staff, either contracted or directly employed, to have a criminal background check, prior to offer of employment and, at least, annually thereafter. Such policy shall be defined in the facility's policy and procedures and in accordance with applicable state or federal laws;

4. policies which provide for staff, upon offer of employment, to have a health assessment, as defined in the facility's policy and procedures. Such policies shall apply for any staff, either contracted or directly employed.

a. these policies shall, at a minimum, require that the FSTRA's staff, either contracted or directly employed, have no evidence of active tuberculosis and be retested on a time schedule as mandated by the Office of Public Health. Test results dated within one year prior to the offer of employment are acceptable for initial employment;

5. policies which provide for any FSTRA staff, either contracted or directly employed, who provide transportation of clients, to have a driving history report upon hire and annually thereafter;

6. an employee grievance procedure;

7. abuse reporting procedures that require all employees to report any incidents of neglect, abuse or mistreatment whether that neglect abuse or mistreatment is done by another staff member, a family member, a client, or any other person;

a. These policies shall have, at a minimum, any reporting requirements to the facility administration, and to the department, as applicable; and

8. a written policy to prevent discrimination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter C. Admissions, Transfers and Discharges

§7235. Admissions

A. The facility shall have a clear and specific written description of admission policies and procedures. This written description shall include, but is not limited to the following:

1. the application process and the possible reasons for the rejection of an application;

2. types of clients suitable to the facility;

3. services offered and allowed in the facility; and

4. the facility's house rules.

B. Intake Evaluation

1. An intake evaluation shall take place on the first day of admission and shall include the client's:

a. demographic data;

b. family information; and

c. psychiatric and social background.

2. All of the facility's rules and regulations shall be reviewed with the client. A complete clothing inventory shall be completed and the client shall be assigned to a room.

C. Nursing Assessment

1. The licensed nurse shall complete a nursing assessment and review the client's medication(s). The client's medication administration records shall contain a detailed description of the client's:

a. medication;

b. dosage(s) of medication;

c. frequency medications should be taken; and

d. ability to self-administer medications.

D. Diagnostic Evaluation

1. The diagnostic evaluation shall include examination of the medical, psychosocial, social, behavioral and developmental aspects of the client's situation and reflect the need for services from a FSTRA.

2. Each medical evaluation shall include:

a. diagnoses;

b. summary of medical findings;

c. medical history;

d. mental and physical functional capacity;

e. prognosis; and

f. physician's recommendations.

E. An individualized plan of care for each client shall be developed upon admission and shall be revised to include recommended changes in the therapeutic plan. The plan to be followed in the event of emergency situations shall be specified in the plan of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7237. Mandatory Transfers and Discharges

A. The administrator/director shall, in coordination with the client, forensic aftercare facility, Community Forensic Service, and state level forensic coordinator (as appropriate), assist in planning and implementing the mandatory transfer or discharge of the client when:

1. the treatment plan goals and objectives are substantially met and a crisis relapse/prevention plan is developed and support systems are in place that allow the client to reside safely in a less restrictive environment;

2. the client's physician certifies that the client's physical condition necessitates transfer to a medical facility or the client's psychiatric condition necessitates transfer to a higher level of care; or

3. the client's condition is such that he or she is:

a. a danger to self or others; or

b. is consistently disruptive to the peace and order of the facility, staff services, or other clients.

B. Emergency Discharge. The FSTRA shall immediately report to the Community Forensic Service, probation officer, state level forensic coordinator, and provider(s) of behavioral health services any program violations (i.e. illegal drugs, suspected or confirmed weapon possession or access, gross deterioration of behavior, or non-compliance with medication). The FSTRA in collaboration with the probation officer and community forensic staff, as appropriate, shall be responsible for the relocation of the client to an appropriate secure placement.

C. The facility shall initiate outpatient services for the client upon discharge and provide consultation to the client concerning where to obtain necessary medications, resources and follow-up outpatient behavioral health services.

D. Discharge Records

1. The following discharge information shall be recorded in the client's record:

a. date of discharge;

b. destination; and

c. reason(s) for leaving.

2. Discharge records shall be retained in a secured environment in accordance with the facility's policy and procedure for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter D. Participation Requirements

§7241. Assessment, Service Coordination, and Monitoring

A. Once the client is admitted, the facility shall conduct an assessment to determine the needs of the client. The assessment shall be kept in the client's record and shall at a minimum, include:

1. the client's interests, likes and dislikes;

2. review of physical health, psycho-social status, and cognitive status and the determination of services necessary to meet those needs;

3. a summary of the client's health needs, if any, including medication(s), treatment and special diet orders obtained from licensed professionals with responsibility for the client's physical or emotional health;

4. a written description of the activities of daily living and instrumental activities of daily living for which the client requires assistance, if any, obtained from the client or the client's physician;

5. recreational and social activities in accordance with the client's treatment plan;

6. a plan for handling special emergency evacuation needs, if any; and

7. additional information or documents pertinent to the client's treatment planning, such as guardianship papers, power of attorney, living wills, do not-resuscitate orders, or other relevant medical documents.

B. Within 30 days after admission, the facility, with input from the client, shall develop a service plan using information from the assessment.

C. The service plan shall be responsive to the client's needs and preferences. The service plan shall include:

1. the client's needs;

2. the scope, frequency, and duration of services and monitoring that will be provided to meet the client's needs;

3. staff/providers responsible for providing the services; and

4. a plan for the implementation towards the least restrictive settings.

D. The client's service plan shall be revised by the designated licensed facility staff when a client's needs or condition changes. The revised service plan shall be signed by the client and the designated facility staff.

E. The service plan shall be monitored on an ongoing basis by facility staff to determine its continued appropriateness and to identify when a client's condition or preferences have changed. A documented review of the service plan by the licensed professional staff shall be made at least every quarter. However, changes to the plan may be made at any time, as necessary.

F. All service plans and reviews shall be signed by the client and by the designated licensed facility staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7243. Personal and Supportive Services

A. The facility shall provide adequate services and oversight/supervision, including adequate security measures, around the clock as needed for any client in accordance with the client's treatment plan.

B. Client Self-administration of Medications

1. The FSTRA shall have clear written policies and procedures on direct care staff assistance with client self-administration of medications.

2. The FSTRA shall assist clients in the self-administration of prescription and non-prescription medication(s) as agreed to in their contract or service plan and as allowed by applicable state statute and in accordance with the regulations of this section.

3. Assistance with self-administration of medications shall be limited to the following:

a. The client may be reminded to take his/her medication(s) when such medications have been prescribed for a specific time of day, a specific number of times per day, specific intervals of time or for a specific time in relation to mealtimes or other activities such as arising from bed or retiring to bed.

b. The medication regimen, as indicated on the container, may be read to the client.

c. The dosage may be checked according to the container label.

d. The staff may open the medicine container (i.e. bottle, pill organizer, blister pak, etc.) and/or provide assistance with pouring medications if the client lacks the physical ability to open the container or pour his/her own medications and the client is cognitive of what the medication is, what the medication is for and the need for the medication.

i. Offering of liquids to a client who is familiar with his/her medications to assist that client in ingesting oral medications is allowed.

e. Assistance with self-administration of medications shall not include:

i. administering injections of any kind;

ii. administering any prescription medications including, but not limited to, eye drops, ear drops, nose drops, liquid medications, inhalers, suppositories, or enemas;

iii. prompting or reminding a resident that it is time to take a PRN, or as-needed medication;

iv. crushing or splitting medications;

v. placing medications in a feeding tube; or

vi. mixing medications with foods or liquids.

4. An employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for assistance with client self-administration of medications including the limitations of this assistance. This training shall be repeated and documented at least annually. Documentation shall include the signature of the employee initially and at least annually at time of training.

5. A competency evaluation shall be developed and conducted to ensure that each direct care staff person that assists a client with the self-administration of medications is able to demonstrate competency in the training areas pursuant to §7243.B.1-4.

a. Documentation of such competency evaluation of each direct care staff person shall be maintained and readily available in the facility's records.

6. Unlicensed employees shall not perform medication administration which is separate and apart from the performance of assistance of a client with the self-administration of medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7245. Nutrition

A. The facility shall provide three varied, palatable meals a day, seven days a week. Meals shall take into account clients' preferences and needs.

B. Menus shall be planned and written at least one week in advance and dated as served. The current week's menu shall be posted in one or more conspicuous places in the facility.

C. The facility shall provide medically prescribed diets as ordered by the client's physician. These menus shall be planned or approved by a licensed registered dietician (LRD) and shall include nourishing snacks. The LRD shall be available for consultation as needed and may be either contracted or directly employed by the facility.

D. The facility shall purchase and provide to the clients only food and drink of safe quality. The storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented. Milk and milk products shall be Grade A and pasteurized.

E. Staff shall be available in the dining area to provide supervision as needed.

F. Written reports of inspections by the Louisiana Department of Health, Office of Public Health, Sanitarian Services shall be kept on file in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7247. Transportation Requirements

A. The facility shall have the capacity to provide or to arrange transportation for the following:

1. transportation to behavioral health services (i.e., community mental health center or addictive disorder clinic); and

2. all other related medical appointments.

B. The facility shall:

1. have automotive liability insurance coverage and have proof of such continuous coverage for any vehicle that provides client transportation and which is owned/operated by the facility and staff, either contracted or directly employed;

2. conform to all applicable state laws and regulations pertaining to drivers, vehicles and insurance; and

3. provide for safety of clients by ensuring all transportation drivers have current driving records and current driver's licenses in good standing.

C. The number of occupants allowed in a car, bus, station wagon, van, or any other type of transportation shall not exceed the number of manufacturer's issued seat belts for passengers and the number of passengers for which the vehicle is designed.

D. Provisions shall be made to accommodate clients who use assistive devices for ambulation.

E. Each vehicle shall be maintained in safe, operating condition.

F. If the center contracts with a commercial proprietor for transportation, such shall be licensed to provide commercial transportation. All rules established for transportation furnished by the center shall be observed by the contracted commercial proprietor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter E. Client Protection

§7251. Client Rights

A. The facility shall have a written policy on clients' civil rights and the practices of the facility shall assure that no client of a facility shall be deprived of civil or legal rights, benefits or privileges guaranteed by law or the Constitution of the United States solely by reason of status as a client of a facility. A copy of these rights shall be posted conspicuously in the facility.

B. In addition to the basic rights enjoyed by other adults, the facility's written policy on rights shall assure that clients shall be afforded the rights enumerated in R.S. 28:171.

C. The client shall receive, upon admission and during his/her stay, a written statement of the services provided by the facility and the charges for these services.

D. The client shall be free from mental, emotional, and physical abuse and neglect and assured that no chemical restraints will be used.

E. The facility shall ensure that records and other information about the client are kept confidential and released only with a client's expressed written consent or in accordance with state law.

F. In accordance with facility policy and pursuant to R.S. 28:171, the facility shall ensure that the client:

1. receives a timely response to a request from the administrator/director and/or staff;

2. has access to private telephone communication;

3. is able to send and receive mail promptly and unopened;

4. is notified in writing by the facility when the facility's license status is suspended, revoked or limited, and to be informed of the basis of the licensing agency's action;

5. is allowed to select a health care provider and arrange for the services, at his/her own expense, which are not available through the facility as long as the client remains in compliance with the conditions of his/her admission to the facility;

6. is encouraged and assisted to exercise rights as a citizen;

7. is allowed to voice grievances and suggest changes in policies and services to either staff or outside representatives without fear of restraint, interference, coercion, discrimination, or reprisal;

8. is fully informed of all client rights and all rules governing client conduct and responsibilities; and

9. is allowed to consult freely with counsel of their choice.

G. Each client shall be fully informed of these rights and of all rules and regulations governing client conduct and responsibilities, as evidenced by written acknowledgment, prior to or at the time of admission, and when changes occur.

1. Each client's file shall contain a copy of the written acknowledgment which shall be signed and dated by the director or his/her designee, the client and/or representative.

H. The facility shall establish and have written grievance procedures that include, but are not limited to:

1. a formal process to present grievances; and

2. a process to investigate and to respond to grievances in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter F. Facility Responsibilities

§7255. General Provisions

A. Facilities shall comply and show proof of compliance with all relevant standards, regulations and requirements established by state, local and municipal regulatory bodies. It is the facility's responsibility to secure the approvals from the following entities:

1. LDH, Health Standards Section;

2. Office of Public Health;

3. Office of State Fire Marshal;

4. city fire department, if applicable; and

5. the applicable local governing authority (e.g., zoning, building department or permit office).

B. The administrator/director or person authorized to act on behalf of the administrator/director shall be accessible to facility staff or designated representatives of LDH at all times.

1. Updated electronic mail and/or telephonic contact information of key administrative personnel shall be provided to the department's Health Standards Section.

C. The facility shall have an administrative file that includes:

1. the Articles of Incorporation or certified copies thereof, if incorporated, or partnership documents, if applicable;

2. a current copy of the approved constitution and/or bylaws of the governing body;

3. a current roster of the governing body membership which includes the members' addresses;

4. written policies and procedures approved by the owner/governing body that address the following:

a. confidentiality and security of files;

b. publicity;

c. personnel;

d. client's rights;

e. grievance procedure;

f. safekeeping of personal possessions, if applicable;

g. clients' funds, if applicable;

h. emergency and evacuation procedures;

i. abuse and neglect;

j. critical incidents;

k. admissions and discharge procedures;

l. assistance with client self-administration of medication;

m. driver training, safety and responsibilities while transporting clients; and

n. policies related to client transportation; either contracted or provided by facility staff;

5. the minutes of formal governing body meetings;

6. an organizational chart of the FSTRA;

7. all leases, contracts and purchase-of-service agreements to which the FSTRA is a party, which includes all appropriate credentials;

8. insurance policies:

a. every facility shall maintain in force at all times a comprehensive general business insurance policy or policies in an amount adequate to cover all foreseeable occurrences. The insurance shall include coverage for any:

i. personal or professional negligence, malpractice or misconduct by facility owners or employees;

ii. injuries received by any client while being transported by facility staff or third-party contractors; and

iii. injuries sustained by any client while in the facility; and

9. Incident/Accident Reports.

D. The facility shall maintain a personnel record for each employee. At a minimum, this file shall contain the following:

1. the application for employment and/or résumé of education, training, and experience;

2. evidence of a criminal history check prior to an offer of employment and annually thereafter, in accordance with state laws and regulations;

3. evidence of applicable professional credentials, licensing or certifications according to state law;

4. documentation of Tuberculosis test results and any other facility required medical examinations;

5. documentation of reference checks or employee screening in accordance with facility policy;

6. annual performance evaluation;

7. the employee's hire and termination dates;

8. documentation of orientation and annual training, including but not limited to safety and transportation of clients; and

9. documentation of a current, valid and unrestricted driver's license if driving or transporting clients.

E. The facility shall not release an employee's personnel record without the employee's written permission, except as required by state law.

F. The facility shall have a personnel record for each employee to be kept on the premises or at the corporate office. These records shall be made available and accessible to the survey staff within one hour of request by department surveyors.

1. All records shall be maintained in an accessible, standardized order and format, and shall be retained and disposed of in accordance with state laws.

2. A facility shall have sufficient space, facilities and supplies for providing effective record keeping services, either electronically or via paper documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7257. Core Staffing Requirements

A. Each facility shall be staffed to properly safeguard the health, safety and welfare of the clients, as required by these regulations. At a minimum, the following staff positions are required; however, one person may occupy more than one position.

B. Consulting Forensic Psychiatrist

1. Each facility shall have a qualified physician, currently licensed to practice medicine in Louisiana, who:

a. signs the order admitting the individual to the facility;

b. maintains overall responsibility for the client's medical management; and

c. is readily available for consultation and collaboration with the facility staff.

2. The forensic psychiatrist may act as consultant by employment on staff, by contract, or by arrangement with state agency.

C. Administrator/Director

1. Each facility shall have a qualified administrator/director who is an on-site employee and is responsible for the day-to-day management, supervision and operation of the facility.

2. During periods of temporary absence of the administrator/director, there shall be a responsible staff person designated to be in charge that has the knowledge and responsibility to handle any situation that may occur.

3. There shall be a responsible staff person designated to be in charge on the premises of the facility 24 hours per day.

4. The administrator/director shall be at least 21 years of age and have the responsibility and authority to carry out the policies of the facility.

5. The administrator/director shall meet one of the following criteria upon date of hire:

a. possess a bachelor's degree from an accredited institution plus one year of administrative experience in the fields of health care, behavioral health services, or forensics;

b. possess an associate's degree from an accredited institution plus two years of administrative experience in the fields of health care, behavioral health services, or forensics; or

c. in lieu of a degree, possess six years of administrative experience in health care, behavioral health services, or forensics.

6. Documentation of the administrator/director's qualifications shall be maintained on file at the facility.

D. Nursing Services

1. The facility shall provide a sufficient number of nursing service personnel consisting of registered nurses, licensed practical nurses and other staff to provide nursing care to all clients in accordance with the client's treatment plan.

2. Registered Nurse (RN). The facility shall employ or contract with at least one RN who is responsible for the overall delivery and supervision of nursing services.

a. The RN shall be currently licensed by, and in good standing with, the state nursing board of Louisiana. No individual who is unlicensed may be employed, either directly or by contract, by the facility as an RN.

b. The RN shall:

i. be on-site or available by telephone during the day time hours of the facility;

ii. develop policies and procedures related to the delivery of nursing services; and

iii. provide medication management through administration, supervision, education and training.

3. Licensed Practical Nurse (LPN). The facility shall employ or contract with LPNs to meet the nursing needs of the clients.

a. The LPN shall be currently licensed by, and in good standing with, the state nursing board of Louisiana. No individual who is unlicensed may be employed, either directly or by contract, by the facility as a LPN.

b. LPNs may administer medication and deliver nursing services as provided by Louisiana law or applicable regulations.

E. Direct Care Staff

1. The facility shall ensure that an adequate number of trained direct care staff, either contracted or directly employed, is available to meet the needs of the clients in accordance with the client's scheduled and unscheduled needs.

2. Direct care staff may include care assistants, activities personnel, or other staff who provide direct care services to clients on a regular basis.

3. Direct care staff shall have the following qualifications:

a. a minimum of a high school diploma, eighteen years of age and six months of experience working with adults with a serious and persistent behavioral health diagnosis; or

b. two years of experience working with adults with a serious and persistent behavioral health diagnosis.

4. The facility shall have at least two direct care staff on site when there is at least one client at the facility.

5. The facility shall demonstrate that sufficient staff is scheduled and available (working) to meet the 24-hour scheduled and unscheduled needs of the clients. At a minimum, there shall be one direct care staff person on duty for every 15 clients.

6. The facility shall not share direct care staff with another licensed facility. (Staff cannot fill two staff positions on the same shift at different licensed facilities.)

F. The facility shall maintain a current work schedule for all employees, either contracted or directly employed, including relief workers, ensuring adequate coverage for each day and night shift.

G. Facility professional staff shall be licensed and/or certified by the appropriate state licensing or certification board(s) of Louisiana. The license and/or certification shall be current, unrestricted and in good standing.

H. Designated Recreational/Activity Staff. There shall be an individual designated to organize and oversee the recreational and social programs of the facility.

I. A facility shall provide, as needed, consultation(s) with a licensed registered dietician, either directly employed or contracted.

J. Direct Care Staff Orientation and Training

1. Prior to providing services to clients, the FSTRA shall provide a 20-hour documented orientation including, but not limited to the following:

a. the policies and procedures of the facility, including program components;

b. emergency and evacuation procedures;

c. training in proper fire and emergency safety procedures including:

i. CPR;

ii. the Heimlich Maneuver;

iii. first aid;

iv. crisis management; and

v. risk reduction;

d. effective communication skills for forensic, behavioral health clients;

e. confidentiality and HIPAA requirements;

f. trainings and intervention programs as deemed appropriate and mutually agreed upon by Community Forensic Services and the state level forensic coordinator;

g. client's rights;

h. procedures and requirements regarding the reporting of abuse, neglect and critical incidents; and

i. transportation safety and responsibilities for staff that transport clients.

2. Orientation for direct care staff shall include an additional five days of supervised training. Training, at a minimum, shall include the following:

a. training in client care services (ADLs & IADLs) provided by the facility;

b. infection control to include blood borne pathogens;

c. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses; and

d. any specialized training to meet clients' needs.

3. A new employee, either contracted or directly employed, shall not be given sole responsibility for the implementation of a client's program plan until this orientation and training is completed.

a. The new employee, either contracted or directly employed, shall sign a statement certifying that such training has occurred and this shall be maintained in the new employee's personnel file.

4. Orientation and five days of supervised training shall meet the first year's annual training requirements.

5. All direct care staff, either contracted or directly employed, shall receive certification in adult first aid and CPR within the first 30 days of employment.

a. Documentation of such certification shall be maintained in the personnel file of each direct care staff person.

K. Annual Training

1. A facility shall ensure that each direct care worker, contracted or directly employed, participates in and satisfactorily completes a minimum of 16 hours of training each year to ensure continuing competence.

NOTE: Orientation and normal supervision shall not be considered as meeting this requirement.

2. The facility shall document that direct care staff receives training on an annual basis in:

a. the facility's policies and procedures;

b. emergency and evacuation procedures;

c. client's rights;

d. the procedures and legal requirements concerning the reporting of abuse and critical incidents;

e. client care services (ADL'S & IADL'S);

f. infection control to include blood borne pathogens; and

g. any other areas that may require specialized training to meet clients' needs including but not limited to, driver safety in transporting clients.

3. All direct care staff, either contracted or directly employed, shall have documentation of current certification in adult first aid and CPR.

4. The administrator/director shall participate annually in at least 12 hours of continuing education in the field of behavioral health and specialized training in the population served and/or supervisory/management techniques.

5. Each employee shall sign a statement of understanding certifying that annual training has occurred.

L. A competency evaluation shall be developed and conducted to ensure that, at a minimum, each direct care staff person is able to demonstrate competencies in the training areas in §7257.I-J.Core Staffing Requirements.

1. Documentation of such competency evaluation of each direct care staff person shall be maintained and readily available in the agency's records.

M. An employee's annual performance evaluation shall include his/her interaction with clients, family, staff and other providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7259. Client Records

A. The facility shall maintain a separate record for each client. Such records shall be current and complete and shall be maintained in the facility or in a central administrative location readily available to facility staff and to the department.

B. All records shall be maintained in an accessible, standardized order and format, either electronically and/or in paper form, and shall be retained and disposed of in accordance with state laws.

C. The facility shall have sufficient space, equipment, and supplies for providing effective record keeping services.

D. The facility shall have a secured storage area that ensures the safeguarding of all electronic or paper client records and that prevents loss from, including but not limited to, fire or water.

E. Each record shall contain at least the following information:

1. the client's identifying and personal information including:
   a. the client's name;
   b. date of birth;
   c. sex;
   d. Social Security number;
   e. previous home address; and
   f. marital status, if applicable;
2. dates of admission and discharge;
3. names, addresses, and telephone numbers of responsible persons to be notified in case of accident, death or other emergency;
4. name, address, and telephone number of a physician and dentist to be called in an emergency;
5. ambulatory status;
6. the client's plan/authorization for routine and emergency medical care, as required;
7. the client's written authorization for a representative and their name, address and telephone number, if applicable;
8. the pre-admission assessment by a forensic psychiatrist and admission agreement;
9. findings of the assessment and any special problems or precautions identified;
10. the service plan, updates, and quarterly reviews;
11. continuing record of any illness, injury or medical or dental care when it impacts the client's ability to function or the services he/she needs;
12. a record of all personal property and funds which the client has entrusted to the facility;
13. reports of any client complaints or grievances and the conclusion or disposition of these reports;
14. incident reports; and
15. written acknowledgments that the client has received clear verbal explanations and:
   a. copies of his/her rights and the house rules;
   b. written procedures for safekeeping of valuable personal possessions of clients; and
   c. a written statement explaining the client's rights regarding personal funds and the right to examine his/her record.

F. All information and records obtained from or regarding clients shall be securely stored and kept confidential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7261. Abuse and Neglect

A. The facility shall have comprehensive written procedures concerning client abuse and neglect to include provisions for:

1. training and maintaining staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;
2. protecting clients from abuse inflicted by other clients, employees or third parties, including but not limited to, criminal prosecution of the offending person and his/her permanent removal from the facility;
3. ensuring that regulations stipulated in this rule for reporting any incidents involving abuse and neglect are followed;
4. ensuring that the administrator/director completes an investigation report within 10 working days; and
5. ensuring that the client is protected from potential harassment during such investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7263. Critical Incidents

A. A facility shall have written procedures for the reporting and documentation of unusual incidents and other situations or circumstances affecting the health, safety or well-being of a client(s) (i.e. death by unnatural causes, injuries, fights or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect). Critical incidents shall be defined by facility policy, approved by the facility's governing body and reviewed at least annually.

1. Such procedures shall ensure timely verbal reporting to the director or designee and a preliminary written report within 24 hours of the incident.
2. Copies of all critical incident reports shall be kept as part of the client's record and a separate copy shall be kept in the administrative file of the facility.

B. Incident/Accident Report. When an incident occurs, a detailed report of the incident shall be documented. At a minimum, the incident report shall provide documentation of the following:

1. the circumstances under which the incident occurred;
2. the date and time the incident occurred;
3. the location where the incident occurred (bathroom, bedroom, street, lawn, etc.);
4. immediate treatment and follow-up care;
5. the names and addresses of witnesses;
6. the date and time the family or representative was notified;
7. any symptoms of pain and injury discussed with the physician; and
8. the signatures of the staff completing the report, client, and administrator/director.

C. When an incident results in the death of a client, involves abuse or neglect of a client, or entails any serious

threat to the client's health, safety or well-being, a facility shall:

1. immediately take appropriate corrective action to protect the client and to prevent further incidents;

2. report the incident verbally to the administrator within two hours of the time of the incident;

3. notify the appropriate law enforcement authority in accordance with state law, but no later than 24 hours after the time of the incident;

4. verbally notify the family or the client's representative as soon as possible but no later than two hours after the time of the incident, with written notification to follow within 24 hours;

5. notify the Department of Health, Health Standards Section, and other appropriate authorities in accordance with state law, with written notification to the above agencies to follow within 24 hours of the time of the incident;

6. provide follow-up written reports to all of the persons and agencies identified in this §7261.C; and

7. document its compliance with all of the above procedures for each incident and shall keep such documentation (including any written reports or notifications) in the client's file. A separate copy of all such documentation shall be kept in the facility's administrative file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7265. Personal Possessions

A. The facility may, at its discretion, offer to clients the service of safekeeping their valuable possessions. The facility shall have a written statement of its policy.

B. If the facility offers such a service, a copy of the written policy and procedures shall be given to a client at the time of his/her admission.

C. The facility shall give the client a receipt listing each item that it is holding in trust for the client. A copy of the receipt shall be placed in the client's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7267. Client Funds

A. The facility's admission agreement shall include the client's rights regarding personal funds and list the services offered and charges, if any.

B. The facility shall offer safekeeping and management of a client's funds. If a client chooses to entrust funds with the facility, the facility shall obtain written authorization from the client and/or his/her representative for the safekeeping and management of the funds.

C. The facility shall:

1. provide each client with an account statement on a quarterly basis with a receipt listing the amount of money the facility is holding in trust for the client;

2. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the client for each transaction;

3. provide a list or account statement regarding personal funds upon request of the client;

4. maintain a copy of each quarterly account statement in the client's record;

5. keep the funds received from the client in a separate interest-bearing account; and

6. not commingle the clients' funds with the facility's operating account.

D. The facility shall develop, implement, and follow written policies and procedures to protect client funds.

E. Unless otherwise provided by state law, upon the death of a client, the facility shall provide the executor or administrator of the client's estate or the client's representative, as agreed upon in the admission agreement, with a complete account statement of the client's funds and personal property of the client being held by the facility.

F. A client with a personal fund account managed by an FSTRA facility may sign an account agreement acknowledging that any funds deposited into the personal account by, or on the client's behalf, are jointly owned by the client and his legal representative or next of kin. The account agreement shall state that:

1. the funds in the account shall be jointly owned with the right of survivorship;

2. the funds in the account shall be used by, for or on behalf of the client;

3. the client or the joint owner may deposit funds into the account; and

4. the client or joint owner may endorse any check, draft or other monetary instrument to the order of any joint owner, for deposit into the account.

G. If a valid account agreement has been executed by the client, upon the client's death, the facility shall transfer the funds in the client's personal fund account to the joint owner within 30 days of the client's death.

H. If a valid account agreement has not been executed, upon the client's death, the facility shall comply with the federal and state laws and regulations regarding the disbursement of funds in the account and the properties of the deceased. The facility shall abide by the procedures of the Louisiana Department of the Treasury and the Louisiana Uniform Unclaimed Property Act for the handling of funds of a deceased client that remain unclaimed.

I. The provisions of this Section shall have no effect on federal or state tax obligations or liabilities of the deceased client's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions.

J. A termination date of the account and the reason for termination shall be recorded on the client's participation file. A notation shall read, "to close account." The endorsed cancelled check with check number noted on the ledger sheet shall serve as sufficient receipt and documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7269. Contraband

A. There shall be no contraband, illegal drugs, controlled dangerous substances or any medications that are not prescribed to a client, on the campus of the facility. Clients may be subjected to random periodic drug testing as a requirement for residency at the facility. A positive drug test shall be reported to the attending psychiatrist and the applicable court.

B. The facility shall have written policies defining contraband and procedures for staff to follow when contraband is discovered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter G. Safety and Emergency Preparedness

§7271. General Provisions

A. The facility shall have an emergency preparedness plan designed to manage the consequences of natural disasters or other emergencies that could disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the clients and/or the community it serves. The emergency preparedness plan shall be made available, upon request or if mandated to do so, to local, parish, regional and/or state emergency planning organizations, the department and the Office of the State Fire Marshal.

B. At a minimum, the emergency preparedness plan shall include:

1. identification of potential hazards that could necessitate an evacuation, including internal and external disasters such as a natural disaster, acts of bioterrorism, weapons of mass destruction, labor work stoppage or industrial or nuclear accidents;

2. emergency procedures for evacuation of the facility;

3. procedures in the case of interruption of utility services in a way that affects the health and safety of clients;

4. identification of the facility and an alternate facility to which evacuated clients would be relocated;

5. the estimated number of clients and staff that would require relocation in the event of an evacuation;

6. the system or procedure to ensure that medical charts accompany clients in the event of a client evacuation and that supplies, equipment, records and medications would be transported as part of an evacuation; and

7. the roles and responsibilities of staff members in implementing the disaster plan.

C. The facility shall conduct and document fire drills once per quarter, one drill per shift every 120 days, at varying times of the day. Each employee, either contracted or directly employed, shall participate in at least one drill annually.

D. The facility shall immediately notify the Health Standards Section and other appropriate agencies of any fire, disaster or other emergency that may present a danger to clients or require their evacuation from the facility.

E. The facility shall have access to 24-hour telephone service, and shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance services or show evidence of an alternate means of immediate access to these services.

F. General Safety Practices

1. The facility shall not maintain any firearm or chemical weapon in the living units of the facility.

2. The facility shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to the contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of clients, staff and visitors.

3. The facility shall ensure that an appropriately equipped first aid kit is available in the living units and in all vehicles used to transport clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter H. Physical Environment

§7275. General Provisions

A. Location

1. The area to be licensed as a FSTRA facility shall meet all of the licensing regulations established for FSTRA facilities.

2. A facility that is located within any other facility shall be secure and have its own identifiable staff, space and storage. The facility shall have a separate entrance, separate dining area and separate common areas.

3. A facility that accepts both male and female clients shall not assign male and female clients to reside within the same unit of the licensed facility.

B. General Appearance and Conditions

1. Heating, cooling and ventilation systems shall permit comfortable conditions.

2. Furniture that is clean, safe and operable, where applicable, shall be available to facilitate usage by the number of clients in the facility.

3. The facility shall have sufficient space and equipment to accommodate the full range of program activities and services.

4. The facility shall be flexible and adaptable for large and small groups and individual activities and services.

5. There shall be sufficient office space to permit staff to work effectively and without interruption.

6. There shall be adequate storage space for program and operating supplies.

C. Interior Space

1. Floors and steps shall have a non-slippery surface and kept dry when in use by the clients.

2. Doorways and passageways shall be kept clear to allow free and unhindered passage.

3. The facility shall provide an appropriate controlled-egress system on all required exit doors and doors leading to other areas of the facility unless prior approval of an alternative method for prevention of client elopement from the facility has been obtained from the authority (Office of the State Fire Marshal) having jurisdiction over such matters.

4. All staff shall have a key to locked exit doors.

5. All operable windows shall be equipped with a mechanism to limit exterior openings to prevent elopement.

6. Windows used for ventilation to the outside and exterior doors used for ventilation shall be screened and in good repair.

7. The facility shall be constructed, equipped, and maintained in operating condition and kept free of hazards.

8. The facility shall have sufficient storage space for administration records, locked areas for medications, cleaning supplies (janitorial), food service (supplies) and lawn maintenance (equipment).

9. There shall be evidence of routine maintenance and cleaning programs in all areas of the facility.

10. The facility shall have an effective pest control program. Pest control services may be provided by maintenance personnel of the facility or by contract with a pest control company. If pest control chemicals are stored in the facility, they shall be kept in a locked location.

11. The facility shall have an area for the safe and secure maintenance and storage of medical records and other facility files, records and manuals.

D. Bedrooms

1. Single rooms shall contain at least 100 square feet and multi-bed rooms shall contain at least 80 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment. An existing state owned or operated hospital that converts a building, unit or wing to a facility shall contain a minimum of 65 square feet per bed in a multi-bed room.

2. Any client room shall not contain more than four beds.

a. Beds shall be of solid construction, appropriate to the size and age of the client and have a clean, comfortable, non-toxic fire-retardant mattress that fits the bed.

b. Cots or other portable beds are to be used in emergencies only.

3. Rooms shall have at least a 7 1/2 foot ceiling height over the required area.

a. In a room with varying ceiling heights, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space.

4. There shall be at least three feet between beds.

5. There shall be sufficient and satisfactory separate storage space for clothing, toilet articles and other personal belongings of clients.

6. Doors to individual bedrooms shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.

7. The facility shall not use any room that does not have a window as a bedroom space.

8. The facility shall provide sheets, pillows, bedspreads and blankets that are of good quality for each client. Linens that are torn or worn shall not be used.

9. Each client shall have his/her own dresser or other adequate storage space for private use and designated space for hanging clothing in proximity to the bedroom occupied by the client.

10. The facility shall not assign clients to a space that is not part of the licensed facility.

E. Bathrooms

1. The number of toilets and hand-washing facilities shall not be less than one designated, segregated male bathroom facility and one designated, segregated female bathroom facility per 13 clients.

a. Post promulgation of this rule, facilities seeking to change geographic location or new construction, and that have not received plan review approval, the number of toilets and hand-washing facilities shall be in accordance with current, applicable state laws, rules and regulations.

2. A bathroom facility shall have wash basins with hot and cold water, flush toilets, and bath or shower facilities with hot and cold water according to client care needs.

3. Bathrooms shall be so placed as to allow access without disturbing other clients during sleeping hours.

4. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene, unless clients are individually given such items.

a. Clients shall be provided individual items such as hair brushes and toothbrushes.

5. Tubs and showers shall have slip proof surfaces.

6. The facility shall have toilets and baths or showers that allow for individual privacy, unless the clients in care require assistance.

7. Toilets, wash basins and other plumbing or sanitary facilities in the facility shall, at all times, be maintained in operable condition and shall be kept free of any materials that might clog or otherwise impair their operation.

8. The facility shall have separate toilet facilities for staff.

F. Furnishings

1. The facility shall be sufficiently furnished to meet the needs of the clients. All furnishings and equipment shall be kept clean, safe and operable, where applicable.

2. Adequate furniture shall be available and shall be appropriate for use by the clients in terms of comfort and safety.

3. Furnishings shall include tables and chairs sufficient in number to serve all clients.

G. Kitchen

1. A facility that has a kitchen area shall meet all health and sanitation requirements and shall be of sufficient size to accommodate meal preparation for the proposed number of clients.

2. Kitchens used for meal preparations shall have the equipment necessary for the preparation, serving and storage and clean-up of all meals regularly served to all clients and staff. All equipment shall be maintained in proper working order.

3. The facility's refrigerator(s) shall be maintained at a temperature of 45 degrees Fahrenheit or below. Freezers shall be maintained at a temperature of 0 degrees Fahrenheit or below. Thermometers shall be provided for all refrigerators and freezers. The facility shall maintain logs of temperatures of the refrigerator and freezers. Abnormal temperatures shall be reported to management and arrangements made for repair/service. Documentation of such shall be maintained.

4. The facility shall ensure that all dishes, cups and glasses used by clients are free from chips, cracks or other defects and are in sufficient number to accommodate all clients.

5. If food is prepared in a central kitchen and delivered to the facility, provisions shall be made and approved by the Department of Health, Office of Public Health, Sanitarian Services for proper maintenance of food temperatures and a sanitary mode of transportation.

H. Medication Storage and Monitoring

1. The facility shall have policies and procedures for the storage, administration and disposal of both prescription and over-the-counter medications.

2. There shall be a designated secure area for the storage, preparation, and proper disposal of medications.

3. Medications that require refrigeration shall be stored in a separate secured refrigerator (not with food, beverages, etc.).

4. The facility shall have a process for monitoring the inventory and reconciliation of prescribed controlled

substances by authorized licensed staff. The process shall include the reporting of lost or missing medications by designated licensed staff in accordance with the Louisiana State Board of Pharmacy and applicable state law.

5. Medications may be administered from a secured medication dispensing central area of the facility.

I. Laundry

1. The facility shall provide for laundry services, either on-site or at an off-site location that is adequate to meet the needs of the clients.

2. For any provision of laundry service, available on-site or contracted, the facility shall ensure and maintain procedures to prevent cross contamination of soiled laundry with clean laundry.

3. If on-site, laundry facilities shall be located in a specifically designated area and there shall be adequate rooms and spaces for sorting, processing, and storage of soiled material.

4. Laundry rooms shall not open directly into client common areas or food service areas.

5. Domestic washers and dryers that are for the exclusive use of clients may be located in client areas, provided they are installed in such a manner that they do not pose a sanitation problem or safety risk.

J. Water Supply

1. An adequate supply of water, under pressure, shall be provided at all times.

2. Clean sanitary drinking water shall be available and accessible in adequate supply at all times. Disposable cups, if used, shall be stored in such a way as to prevent contamination.

3. When a public water system is available, a connection shall be made thereto. If water from a source other than a public water supply is used, the supply shall meet the requirements set forth under the rules and regulations of the Office of Public Health (OPH).

4. The facility shall have a plan and policy for an alternative water supply in the event of interruption of water supply and for the prolonged loss of water.

K. All sewage shall be disposed of by means of either:

1. a public system where one is accessible within 300 feet; or

2. an approved sewage disposal system that is constructed and operated in conformance with the standards established for such systems by OPH.

L. Facility Exterior

1. The FSTRA shall maintain all areas of the facility that are accessible to the clients in good repair and free from any reasonably foreseeable hazard to health or safety.

2. All structures on the grounds of the facility shall be maintained in operating condition.

3. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on a regular basis.

4. Fences shall be in good repair and constructed in such a way as to provide safety and security.

5. Areas determined unsafe, including steep grades, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced or have natural barriers to protect clients.

6. Clients shall have access to safe, suitable outdoor recreational space.

7. The facility shall ensure that exterior areas are well lit at night.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter I. Secure Community Supervised Transitional/Residential Facility Module

§7279. General Provisions

A. Providers applying for the Secure Community Supervised Transitional/Residential (SCSTR) Facility module under the FSTRA facility license shall meet the core licensing requirement as well as the following module specific requirements.

B. A secure community supervised transitional/residential facility is a secure residential facility within the community that provides individualized services to develop daily living skills and to prepare for vocational adjustment and reentry into the community, to persons who are under a court-ordered forensic conditional release and who are referred by a state forensic hospital or a state forensic psychiatric unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7281. Operational Requirements

A. Staff Requirements

1. When clients are present, the facility shall provide 24-hour, seven day per week supervision and the care and services sufficient to meet the needs of the clients. Staffing shall consist of at least three direct care staff persons during the day, one of which shall be a licensed nurse and at least two awake staff during the night.

a. Requirements for the level of supervision provided and the specified time frame for day hours shall be defined by facility policy and approved by the facility governing body with documented annual review.

2. The facility shall have a licensed nurse on call when there are no licensed nurses on duty at the facility.

B. Admissions. The facility shall:

1. only accept clients referred by LDH state forensic facilities or those who are under a court-ordered forensic conditional release;

2. admit only those clients who have the ability to self-administer medications and provide for their own personal care needs;

3. admit male and female clients to reside in separate segregated and designated units of the licensed facility;

4. not admit more clients into care than the number specified on the facility's license; and

5. provide contact information, including the telephone number and mailing address, for the appropriate state protection and advocacy organization.

Note: the facility shall request from the HSS an increase in licensed bed capacity prior to accepting more clients than specified on the facility's license.

C. Assistance with Medication Self-Administration

1. The facility shall have clear written policies and procedures on medication self-administration.

2. The facility shall assist clients in the self-administration of prescriptions and non-prescription

medication according to the client's service plan and as allowed by state laws and regulations. For assistance with self-administration, such clients shall have documented awareness of the medications to be taken.

3. Assistance with self-administration of medication shall be limited to the following:

a. the client may be reminded to take his/her medication;

b. the medication regimen, as indicated on the container, may be read to the client;

c. the dosage may be checked according to the container label;

d. staff may open the medicine container (i.e. bottle, mediset, blister pack, etc.) if the client lacks the ability to open the container; and

e. the client may be physically assisted in pouring or otherwise taking medications, so long as the client is cognitive of what the medication is, what it is for, and the need for the medication.

4. An unlicensed employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for medication assistance including the limitations of this assistance. Documentation shall include the signature of the employee. This training shall be repeated at least annually.

a. A competency evaluation shall be developed and conducted to ensure that each direct care staff person that assists a client with the self-administration of medications is able to demonstrate competency in the training areas pursuant to §7281.C1-4.

b. Documentation of such competency evaluation of each direct care staff person shall be maintained and readily available in the agency's records.

NOTE: Such training does not permit the unlicensed employee to perform medication administration which is separate and apart from the performance of assistance of a client with the self-administration of medications.

5. Medications shall be stored in a secure central location and not stored in the client's own room.

6. The facility may require the clients to come to a designated medication area to take their medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter J. Secure Forensic Facility Module

§7285. General Provisions

A. Providers applying for the secure forensic (SF) facility module under the FSTRA facility license shall meet the core licensing requirement as well as the following module specific requirements.

B. A secure forensic facility is a secure residential facility located on the grounds of a state owned or operated hospital that provides individualized services, including personal care services and medication administration, to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit, in order to prepare such persons for transition to a less restrictive environment before transitioning to the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7287. Operational Requirements

A. The facility shall provide 24-hour, seven day per week supervision and the care and services sufficient to meet the needs of the clients. Staffing shall consist of at least three direct care staff persons during the day and two awake staff during the night. There shall be at least two direct care staff persons in each building and/or unit at all times when clients are present.

1. The facility shall have a RN on duty during the day shift to oversee the nursing services of the facility.

a. Requirements for the level of RN supervision provided and the specified time frame for day shift shall be defined by facility policy, approved by the governing body, reviewed and documented annually.

2. The facility shall have at least one licensed nurse on duty for each shift.

3. The facility shall provide for, either directly or through contract, a licensed medical doctor on call.

B. Admission

1. The facility shall:

a. admit clients who are under a court order or court ordered forensic conditional release and who are referred by a LDH state forensic facility;

b. not admit more clients into care than the number specified on the facility's license; and

c. provide contact information, including the phone number and mailing address, for the appropriate state protection and advocacy organization.

C. Client Services

1. The facility shall provide or coordinate, to the extent needed or desired by clients, the following services:

a. assistance provided by direct care staff, either employed or contracted, with activities of daily living and all instrumental activities of daily living;

b. medication administration by the licensed nurse;

c. opportunities for individual and group socialization;

d. services for clients who have behavior problems requiring ongoing staff support, therapeutic intervention, and supervision to ensure no danger or infringement of the rights of other clients or individuals;

e. household services essential for the health and comfort of clients (e.g. floor cleaning, dusting, bed making, etc.);

g. basic personal laundry services; and

h. a planned program of recreational activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service and no direct or indirect cost to the provider to provide the same level of service. These provisions will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Forensic Supervised Transitional Residential and Aftercare Facilities—Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. It is anticipated that $12,272(SGF) will be expended in FY 16-17 for the state's administrative expense for the promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule repeals and replaces provisions governing forensic supervised transitional residential and aftercare (FSTRA) facilities licensing standards to include language related to the culture change movement in FSTRA facilities which includes clarifying core licensing requirements, direct care training requirements, CPR training and client records requirements, and to update language to be consistent with licensing and enforcement processes. This proposed rule will also ensure the licensing standards are more concise in providing regulatory information to providers and the public. It is anticipated that the implementation of this proposed rule may have minimal fiscal impact to FSTRA facilities FY 16-17, FY 17-18 and FY 18-19

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Health Standards Section Director
1610#061

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Healthcare Services Provider Fees
Nursing Facility Services Providers
(LAC 48:I.4001)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.4001 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 46:2625. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing, amended the provisions governing provider fees in order to place provider fees for pharmacy services in the appropriate section in the *Louisiana Administrative Code* (*Louisiana Register,* Volume 33, Number 1).

Act 675 of the 2016 Regular Session of the Louisiana Legislature directed the Department of Health to increase provider fees for nursing facilities. In compliance with Act 675, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing provider fees in order to increase the limit of the provider fee for nursing facilities (*Louisiana Register*, Volume 42, Number 9). This proposed Rule is being promulgated to continue the provisions of the September 1, 2016 Emergency Rule.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 1. General
Chapter 40. Provider Fees
§4001. Specific Fees

A. - B.1.…

2. The provider fee imposed for nursing facility services shall not exceed 6 percent of the average revenues received by providers of that class of services and shall not exceed $12.08 per occupied bed per day. The fee amount shall be calculated annually in conjunction with updating provider reimbursement rates under the Medical Assistance Program. Notice to providers subject to fees shall be given in conjunction with the annual rate setting notification by the Bureau of Health Services Financing.

C. - D. ...

E. - F. Reserved.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase direct or indirect cost to the provider to provide the same level of service due to provider fees imposed on nursing facilities. This proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the provider fees adversely impacts the provider's financial standing.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Healthcare Services Provider Fees Nursing Facility Services Providers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in a programmatic cost to the state associated with the use of provider fee revenue collections. The associated cost is reflected in the Nursing Facilities – Reimbursement Methodology – Pass Through Fee Increase Rule published in the October 20, 2016 edition of the Louisiana Register. It is anticipated that $432 ($216 SGF and $216 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase statutory dedicated revenue collections by approximately $9,856,892 for FY 16-17, $19,832,067 for FY 17-18 and $19,951,060 for FY 18-19. In addition, it is anticipated that federal revenue collections will increase by approximately $16,261,215 in FY 16-17, $32,717,130 in FY 17-18 and $32,913,434 in FY 18-19. It is anticipated that $216 will be expended in FY 16-17 for the federal administrative expenses for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the September 1, 2016 Emergency Rule which amended the provisions governing provider fees in order to increase the limit of the provider fee for nursing facilities. Nursing facility expenditures associated with the nursing facility provider fee assessment will be reflected in the Nursing Facilities – Reimbursement Methodology – Pass Through Fee Increase Rule published in the October 20, 2016 edition of the Louisiana Register.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

Jen Steele	Evan Brasseaux
Medicaid Director	Staff Director
1610#062	Legislative Fiscal Office

NOTICE OF INTENT

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

Home and Community-Based Services Waivers
Adult Day Health Care Waiver
Electronic Visit Verification
(LAC 50:XXI.2705)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to adopt LAC 50:XXI.2705 in the Medical

Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, through collaborative efforts, provide enhanced long-term services and supports to individuals with physical, mental or functional impairments through the Adult Day Health Care (ADHC) Waiver program.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which amended the provisions governing the ADHC Waiver in order to adopt requirements which mandate that providers of personal assistant services must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking and billing for certain home and community-based services (*Louisiana Register*, Volume 41, Number 10). This proposed Rule is being promulgated to continue the provisions of the November 1, 2015 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services Waivers
Subpart 3. Adult Day Health Care
Chapter 27. Provider Responsibilities
§2705. Electronic Visit Verification

A. Effective for dates of service on or after November 1, 2015, Adult Day Health Care Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the ADHC Waiver provider manual.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by assuring that ADHC waiver participants receive the services they are in need of in an efficient and cost-effective manner.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by allowing working family members to maintain stable employment due to the improved delivery of ADHC waiver services which may reduce the financial burden on families.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comment

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Home and Community-Based Services Waivers—Adult Day Health Care Waiver—Electronic Visit Verification

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in estimated net state general fund programmatic savings of approximately $97,996 for FY 16-17 and $100,649 for FY 17-18 and $103,668 for FY 18-19. It is anticipated that $432 ($216 SGF and $216 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately $161,804 for FY 16-17 and $167,390 for FY 17-18 and $172,412 for FY 18-19. It is anticipated that $216 will be collected in FY 16-17 for the federal share of the expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the November 1, 2015 Emergency Rule which amended the provisions governing the Adult Day Health Care Waiver in order to adopt requirements which mandate that providers must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services. It is anticipated that implementation of this proposed rule will reduce expenditures in the Medicaid Program by approximately $260,232 for FY 16-17 and $268,039 for FY 17-18 and $276,080 for FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele	Evan Brasseaux
Medicaid Director	Staff Director
1610#063	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Hospital Licensing Standards
(LAC 48:I.9319, 9381 and 9405)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.9319, §9381 and §9405 as authorized by R.S. 40:2100-2115. This proposed Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing hospital licensing standards in order to address changes that had occurred within the hospital industry (*Louisiana Register*, Volume 29, Number 11).

Act 351 of the 2016 Regular Session of the Louisiana Legislature established the *Louisiana Family Caregiver Act* which requires that hospitals provide each patient or legal guardian with an opportunity to designate a caregiver following inpatient admission into a hospital and upon discharge planning, provides for notice and hospital instructions to the designated caregiver and patient record documentation. Act 415 of the 2016 Regular Session of the Louisiana Legislature authorizes a licensed dietitian or nutritionist employed by a healthcare facility licensed by the Department of Health to directly order the dietary plan and appropriate laboratory tests to monitor the effectiveness of the dietary plan. The department now proposes to amend the provisions governing hospital licensing standards in order to comply with Acts 351 and 415.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 93. Hospitals
Subchapter B. Hospital Organization and Services
§9319. Patient Rights and Privacy

A. - A.21. ...

22. except in emergencies, the patient may be transferred to another facility only with a full explanation of the reason for transfer, provisions for continuing care and acceptance by the receiving institution; and

23. the right for each inpatient or, if applicable, the patient's legal guardian, to have one opportunity to designate an uncompensated caregiver following the patient's inpatient admission into a hospital and prior to the patient's discharge, for provision of the patient's post hospital aftercare at the patient's residence.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2405 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter G. Food and Dietetic Services
§9381. Menus and Therapeutic Diets

A. ...

B. Therapeutic diets shall be prescribed by the licensed practitioner(s) responsible for the care of the patient. Therapeutic diets, and laboratory tests to monitor the effectiveness of the dietary plan, may be prescribed by a licensed dietitian/nutritionist subject to the approval of, and authorization by, the facility's medical staff or bylaws and in accordance with state law. Each patient's nutritional intake shall be documented in the patient's medical record. Nutritional intake includes both enteral and parenteral nutrition.

C. There shall be a procedure for the accurate transmittal of dietary orders to the dietary service and for informing the dietary service when the patient does not receive the ordered diet, or is unable to consume the prescribed diet.

D. There shall be a current therapeutic diet manual, which shall be the guide used for ordering and serving diets and other nutritional intake. The manual shall be approved by the dietitian and medical staff and be readily available to all medical, nursing and food service personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2414 (November 2003) , amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 94. Hospitals
Subchapter I. Quality Assessment and Improvement
§9405. Patient Care Services

A. - B. ...

1. If a patient has designated an uncompensated caregiver for aftercare, a hospital shall make a good faith attempt to notify the patient's designated caregiver of the patient's discharge to the patient's residence as soon as possible prior to the patient's discharge. If the hospital is unable to contact the designated caregiver, the lack of contact may not interfere with, delay or otherwise affect the medical care provided to the patient, or an appropriate discharge of the patient.

a. For purposes of §9405.B.1-3, a residence does not include any rehabilitation facility, hospital, nursing home, assisted living facility or group home.

2. As soon as practicable prior to the patient's discharge, the hospital shall make a reasonable effort to consult with the designated caregiver along with the patient, taking into account the capabilities and limitations of the caregiver, to accomplish the aftercare tasks that may be included in a discharge care plan that describes the patient's aftercare needs at his residence.

3. The hospital shall educate and instruct the caregiver concerning the aftercare needs of the patient in a manner that is consistent with the discharge plan and is based on the learning needs of the caregiver. In addition, the hospital shall also provide an opportunity for the caregiver and patient to ask questions and receive explanations about the aftercare tasks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2417 (November 2003) , amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by increasing their healthcare options with a designated caregiver.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase direct or indirect cost to the provider to provide the same level of service. This proposed Rule will not impact the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Hospital Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. It is anticipated that $756(SGF) will be expended in FY 16-17 for the state's administrative expense for the promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule, in compliance with Acts 351 and 415 of the 2016 Regular Session of the Louisiana Legislature, amends the provisions of the licensing standards for hospitals to establish provisions for a designated caregiver and amends provisions concerning dietary plans. It is anticipated that the implementation of this proposed rule may increase costs to hospitals in FY 16-17, FY 17-18 and FY 18-19 by an indeterminable amount as a result of dietary testing requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello	Evan Brasseaux
Health Standards Section Director	Staff Director
1610#064	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Nursing Facilities
Reimbursement Methodology
Pass Through Rate Increase
(LAC 50:II.20005)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.20005 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities in order to reduce the per diem rates paid to non-

state nursing facilities (*Louisiana Register*, Volume 41, Number 5).

Act 675 of the 2016 Regular Session of the Louisiana Legislature directed the Department of Health to increase provider fees for nursing facilities. In compliance with Act 675, the department published Emergency Rules which amended the provisions governing provider fees in order to increase the provider fee for nursing facilities, and amended the provisions governing the reimbursement methodology for nursing facilities to include the provider fee increase in the nursing facility pass through rate (*Louisiana Register*, Volume 42, Number 9). This proposed Rule is being promulgated to continue the provisions of the September 1, 2016 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement
Chapter 200. Reimbursement Methodology
§20005. Rate Determination
[Formerly LAC 50:VII.1305]

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

c. Effective September 1, 2016, the pass through rate shall be increased as a result of the provider fee increase on nursing facility days from $10.00 per day up to $12.08 per day per occupied bed.

D.5. - Q. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:325 (February 2010), repromulgated LR 36:520 (March 2010), amended LR 36:1556 (July 2010), LR 36:1782 (August 2010), LR 36:2566 (November 2010), LR 37:902 (March 2011), LR 37:1174 (April 2011), LR 37:2631 (September 2011), LR 38:1241 (May 2012), LR 39:1286 (May 2013), LR 39:3097, 3097 (November 2013), LR 41:707 (April 2015), LR 41:949 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service and enhance the provider's ability to provide the same level of service since this proposed Rule increases the payment to providers for the same services they already render.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Comments

A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities
Reimbursement Methodology
Pass Through Rate Increase

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state programmatic cost of $9,857,108 for FY 16-17, $19,832,067 for FY 17-18 and $19,951,060 FY 18-19. It is anticipated that $432 ($216 SGF and $216 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase statutory dedicated revenue collections by approximately $9,856,892 for FY 16-17, $19,832,067 for FY 17-18 and $19,951,060 for FY 18-19. In addition, it is anticipated that federal revenue collections will increase by approximately $16,261,215 for FY 16-17, $32,717,130 for FY 17-18 and $32,913,434 for FY 18-19. It is anticipated that $216 will be expended in FY 16-17 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the September 1, 2016 Emergency Rule which amends the provisions governing nursing facilities reimbursement to include the provider fee increase in the nursing facility pass through rate in compliance with Act 675. It is anticipated that implementation of this proposed rule will increase programmatic expenditures for nursing facility services by approximately $26,117,891 for FY 16-17, $52,549,197 for FY 17-18 and $52,864,494 for FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

Jen Steele
Medicaid Director
1610#065

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Pediatric Day Health Care Facilities
Licensing Standards
(LAC 48:I.5239)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.5239 in the Medical Assistance Program as authorized by R.S. 36:254 and 40:2193–40:2193.4. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the licensing standards for pediatric day health care facilities in order to: 1) revise the provisions governing provider participation, development and educational services and transportation requirements; 2) adopt provisions for the inclusion of PDHC facilities in the Facility Need Review (FNR) Program; and 3) revise the additional grandfather provisions for the FNR process for the Pediatric Day Health Care Program (*Louisiana Register*, Volume 41, Number 1).

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the licensing standards governing PDHC facilities in order to clarify the provider participation requirements regarding plans of care (*Louisiana Register*, Volume 42, Number 9). This proposed Rule is being promulgated to continue the provisions of the September 1, 2016 Emergency Rule.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 52. Pediatric Day Health Care Facilities
Subchapter D. Participation Requirements
§5239. Plan of Care

A. - D.4. ...

E. The medical director shall review the plans of care in consultation with PDHC staff and the prescribing physician every 90 days or more frequently as the child's condition dictates. Prescribed services and therapies included in the plan of care shall be adjusted in consultation with the prescribing physician to accommodate the child's condition.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2769 (December 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Pediatric Day Health Care Facilities Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. It is anticipated

that $432(SGF) will be expended in FY 16-17 for the state's administrative expense for the promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the September 1, 2016 Emergency Rule which amended the licensing standards for pediatric day health care (PDHC) facilities to clarify the provider participation requirements regarding the frequency of reviews for plans of care. It is anticipated that the implementation of this proposed rule will have no economic costs, but will be beneficial to PDHC facilities in FY 16-17, FY 17-18 and FY 18-19 by easing the administrative burden on facilities as a result of the changes in the frequency of reviews from (60 to 90 days).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Health Standards Section Director
1610#066

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Pediatric Day Health Care Program
(LAC 50:XV.27501, 27503, 27901 and 28101)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.27501, §27503, §§27901 and 28101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing pediatric day health care (PDHC) services in order to revise the recipient criteria to better align the program's operational procedures with the approved Medicaid State Plan provisions governing these services (*Louisiana Register*, Volume 41, Number 1).

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing PDHC services in order to clarify these provisions and revise the recipient criteria and reimbursement methodology (*Louisiana Register*, Volume 42, Number 9). This proposed Rule is being promulgated to continue the provisions of the September 1, 2016 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 19. Pediatric Day Health Care Program
Chapter 275. General Provisions
§27501. Program Description and Purpose

A. Pediatric Day Health Care (PDHC) Services

1. An array of services that are designed to meet the medical, social and developmental needs of children up to the age of 21 who have a complex medical condition which requires skilled nursing care and therapeutic interventions on an ongoing basis in order to:

a. preserve and maintain health status;

b. prevent death;

c. treat/cure disease;

d. ameliorate disabilities or other adverse health conditions; and/or

e. prolong life.

2. PDHC services offer a community-based alternative to traditional long term care services or extended nursing services for children with medically complex conditions.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1557 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§27503. Recipient Criteria

A. In order to qualify for PDHC services, a Medicaid recipient must meet the following criteria. The recipient must:

1. ...

2. have a medically complex condition which involves one or more physiological or organ systems and requires skilled nursing and therapeutic interventions performed by a knowledgeable and experienced licensed professional registered nurse (RN) or licensed practical nurse (LPN) on an ongoing basis in order to:

a. preserve and maintain health status;

b. prevent death;

c. treat/cure disease;

d. ameliorate disabilities or other adverse health conditions; and/or

e. prolong life;

3. have a signed physician's order and plan of care, not to exceed 90 days, for pediatric day health care by the recipient's physician specifying the frequency and duration of services; and

A.3.a. - A.3.e. Repealed.

4. be stable for outpatient medical services in a home or community-based setting.

A.4.a. - A.6. Repealed.

B. ...

C. Re-evaluation of PDHC services must be performed, at a minimum, every 90 days. This evaluation must include a review of the recipient's current medical plan of care and

provider agency documented current assessment and progress toward goals.

D. A face-to-face evaluation shall be held every 90 days by the child's prescribing physician. Services shall be revised during evaluation periods to reflect accurate and appropriate provision of services for current medical status.

E. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1557 (July 2010), amended LR 41:137 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 279. Provider Participation

§27901. General Provisions

A. ...

B. A parent, legal guardian or legally responsible person providing care to a medically complex child in a home or any other extended care or long-term care facility, is not considered to be a PDHC facility and shall not be enrolled in the Medicaid Program as a PDHC services provider.

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 281. Reimbursement Methodology

§28101. General Provisions

A. ...

1. A full day of service is more than six hours, not to exceed a maximum of 12 hours per day.

2. A partial day of service is six hours or less per day.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010), amended LR 39:1286 (May 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have a negative impact on family functioning, stability and autonomy as described in R.S. 49:972 as it may reduce access to PDHC services if provider participation declines as a result of the changes to the reimbursement methodology.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a negative impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as families may incur increased travel costs to access PDHC services due to a potential reduction in provider participation as a result of the changes to the reimbursement methodology.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase direct or indirect cost to the provider to provide the same level of service due to changes in the reimbursements for the service. The proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the change in reimbursements adversely impacts the provider's financial standing.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Pediatric Day Health Care Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of $215,783 for FY 16-17, $295,367 for FY 17-18 and $304,228 for FY 18-19. It is anticipated that $756 ($378 SGF and $378 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately $356,225 for FY 16-17, $491,230 for FY 17-18 and $505,966 for FY 18-19. It is anticipated that $378 will be expended in FY 16-17 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the September 1, 2016 emergency rule which amended the provisions governing Pediatric Day Health Care (PDHC) services in order to clarify these provisions and revise the recipient criteria and reimbursement methodology. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures for PDHC services by approximately $572,764 for FY 16-17, $786,597 for FY 17-18 and $810,194 for FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, the change in the reimbursement methodology may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Jen Steele
Medicaid Director
1610#067

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Office of Public Health

Ground Water and Revised Total Coliform Regulations
(LAC 51:XII.101, 311, 319, 325, 343, 901, 903, 905, 907, 911, 912, 913 and 1201)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Louisiana Department of Health, Office of Public Health (LDH-OPH), intends to amend Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51). The amendments to Part XII are necessary in order that LDH-OPH can maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C. §300f, et seq.) primary implementing regulations (40 CFR Part 141).

The proposed rule herein is intended to amend and update LDH-OPH's existing rule for public water systems. The Safe Drinking Water Act Amendments of 1996 (Public Law 104-182/ August 6, 1996) required the USEPA to issue updated rules relative to the regulation of disinfection of ground water supplies. Subsequently, the USEPA amended the National Primary Drinking Water Regulations (40 CFR Part 141) on November 8, 2006 (71 FR 65650 - 65659) by promulgating a rule entitled "National Primary Drinking Water Regulations: Ground Water Rule; Final Rule", as well as USEPA technical corrections to this federal rule published in the Federal Register dated November 21, 2006 (Volume 71, Number 224, page 67427). The November 8, 2006 federal ground water regulation became effective for Louisiana public water systems at the federal level on December 1, 2009. Furthermore, in accordance with the 1996 Safe Drinking Water Act (SDWA) Amendments, which require the USEPA to review and revise each national primary drinking water regulation no less often than every six years, the USEPA amended the National Primary Drinking Water Regulations (40 CFR Part 141) on February 13, 2013 (78 FR 10346-10363) by promulgating a rule entitled "National Primary Drinking Water Regulations: Revisions to the Total Coliform Rule; Final Rule", as well as certain USEPA minor corrections to this federal rule published in the Federal Register dated February 26, 2014 (79 FR 10668-10670). The February 13, 2013 federal revised total coliform regulations became fully effective for Louisiana public water systems at the federal level on April 1, 2016. It is the intent of this rulemaking to amend the current state regulations by adopting these newly amended federal regulations by reference into Part XII.

For the reasons set forth above, Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51:XII) is proposed to be amended as follows.

Title 51
PUBLIC HEALTH—SANITARY CODE
Part XII. Water Supplies

Chapter 1. General

§101. Definitions

[formerly paragraph 12:001]

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

* * *

Level 1 Assessment—an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate; existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must conduct the assessment consistent with any State directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

* * *

Level 2 Assessment—an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. A Level 2 assessment provides a more detailed examination of the system (including the system's monitoring and operational practices) than does a Level 1 assessment through the use of more comprehensive investigation and review of available information, additional internal and external resources, and other relevant practices. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage);

source and treatment considerations that bear on distributed water quality, where appropriate; existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must comply with any expedited actions or additional actions required by the State in the case of an *E. coli* MCL violation.

* * *

National Primary Drinking Water Regulations—

a. drinking water regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f et seq., and as published in the July 1, 2015 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141), less and except:

i. 40 CFR §141.35 Reporting for unregulated contaminant monitoring results;

ii. 40 CFR §141.40 Monitoring requirements for unregulated contaminants;

iii. Subpart H—Filtration and Disinfection (40 CFR §§141.70-141.76);

iv. Subpart P—Enhanced Filtration and Disinfection—Systems Serving 10,000 or More People (40 CFR §§141.170-141.175);

v. Subpart T—Enhanced Filtration and Disinfection—Systems Serving Fewer Than 10,000 People (40 CFR §§141.500—571); and

vi. Subpart X—Aircraft Drinking Water Rule (40 CFR §§141.800—810). .

b. when "Subpart H", "Subpart P", or "Subpart T" is used within the actual text of the drinking water regulations cited in Subparagraph "a." of this Paragraph (definition), "LAC 51:XII.Chapter 11" shall be substituted therein.

* * *

Sanitary Survey—an onsite review of the water source, facilities, equipment, operation, maintenance, and monitoring compliance of a public water system to evaluate the adequacy of the system, its sources and operations and the distribution of safe drinking water.

* * *

Significant Deficiency—a defect in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that the state health officer determines to be causing, or has the potential for causing the introduction of contamination into the water delivered to consumers.

* * *

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 36:254 (B)(7), R.S. 40:4 (A)(8), R.S. 40:5.A. (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002), amended LR 28:2513 (December 2002), LR 30:1194 (June 2004), LR 30:2326 (October 2004), LR 35:484 (March 2009), LR 35:1240 (July 2009), LR 38:2375 (September 2012), LR 38:2793 (November 2012), LR 38:3232 (December 2012), amended by the Department of Health, Office of Public Health, LR 43:

Chapter 3. Water Quality Standards

§311. Records

[formerly paragraph 12:003-2]

A. Complete daily records of the operation of a public water system, including reports of laboratory control tests and any chemical test results required for compliance determination, shall be kept and retained as prescribed in the national primary drinking water regulations on forms approved by the state health officer. When specifically requested by the state health officer or required by other requirements of this Part, copies of these records shall be provided to the office designated by the state health officer within 10 days following the end of each calendar month. Additionally, all such records shall be signed by a certified operator in charge of the public water system and made available for review during inspections/sanitary surveys performed by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002), amended LR 30:1195 (June 2004), LR 42:408 (March 2016), amended by the Department of Health, Office of Public Health, LR 43:

§319. Significant Deficiencies Identified in Sanitary Surveys

A. The state health officer shall conduct a sanitary survey for all public water systems no less frequently than once every three years for community systems and no less frequently than once every five years for non-community systems.

1. The sanitary survey shall address the following eight specific elements:

a. source;
b. treatment;
c. distribution system;
d. finished water storage;
e. pumps, pump facilities, and controls;
f. monitoring, reporting, and data verification;
g. system management and operation; and
h. operator compliance with state requirements.

B. Public water systems shall respond in writing to confirm the correction of significant deficiencies identified in a sanitary survey report no later than 90 days after receipt of the report by the public water system. The public water system's written response shall specify the completed corrective action taken for each significant deficiency or specify a corrective action plan and schedule to address each significant deficiency noted in the sanitary survey report.

C. Upon receipt of the public water system's written response to significant deficiencies identified in a sanitary survey report, the state health officer shall review and approve the public water system's written schedule or shall notify the public water system in writing if the corrective action schedule is unacceptable and will make recommendations to amend the schedule so that the plan can be approved.

D. For all public water systems, the following have been determined by the state health officer to be significant

deficiencies and shall be corrected in accordance with §319.B of this Part:

1. §105.A 105.B or 105.C of this Part;
2. §309.A of this Part;
3. There shall be no pathway for contamination into the well casing or discharge piping. The well site grading, the well slab and all well appurtenances including casing, sanitary seal, vent, and drawdown tube shall be maintained to prevent the introduction of contamination into the well casing and discharge piping;
4. Every potable water well, and the immediate appurtenances thereto that comprise the well, shall be located at a safe distance from all possible sources of contamination. The state health officer has deemed that due to the horizontal distance to a possible source of pollution that is currently causing, or may reasonably be expected to cause contamination to be introduced into the water being delivered to consumers, action is necessary to eliminate or mitigate this potential source of contamination;
5. §315.A of this Part;
6. §325.A of this Part;
7. §327.A.15 of this Part;
8. §329.A.6 of this Part;
9. §331.A of this Part;
10. §335.E of this Part;
11. §337.C of this Part;
12. §343.A of this Part;
13. §344.A of this Part;
14. General equipment design shall be such that feeders will be able to supply, at all times, the necessary amounts of chemicals at an accurate rate throughout the range of feed;
15. For fluoride only, day tanks shall be provided where bulk storage of liquid chemical is provided, meet all the requirements of section 5.1.10 of the Ten State Standards, hold no more than a 30 hour supply, and be scale mounted or have a calibrated gauge painted or mounted on the side if liquid levels can be observed in a gauge tube or through translucent sidewalls of the tank. In opaque tanks, a gauge rod extending above a reference point at the top of the tank, attached to a float can be used. The ratio of the area of the tank to its height shall be such that unit readings are meaningful in relation to the total amount of chemical fed during a day;
16. No drain on a water storage structure shall have a direct connection to a sewer or storm drain. The design shall allow draining the storage facility for cleaning or maintenance without causing loss of pressure in the distribution system;
17. System shall have a monitoring plan that includes a list of all routine compliance samples required on a daily, weekly, monthly, quarterly, and annual basis and identify the sampling location where samples are to be collected. The public water system shall revise and re-submit its monitoring plan if changes to a plant or distribution system require changes to the sampling locations or if any significant changes to the disinfection methods are made. In addition, the public water system shall update and re-submit its monitoring plan when the system's sampling requirements or protocols change;
18. §1503.A.1 of this Part;
19. §1503.C of this Part;
20. Storage tanks and pipelines for liquid chemicals shall be specified for use with individual chemicals and shall not be used for different chemicals. Offloading areas shall be clearly labeled to prevent accidental cross-contamination;
21. Critical water system component is in poor condition or defective and indicative of failure or imminent failure. Component failure is expected to critically impact the quality or quantity of produced water;
22. All potable water systems shall be designed, constructed, and maintained so as to prevent leakage of water due to defective materials, improper jointing, corrosion, settling, impacts, freezing, or other causes. Valves and blow-offs shall be provided so that necessary repairs can be made with a minimum interruption of service; and
23. Other condition which is deemed by the state health officer to be a significant deficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 43:

§325. Treatment Chemicals and Components [formerly paragraph 12:007]

A. Chemicals used in the treatment of water to be used for potable purposes shall either meet the standards of the American Water Works Association or meet NSF 60 requirements as verified by an ANSI accredited testing agency. System wetted components shall meet NSF 61 as verified by an ANSI accredited testing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5.A. (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1322 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:

§343. Cross Connections [formerly paragraph 12:016-1]

A. There shall be no physical connection between a public water supply and any other water supply which is not of equal sanitary quality and under an equal degree of official supervision; and there shall be no connection or arrangement by which unsafe water, hazardous fluid or contamination may enter a public water supply system.

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(7)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1325 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:

Chapter 9. Louisiana Total Coliform Rule [formerly Appendix C]

§901. Federal Regulations Adopted by Reference [formerly the preamble paragraph opening Appendix C]

A. The State of Louisiana, Louisiana Department of Health (LDH)-Office of Public Health (OPH) adopts the United States Environmental Protection Agency (USEPA) federal Total Coliform Regulations as published in the *Federal Register*, Volume 54, Number 124 Thursday, June 29, 1989. Pursuant to the definition of *national primary drinking water regulations* and the provisions of §377 of this Part, LDH-OPH adopts by reference the USEPA federal

Revisions to the Total Coliform Rule (RTCR) as published in the *Federal Register* dated February 13, 2013 (Volume 78, Number 30, pages 10346-10363). In addition, under §377 of this Part, LDH-OPH also adopts by reference certain USEPA minor corrections to the federal RTCR as published in the *Federal Register* dated February 26, 2014 (Volume 79, Number 38, pages 10668-10670). In order to clarify the state's discretionary decisions allowed by the federal requirements, the following is offered.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1333 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:

§903. Coliform Routine Compliance Monitoring [formerly Coliform Routine Compliance Monitoring of Appendix C]

A. Public water systems shall collect routine compliance samples for total coliforms at sites which are representative of water throughout the distribution system in accordance with a monitoring plan approved by the state health officer. Each public water system shall submit a monitoring plan in a format approved by the state health officer. The monitoring plan shall include a minimum number of point of collection (POC) monitoring sites calculated by multiplying 1.5 times the minimum number of samples required to be routinely collected in accordance with Subsection C of this Section, rounding any mixed (fractional) number product up to the next whole number. The monitoring plan shall include the POC monitoring sites for repeat samples required in §905. The monitoring plan shall include a map of the system with each POC sampling site identified along with a 911 street address, a latitude/longitude coordinate, and a brief description of the site location.

B. …

C. Community systems and non-community systems shall be routinely monitored in accordance with Table 1.

Table 1

Population Served	Minimum Number of Routine Samples per Month	Population Served	Minimum Number of Routine Samples per Month
25 to 1,000	1	59,001 to 70,000	70
1,001 to 2,500	2	70,001 to 83,000	80
2,501 to 3,300	3	83,001 to 96,000	90
3,301 to 4,100	4	96,001 to 130,000	100
4,101 to 4,900	5	130,001 to 220,000	120
4,901 to 5,800	6	220,001 to 320,000	150
5,801 to 6,700	7	320,001 to 450,000	180
6,701 to 7,600	8	450,001 to 600,000	210
7,601 to 8,500	9	600,001 to 780,000	240
8,501 to 12,900	10	780,001 to 970,000	270
12,901 to 17,200	15	970,001 to 1,230,000	300
17,201 to 21,500	20	1,230,001 to 1,520,000	330
21,501 to 25,000	25	1,520,001 to 1,850,000	360
25,001 to 33,000	30	1,850,001 to 2,270,000	390
33,001 to 41,000	40	2,270,001 to 3,020,000	420
41,001 to 50,000	50	3,020,001 to 3,960,000	450
50,001 to 59,000	60	3,960,001 or more	480

D. Unless the state health officer specifies otherwise, the public water supply shall collect routine samples at regular time intervals throughout the month and shall alternate routine sampling between all of the approved POC sites. Routine samples shall not be collected from the same POC more than once per calendar month.

E. Special purpose samples (investigative samples) shall not be used to determine compliance with the *Escherichia coli* (*E. coli*) MCL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1333 (June 2002), amended LR 42:410 (March 2016), amended by the Department of Health, Office of Public Health, LR 43:

§905. Coliform Repeat Compliance Monitoring [formerly Coliform Repeat Monitoring of Appendix C]

A. If a routine sample is total coliform positive and the public water supply has their own certified laboratory, repeat samples shall be collected by the public water supply within 24 hours of being notified of the positive result. If the State collects and analyzes the samples, repeat samples shall be collected by the state within 24 hours of official notification. At least three repeat compliance samples shall be collected for each routine total coliform positive sample found.

B. For each routine total coliform positive sample, at least one repeat sample shall be collected from the sampling tap where the original total coliform positive sample was taken and at least one repeat sample shall be collected at a tap within five service connections upstream and at least one repeat sample shall be collected at a tap within five service connections downstream of the original sampling site.

C. The repeat samples shall be collected on the same day.

D. In a system with a single service connection, three 100 ml repeat samples shall be collected.

E. If total coliforms are detected in any repeat sample, the system shall collect another set of repeat samples from the same locations within 24 hours of being notified of the positive result. The system shall continue to collect additional sets of repeat samples until either total coliforms are not detected in one complete set of repeat samples or the system determines that a coliform treatment technique trigger under this Part has been exceeded as a result of a

repeat sample being total coliform-positive and the State is notified.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1334 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:

§907. Analytical and Reporting Requirements

A. Compliance samples for total coliform and *Escherichia coli* (*E. coli*) shall be analyzed by a certified microbiology laboratory/drinking water. The microbiology laboratory shall be certified by the state health officer for each method (and associated contaminant(s)) used for compliance monitoring analyses under this Part.

B. Compliance samples shall be analyzed to determine the presence or absence of total coliforms and *E. coli;* a determination of density is not required. If a routine or repeat sample result is positive for total coliform, the sample shall also be analyzed for *E. coli* immediately.

C. For compliance samples, laboratories shall use a State-approved laboratory report that contains the following information:

1. public water system (PWS) name and State-assigned PWS ID number;
2. sample identification number;
3. State-assigned point of collection (POC) site ID No. and POC address;
4. sample type (e.g., routine, repeat, source, replacement, investigative or other special purpose sample);
5. date and time of collection;
6. disinfectant residual (specify free or total and units of measurement);
7. name of sampler/collector;
8. date and time of sample receipt by the laboratory;
9. any deficiency in the condition of the sample;
10. date and time analysis begins;
11. analytical technique/method used;
12. results of analysis;
13. any remarks [quality control failures, etc.]; and
14. name and signature of the analyst performing the analysis.

D. Except for a positive sample(s) which is required under to be reported sooner, compliance sample results shall be reported in a format approved by the state health officer by the tenth day of the following month after the end of the monitoring period.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:

§911. Treatment Technique Triggers and Maximum Contaminant Level [formerly Total Coliform MCL of Appendix C]

A. The following conditions are considered treatment technique triggers.

1. For systems collecting 40 or more distribution system samples per month, more than 5.0 percent of the monthly samples are total coliform positive.

2. For systems collecting less than 40 distribution system samples per month, two or more samples per month are total coliform positive.

3. Failure to collect every required repeat sample following a total coliform positive sample.

4. An *E.coli* maximum contaminant level (MCL) violation occurs as specified below:

a. a coliform-positive original sample that is also positive for *E. coli* is followed by a coliform-positive repeat sample;

b. a coliform-positive original sample followed by a coliform-positive repeat sample is also positive for *E. coli*;

c. failure to take all repeat samples following an *E. coli* positive routine sample; or

d. failure to test for *E. coli* on any repeat total coliform positive sample.

5. A second occurrence of conditions under Paragraph 1, 2 or 3 of this Subsection within a rolling 12-month period.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5.A. (3)(5)(6)17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:

§912. Assessment Requirements

A. Assessments shall be conducted in accordance with the requirements of the National Primary Drinking Water Regulations as amended by this Chapter after exceeding any of the treatment technique triggers described in §911 of this Part.

1. A Level 1 assessment shall be conducted if the system exceeds one of the treatment technique triggers described in Paragraph 1, 2, or 3 of §912.A.

a. A Level 1 assessment shall be conducted by an operator or operators holding a current license issued by the state health officer for water production, water treatment and water distribution in the class level (or higher) required for the population served by the system in accordance with the requirements of LAC 48:V.Chapter 73.

2. A Level 2 assessment shall be conducted if the system exceeds one of the treatment technique triggers described in Paragraph 4 or 5 of §912.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 43:

§913. Public Notification [formerly Public Notification of Appendix C]

A. Public notification (PN) shall be provided in accord with the requirements of the National Primary Drinking Water Regulations, as amended under Chapter 19 of this Part. In accordance with the NPDWRs, public water systems shall provide a Tier 1 PN for an *E. coli* MCL violation, a Tier 2 PN for a treatment technique requirement violation for failure to conduct assessments or corrective actions, and a Tier 3 PN for a monitoring violation or a reporting violation.

1. If a replacement sample cannot be analyzed and give a readable result, the public water supply will be assessed a monitoring violation and must give appropriate public notification.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002), amended LR 35:484 (March 2009), amended by the Department of Health, Office of Public Health, LR 43:

Chapter 12. Ground Water Rule

§1201. General

A. Pursuant to the definition of *National Primary Drinking Water Regulations* and the provisions of §377 of this Part, the Louisiana Department of Health (LDH) Office of Public Health (OPH) adopts by reference the United States Environmental Protection Agency (USEPA) federal Ground Water Rule (GWR) as published in the *Federal Register* dated November 8, 2006 (Volume 71, Number 216, pages 65650 - 65659). In addition, under §377 of this Part, LDH-OPH also adopted by reference certain USEPA technical corrections to the federal GWR. The applicable technical corrections were published in the *Federal Register* dated November 21, 2006 (Volume 71, Number 224, page 67427).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 43:

Family Impact Statement

1. The Effect on the Stability of the Family. None

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. None

3. The Effect on the Functioning of the Family. None

4. The Effect on the Family Earnings and Family Budget. The proposed Rule adopts two federal safe drinking water rules, the Ground Water Rule (GWR) and the Revised Total Coliform Rule (RTCR). The proposed Rule may increase the monthly water bill for households. The proposed rule cost to households varies depending on the results from monitoring and onsite assessments/surveys conducted on the public water systems (PWS) serving the household. PWSs that have to take corrective action due to potential coliform contamination in the source water or distribution system will have the greatest effect on household water bills.

For the RTCR, the United States Environmental Protection Agency (USEPA) estimated that households on average will incur less than a dollar increase (~$0.08 per month), but those households served by a water system that has to take corrective actions will incur a slightly larger increase on their water bills. USEPA estimated that only 9 percent of the households that are connected to a PWS may incur at most a monthly cost increase of $0.38.

For the GWR, USEPA has estimated that, as a whole, households face a minimal increase on their monthly water bill. USEPA has estimated that 24 percent of the households that are connected to a PWS that uses ground-water as its source of supply may incur a monthly cost increase of $0.13. The state's adoption of this federal rule may not result in any additional costs to households because the PWSs have already been required to comply under the federal rule since December 2009.

5. The Effect on the Behavior and Personal Responsibility of Children. None

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. None for family. Local governmental units which own, manage, and/or operate a public water system may determine a need to increase their revenue collections (i.e., increase water bills) to cover the cost to perform the function as contained in this Rule.

Poverty Impact Statement

1. The Effect on Household Income, Assets, and Financial Security. The proposed rule adopts two federal safe drinking water rules, the Ground Water Rule (GWR) and the Revised Total Coliform Rule (RTCR). The proposed rule may increase the monthly water bill for households. The proposed Rule cost to households varies depending on the results from monitoring and onsite assessments/surveys conducted on the public water systems (PWS) serving the household. PWSs that have to take corrective action due to potential coliform contamination in the source water or distribution system will have the greatest effect on household water bills.

For the RTCR, the United States Environmental Protection Agency (USEPA) estimated that households on average will incur less than a dollar increase (~$0.08 per month), but those households served by a water system that has to take corrective actions will incur a slightly larger increase on their water bills. USEPA estimated that only 9 percent of the households that are connected to a PWS may incur at most a monthly cost increase of $0.38.

For the GWR, USEPA has estimated that, as a whole, households face a minimal increase on their monthly water bill. USEPA has estimated that 24 percent of the households that are connected to a PWS that uses ground-water as its source of supply may incur a monthly cost increase of $0.13. The state's adoption of this federal rule may not result in any additional costs to households because the PWSs have already been required to comply under the federal rule since December 2009.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. There will be no effect on childhood development and preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed rule will likely cause an increase in competition to hire and retain qualified and certified water plant operators. The rule will require water plant operators to become more knowledgeable of plant and distribution system processes and controls. The competition to hire and retain a competent operator will be higher based on his/her qualifications. This will cause an increase in employment of more knowledgeable and qualified individuals to properly operate, maintain, monitor, conduct assessments and take appropriate corrective actions to remain in compliance with said rule.

4. The Effect on Taxes and Tax Credits. There will be no effect on taxes and tax credits

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities

Assistance. There will be no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the proposed Rule on small businesses as required in the Regulatory Flexibility Act has been considered. The proposed action includes adopting by reference two federal safe drinking water rules, the Ground Water Rule (GWR) and the Revised Total Coliform Rule (RTCR). Both rules are federally mandatory which means public water systems are required to comply regardless of state adoption. For the GWR adoption, the proposed rule requirements will not be any more restrictive than the federal rule. However, for the RTCR adoption, the rule requirements is more restrictive regarding monitoring than the federal rule to provide better public health protection. The proposed Rule requires an increased sample collection frequency for approximately 25 percent of the small public water systems. This impact will be eliminated as of January 1, 2017 when the agency begins collecting bacteriological samples for the public water systems.

The United States Environmental Protection Agency (USEPA) performed an Economic Analyses and assessed the impacts of each rule (GWR and RTCR) on small entities. For purposes of assessing the impacts of the rule on small entities, USEPA considered small entities to be public water systems (PWSs) serving 10,000 or fewer people. USEPA conducted a screening analysis to determine if the rule would have a significant economic impact on a substantial number of small entities. In this analysis, USEPA evaluated the potential economic impact of the rule on small entities by comparing annualized compliance costs as a percentage of annual revenues for different small-entity classifications.

After considering the economic impacts of the RTCR on small entities, USEPA certified that the RTCR will not have a significant economic impact on a substantial number of small entities. Thus, based upon USEPA's certification, the Office of Public Health's Engineering Services Section does not expect that the proposed adoption of state-equivalent Rule to this federal rule will have a significant economic impact on a substantial number of small businesses.

After considering the economic impacts of the GWR on small entities, USEPA determined that the GWR will have a significant economic impact on a substantial number of small entities. Based on USEPA's Econonic Analysis for the GWR, small public water systems may incur additional costs in total of approximately $423,883 annually which includes implementing the Rule, source water monitoring, and performing corrective actions. These include small community water systems (CWSs), non-transient non-community (NTNCWSs), and transient non-community water systems (TNCWSs), entities such as municipal water systems (publicly and privately owned), and privately-owned PWSs and for-profit businesses where provision of water may be ancillary, such as mobile home parks, day care centers, churches, schools and homeowner associations. Not every PWS will incur all of the costs because compliance activities for systems depend on results from monitoring and sanitary surveys. The state's adoption of this federal rule may not result in any additional costs to Louisiana public water systems at this time because the systems have been required to comply under the federal rule since December 2009.

USEPA conducted a regulatory flexibility analysis (RFA) for the GWR due to the significant impact to small water systems. Based on the initial RFA, USEPA took steps to reduce the burden on small PWSs. Per USEPA, the final GWR has greater flexibility and is less burdensome for small PWSs than the originally proposed rule. The final GWR uses a risk-based regulatory strategy, whereby the monitoring requirements are based on the system characteristics and not directly by related to the PWS size.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Per HCR 170, "provider" means an organization that provides services for individuals with developmental disabilities. In particular, there should be no known or foreseeable effect on the:

1. effect on the staffing level requirements or qualifications required to provide the same level of service;
2. total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments on the proposed Rule. Such comments must be received no later than Wednesday, November 30, 2016 at COB, 4:30 p.m., and should be addressed to Amanda Laughlin, Chief Engineer, Engineering Services Section, Office of Public Health, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7303. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 N. 4th Street - Room 125, Baton Rouge, LA 70802.

Public Hearing

LDH-OPH will conduct a public hearing at 9 am on Tuesday, November 28, 2016, in Room 118 of the Bienville Building, 628 North Fourth Street, Baton Rouge, LA. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between N. Sixth and N. Fifth / North and Main Streets. (cater-corner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Jimmy Guidry, MD
State Health Officer,
and
Rebekah E. Gee, MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Ground Water and Revised Total Coliform Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51) by adopting two

federal safe drinking water rules—(1) Ground Water Rule (GWR); and (2) Revised Total Coliform Rule (RTCR). The amendments to Part XII are necessary in order for the OPH to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C. §300f, *et seq*.) primary implementing regulations (40 CFR Part 141). Not every public water system (PWS) will incur all of the following costs because compliance activities for systems depend on results from monitoring and the assessments/sanitary surveys. Implementation costs of this proposed rule are as follows:

Revised Total Coliform Rule (RTCR)—State governmental units, such as LDH medical care facilities (2) and other state-owned facilities, that own or operate 32 public water systems, are anticipated to incur an additional cost of $6,352 in FY17, $6,543 in FY18 and $6,739 in FY19. This rule may impact local governmental units that own or operate 568 public water systems. The approximate cost for all 568 PWSs is $112,748 annually. These costs include implementing, monitoring, conducting assessments, and performing corrective actions.

Ground Water Rule (GWR) - State governmental units, such as LDH medical care facilities (2) and other state agencies and facilities, that own or operate 32 public water systems, are anticipated to incur an additional cost of $18,663 in FY17, $19,223 in FY18 and $19,799 in FY19. This rule may impact local governmental units that own or operate 493 public water systems. The approximate cost for all 493 systems is $287,525 annually. These costs include implementing, source water monitoring, and performing corrective actions. Also, the proposed rule changes will result in an estimated cost to LDH-OPH of $2,276 to publish the notice of intent and the final rule in the *Louisiana Register*. This is a one-time cost that will be absorbed by the agency's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State or local governmental units which own, manage, and/or operate a public water system may increase their revenue collections (*i.e.,* increase water bills) to cover the cost of complying with this rule. Such systems are already required (and will continue to be required) to comply under the existing federal rules (GWR and RTCR).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The following rules will impact economic costs to persons or non-governmental groups as follows:

Revised Total Coliform Rule (RTCR)—Non-governmental groups that own or operate 733 public water systems may collectively incur additional costs totaling approximately $145,500 annually which includes implementing the rule, monitoring, conducting assessments, and performing corrective actions

USEPA estimated that households on average will incur less than a dollar increase, but those households served by a water system that has to take corrective actions will incur a slightly larger increase on their water bills. USEPA has estimated that only 9 percent of the households that are connected to a PWS will incur at most a monthly cost increase of $0.38.

Ground Water Rule (GWR)—Non-governmental groups that own or operate 707 public water systems may collectively incur additional costs totaling approximately $412,333 annually which includes implementing the rule, source water monitoring, and performing corrective actions.

USEPA has estimated that, as a whole, households face a minimal increase on their monthly water bill. USEPA has estimated that 24 percent of the households that are connected to a PWS that uses ground-water as its source of supply will incur a monthly cost increase of $0.13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will likely cause an increase in competition to hire and retain qualified and certified water plant operators. The rule will require water plant operators to become more knowledgeable of plant and distribution system processes and controls. The competition to hire and retain a competent operator will be higher based on his/her qualifications. This will cause an increase in employment of more knowledgeable and qualified individuals to properly operate, maintain, monitor, conduct assessments and take appropriate corrective actions to remain in compliance with said rule.

Beth Scalco
Assistant Secretary
1610#036

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Corporate Deductions; Add-Back of Certain Intangible Expenses; Interest and Management Fees (LAC 61:I.1115)

Under the authority of R.S. 47:1511 and in accordance with the provisions of R.S. 47:287.82 and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division proposes to adopt LAC 61:I.1115.

The primary purpose of this proposed regulation is to implement Act 16 of the 2016 First Extraordinary Session of the Louisiana Legislature.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 11. Corporation Income Tax
§1115. Corporate deductions; add-back of certain intangible expenses; interest and management fees

A. General. R.S. 47:287.82 provides that otherwise deductible interest expenses and costs, intangible expenses and costs, and management fees directly or indirectly paid to a related member shall be added-back to the corporation's gross income.

B. Exceptions. The corporation shall make the add-back unless:

1. the corporation shows, in a written statement and/or other document attached to the corporation's Louisiana corporation income tax return, that the item of income corresponding to the corporation's expense, cost, or fee, was in the same taxable year subject to a tax based on or measured by the related member's net income in Louisiana or any other state; or

2. the corporation shows, in a written statement and/or other document attached to the corporation's Louisiana corporation income tax return, that the item of income corresponding to the corporation's expense, cost, or fee, was in the same taxable year subject to a tax based on or

measured by the related member's net income in a foreign nation which has in force an income tax treaty with the United States, if the recipient was a resident as defined in the income tax treaty with the foreign nation; or

3. the corporation shows, in a written statement and/or other document attached to the corporation's Louisiana corporation income tax return, that the transaction giving rise to the expense, cost, or fee between the corporation and the related member did not have as a principal purpose the avoidance of any Louisiana tax; or

4. the corporation shows, in a written statement and/or other document attached to the corporation's Louisiana corporation income tax return, that the expense, cost, or fee that was paid or accrued to a related member was "passed through" to an unrelated third party in an arms-length transaction via a corresponding expense, cost, or fee payment; or

5. the corporation shows, in a written statement and/or other document attached to the corporation's Louisiana corporation income tax return, that the add-back is unreasonable. The add-back will be considered unreasonable if the taxpayer establishes that, based on the entirety of the taxpayer's particular facts and circumstances, the adjustments would increase the taxpayer's Louisiana income tax liability to an amount that bears no reasonable relation to the taxpayer's Louisiana presence.

C. Definitions

Indirectly Paid—interest expenses and costs, intangible expenses and costs, and management fees subject to add-back include expenses, costs, and fees incurred by a taxpayer corporation if the expense is related to an intermediate expense, cost, or fee incurred in a transaction between one related member and a second related member.

EXAMPLE: Corporations B and C are related members with respect to Corporation A. Corporation A is a Louisiana taxpayer that sells products it purchases from Corporation B on a cost plus basis. Corporation B licenses intangible property from Corporation C and makes intangible expense payments to Corporation C based in part on the sales Corporation B makes to Corporation A. To the extent the intangible expenses Corporation B pays to Corporation C are reflected in the costs of the products Corporation A purchases from Corporation B, the direct intangible expenses of Corporation B are considered to be indirect intangible expenses of Corporation A. Furthermore, Corporation A is deemed to directly pay an intangible expense to Corporation B and indirectly pay an intangible expense to Corporation C.

Intangible Expenses—

a. includes, but is not limited to:

i. expenses, losses, and costs for, related to, or directly or indirectly in connection with the acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property:

(a). *intangible property*—includes stocks, bonds, financial instruments, patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, "know how", and similar types of intangible assets;

ii. losses related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions;

iii. royalty, patent, technical, and copyright fees;

iv. licensing fees;

v. other similar expenses, losses, and costs.

Management Fees—includes, but is not limited to, expenses and costs, including intercompany administrative charges, pertaining to accounts receivable, accounts payable, employee benefit plans, insurance, legal matters, payroll, data processing, purchasing, taxation, financial matters, securities, accounting, or reporting and compliance matters or similar activities.

Related Member—includes, but is not limited to, any corporation that is included in the taxpayer's federal consolidated corporation income tax return or any disregarded entity or subchapter K entity or other business entity a majority of whose income is included in the taxpayer's federal income tax return (separate or consolidated).

Reported and Included in Income for Purposes of a Tax on Net Income—reported and included in post-allocation and apportionment income for purposes of a tax applied to the net income apportioned or allocated to the taxing jurisdiction.

State—a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Subject to a Tax Based on or Measured by the Related Member's Net Income—the receipt or accrual of the payment by the recipient related member is reported and included in income for purposes of a tax on net income, and not offset or eliminated in a combined or consolidated return which includes the payor nor eliminated in the financial statements used for disclosure or reporting.

D. Operating Rules

1. The attachments required above shall be in a format to be prescribed by the secretary of the department of revenue.

2. The exceptions described in Paragraphs B.1 and B.2 of this Section (corresponding item of income subject to tax) are allowed only to the extent the recipient related member includes the corresponding item of income in post-allocation and apportionment income reported to the taxing jurisdiction.

EXAMPLE: Corporation A, a Louisiana taxpayer, incurs a $100 intangible expense in a transaction with Corporation B, a related member with respect to Corporation A. Corporation B files an income tax return in State B where it apportions and/or allocates 5% of its income, but files no other income tax returns. Corporation A must add-back $95 of the otherwise deductible $100 intangible expense incurred in the transaction with Corporation B.

3. The exception described in Paragraph B.3 of this Section (non-tax business purposes for conducting a transaction) must be supported by contemporaneous documentation. Mere statements or assertions that a transaction was intended to allow for better management or greater utilization of intangible assets, or similarly unsubstantiated claims are not sufficient to establish a principal non-tax business purpose.

EXAMPLE: Taxpayer purchases administrative services such as accounting, legal, human resources, purchasing, etc., from a Related Member and does so at rates comparable to rates that would be charged by third party service providers.

EXAMPLE: Taxpayer borrows funds from a Related Member and does so at an interest rate and with other terms that are comparable to rates and terms that would be required by an unrelated third party lender.

EXAMPLE: Taxpayer incurs royalty expense in connection withthe use of intangible assets provided by a Related Party. The royalty rates and other terms of agreement are comparable to rates and terms that are comparable to rates and terms that would be required by an unrelated third party.

4. The exception described in Paragraph B.4 of this Section (expense "passed through" to an unrelated third party) is limited if the expenses, costs, and fees paid to a related member are greater than the expenses, costs, and fees the related member pays to unrelated third parties because only a portion of the expenses, costs, and fees incurred in connection with a transaction with a related member is considered to have "passed through" to the unrelated third parties.

EXAMPLE: Taxpayer A, a Louisiana taxpayer, incurs a $100 management fee to Related Member B. Related Member B receives a total of $400 of related member management fee income ($100 from Taxpayer A plus $300 from other related payors). Related Member B pays $200 of management fees to unrelated third parties. Related Member B will be deemed to have passed through to unrelated third parties only 50 percent of the interest expense/income it received from Taxpayer A. Only $50 of Taxpayer A's $100 related member management fee payment to Related Member B will be deemed to have been passed through to unrelated third parties and qualify for the exception described in B.4. above (expense "passed through" to an unrelated third party).

5. With respect to both interest and intangible expenses, if the interest or intangible expense rate charged the taxpayer by the related member exceeds the interest or intangible expense rate charged the related member by unrelated third party payees, then the excess expense will not qualify for the exception described in Paragraph B.5. of this Section (add-back is unreasonable) and must be added back. If multiple transaction arrangements exist between the taxpayer and the related member, or the related member and the unrelated third party, then a weighted average rate should be calculated by dividing total expense by total amounts of each base amount used to determine the expense amounts. The weighted average rate should then be used to determine the existence of non-qualifying excess interest or intangible expense.

EXAMPLE: Taxpayer B incurs interest expense of $100 during its taxable year to its parent Company A (a related member) in order to service a $1,000 debt between B and A. Company A's related member interest rate is 10 percent calculated by dividing its related member interest expense ($100) by its related member debt ($1000). Company A makes interest expense payments of $200 to Unrelated Lenders C and D to service the $4,000 of total debt existing between A and Unrelated Lenders C and D. A's weighted average unrelated third party interest rate is five percent calculated by dividing total unrelated third party interest expense ($200) by total unrelated third party interest bearing debt ($4,000). Company B's non-qualifying excess interest is $50. Company B's debt to company A ($1,000) is multiplied by the excess interest rate Company B incurred over Company A's average interest rate to unrelated lenders (10-5 percent).

6. With respect to interest expense, if the taxpayer's debt over asset percentage exceeds the consolidated unrelated third party debt over asset percentage of its federal consolidated group (as represented by interest bearing debt reported on the schedule L balance sheet(s) included in the consolidated and pro forma federal income tax returns), then the interest expense associated with the excess debt must be added back and cannot qualify for the exception described in Paragraph B.5 of this Section (add-back is unreasonable).

EXAMPLE: Taxpayer B's separate company federal income tax return Schedule L balance sheet shows $1,500 of assets and $1,000 of interest bearing debt which produces a debt over asset percentage of 66.7 percent. The Company A and Subsidiaries' federal consolidated income tax return Schedule L balance sheet shows $6,000 of assets and $3,000 of unrelated third party interest bearing debt which produces a debt over asset percentage of 50 percent. Because Taxpayer B's debt over asset percentage of 66.7 percent, exceeds the group's unrelated third party debt over asset percentage, 50 percent, the amount of Taxpayer B's related member interest expense that may qualify for the exception described in B.5. above (add-back is unreasonable) is limited. The limitation is calculated by multiplying B's assets ($1,500) by the lower of the taxpayer's debt over asset percentage or the group's unrelated third party debt over asset percentage (50 percent) and then multiplying the product ($750) by the lower of the taxpayer's related member interest rate or the related member's unrelated third party interest rate (5 percent), which yields an ultimate limitation of $37.50.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 43:

Family Impact Statement

The proposed adoption of LAC 61:I.1115 regarding corporate deductions; add-back of certain intangible expenses; interest and management fees, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed regulation will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

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

Provider Impact Statement

The proposed regulation will have no known or foreseeable effect on:

1. the staffing levels requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Any interested person may submit written data, views, arguments or comments regarding this proposed regulation to David Hansen, Attorney, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4 p.m., November 10, 2016.

Public Hearing

A public hearing will be held on November 30, 2016, at 9 a.m. in the LaBelle Room, on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Kimberly Lewis Robinson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Corporate Deductions; Add-Back of Certain Intangible Expenses; Interest and Management Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The purpose of the proposed rule is to implement the provisions of R.S. 47:287.82, enacted by Act 16 of the 2016 First Extraordinary Session of the Louisiana Legislature. This new statute and this proposed rule provide that when computing Louisiana net income a corporation shall add back, subject to certain exceptions, otherwise deductible interest expenses, intangible expenses, and management fees resulting from transactions with related entities. The proposed rule provides guidance and clarification in the form of definitions and operating rules, for taxpayer compliance with the statute. Implementation costs of the Department of Revenue (LDR) are for computer system modification and testing, tax form redesign, and taxpayer inquires. These costs are relatively small and will be absorbed in LDR's budget allocation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

By requiring corporate tax filers to add back various deductions to their state tax returns, the proposed rule will result in greater net income subject to Louisiana corporate income taxation, and an increase in net corporate tax receipts. This increase is indeterminable. The Department of Revenue does not electronically capture the return information necessary to quantify an estimate of the likely fiscal effect of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Louisiana corporate taxpayers that incur the expenses that are required to be added back to net income by this proposed rule would be affected by an indeterminable amount. The increased tax liabilities of affected entities are indeterminable. Other costs have not been determined but are expected to be relatively minor. The Department of Revenue does not electronically capture the return information necessary to quantify an estimate of the likely fiscal effect of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

At a minimum, the proposed rules will affect corporate tax filers differently, resulting in shifts in the corporate tax burden among firms, consequently affecting competition and employment among them. However, the degree to which the proposed rules will affect aggregate competition and employment as a result of shifting the corporate tax burden is indeterminable.

Kimberly Lewis Robinson
Secretary
1610#069

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Corporation Income Tax; Apportionment of Income; Sourcing of Sales other than Sales of Tangible Personal Property (LAC 61:I.1135)

Under the authority of R.S. 47:1511 and R.S. 47:287.95 and pursuant to the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1115.

The primary purpose of this proposed regulation is to implement Act 8 of the 2016 Second Extraordinary Session of the Louisiana Legislature.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 11. Corporation Income Tax
§1135. Sourcing of sales other than sales of tangible personal property

A. General. R.S. 47:287.95(L) provides for the inclusion in the numerator of the sales factor of sales other than sales of tangible personal property.

B. Market-Based Sourcing. Sales other than sales of tangible personal property are sourced to Louisiana if and to the extent that the taxpayer's market for the sales is in Louisiana. In general, the provisions in this Section establish rules for:

1. determining whether and to what extent the market for a sale other than the sale of tangible personal property is in Louisiana;

2. reasonably approximating the state or states of assignment where the state or states cannot be determined;

3. excluding certain sales of intangible property from the numerator and denominator of the receipts factor pursuant to R.S. 47:287.95(L)(1)(e); and

4. excluding sales from the numerator and denominator of the sales factor, pursuant to R.S. 47:287.95(M.), where the state or states of assignment cannot be determined or reasonably approximated, or where the taxpayer is not taxable in the state to which the sales are assigned.

C. General Principles of Application; Contemporaneous Records. In order to satisfy the requirements of this regulation, a taxpayer's assignment of sales other than sales of tangible personal property must be consistent with the following principles.

1. A taxpayer shall apply the rules set forth in this regulation based on objective criteria and shall consider all sources of information reasonably available to the taxpayer at the time of its tax filing, including, without limitation, the taxpayer's books and records kept in the normal course of business. A taxpayer shall determine its method of assigning sales in good faith, and apply it consistently with respect to similar transactions and year to year. A taxpayer shall retain contemporaneous records that explain the determination and application of its method of assigning its sales, including its

underlying assumptions, and shall provide those records to the secretary of the Louisiana Department of Revenue upon request.

2. This regulation provides various assignment rules that apply sequentially in a hierarchy. For each sale to which a hierarchical rule applies, a taxpayer must make a reasonable effort to apply the primary rule applicable to the sale before seeking to apply the next rule in the hierarchy (and must continue to do so with each succeeding rule in the hierarchy, where applicable). For example, in some cases, the applicable rule first requires a taxpayer to determine the state or states of assignment, and if the taxpayer cannot do so, the rule requires the taxpayer to reasonably approximate the state or states. In these cases, the taxpayer must attempt to determine the state or states of assignment (i.e., apply the primary rule in the hierarchy) in good faith and with reasonable effort before it may reasonably approximate the state or states.

3. A taxpayer's method of assigning its sales, including the use of a method of approximation, where applicable, must reflect an attempt to obtain the most accurate assignment of sales consistent with these regulatory standards rather than an attempt to lower the taxpayer's tax liability. A method of assignment that is reasonable for one taxpayer may not necessarily be reasonable for another taxpayer, depending upon the applicable facts.

D. Rules of Reasonable Approximation

1. In General. In general, this regulation establishes uniform rules for determining whether and to what extent the market for a sale other than the sale of tangible personal property is in Louisiana. This regulation also sets forth rules of reasonable approximation, which apply if the state or states of assignment cannot be determined. In some instances, the reasonable approximation must be made in accordance with specific rules of approximation as prescribed in this regulation. In other cases, the applicable rule in this regulation permits a taxpayer to reasonably approximate the state or states of assignment, using a method that reflects an effort to approximate the results that would be obtained under the applicable rules or standards set forth in this regulation.

2. Approximation Based Upon Known Sales. In an instance where, applying the applicable rules set forth for sale of a service, a taxpayer can ascertain the state or states of assignment of a substantial portion of its sales from sales of substantially similar services ("assigned sales"), but not all of those sales, and the taxpayer reasonably believes, based on all available information, that the geographic distribution of some or all of the remainder of those sales generally tracks that of the assigned sales, it shall include those sales which it believes tracks the geographic distribution of the assigned sales in its sales factor in the same proportion as its assigned sales.

3. Related-Party Transactions—Information Imputed from Customer to Taxpayer. Where a taxpayer has sales subject to this regulation from transactions with a related-party customer, information that the customer has that is relevant to the sourcing of receipts from these transactions is imputed to the taxpayer.

E. Rules with Respect to Exclusion of Receipts from the Receipts Factor

1. The sales factor only includes those amounts defined as sales under applicable statutes and regulations.

2. Certain sales arising from the sale of intangibles are excluded from the numerator and denominator of the sales factor pursuant to R.S. 47:287.95(L)(1)(e).

3. In a case in which a taxpayer cannot ascertain the state or states to which sales are to be assigned pursuant to the applicable rules set forth in this regulation, (including through the use of a method of reasonable approximation, where relevant) using a reasonable amount of effort undertaken in good faith, the receipts must be excluded from the numerator and denominator of the taxpayer's sales factor pursuant to R.S. 47:287.95(M).

4. In a case in which a taxpayer can ascertain the state or states to which sales are to be assigned pursuant to this regulation, but the taxpayer is not taxable in one or more of those states, the sales that would otherwise be assigned to those states where the taxpayer is not taxable must be excluded from the numerator and denominator of the taxpayer's sales factor pursuant to R.S. 47:287.95(M).

F. Sale of Immovable Property. In the case of the sale of immovable property, the sale is in Louisiana if and to the extent that the immovable property is located in Louisiana.

G. Sale of a Service

1. General Rule. The sale of a service is sourced to Louisiana if and to the extent that the service is delivered to a location in Louisiana. In general, the term "delivered to a location" refers to the location of the taxpayer's market for the service, which may not be the location of the taxpayer's employees or property. The rules to determine the location of the delivery of a service in the context of several specific types of service transactions are set forth below.

2. Direct Personal Services Received by a Natural Person

a. In General. Except as otherwise provided in this regulation, direct personal services are services that are physically provided in person by the taxpayer, where the customer or the customer's tangible property upon which the services are performed is in the same location as the service provider at the time the services are performed. This rule includes situations where the services are provided on behalf of the taxpayer by a third-party contractor. Examples of direct personal services include, without limitation: cleaning services; pest control; medical and dental services, including medical testing, x-rays and mental health care and treatment; child care; hair cutting and salon services; live entertainment and athletic performances; and in-person training or lessons. Direct personal services include services within the description above that are performed at:

i. a location that is owned or operated by the serviceprovider; or

ii. a location of the customer, including the location of the customer's tangible property. Various professional services, including legal, accounting, financial and consulting services, and other similar services, although they may involve some amount of direct person contact, are not treated as direct personal services within the meaning of this regulation.

b. Assignment of Sales

i. Rule of Determination. Except as otherwise provided in this regulation, if the service provided by the taxpayer is a direct personal service, the service is delivered to the location where the service is received. Therefore, the sale is in Louisiana if and to the extent the customer receives the direct personal service in Louisiana. In assigning its sales from direct personal services, a taxpayer must first attempt to determine the location where a service is received, as follows.

(a). If the service is performed with respect to the body of an individual customer in Louisiana (e.g. hair cutting or x-ray services) or in the physical presence of the customer in Louisiana (e.g. live entertainment or athletic performances), the service is received in Louisiana.

(b). If the service is performed with respect to the customer's immovable property in Louisiana or if the service is performed with respect to the customer's tangible personal property at the customer's residence or in the customer's possession in Louisiana, the service is received in Louisiana.

(c). If the service is performed with respect to the customer's tangible personal property and the tangible personal property is to be shipped or delivered to the customer, whether the service is performed within or outside Louisiana, the service is received in Louisiana if the property is shipped or delivered to the customer in Louisiana.

c. Rule of Reasonable Approximation. In an instance in which the state or states where a service is actually received cannot be determined, but the taxpayer has sufficient information regarding the place of sale from which it can reasonably approximate the state or states where the service is received, the taxpayer shall reasonably approximate such state or states. If the state to which the sales are to be assigned can be determined or reasonably approximated, but the taxpayer is not taxable in that state, the receipts that would otherwise be assigned to the state are excluded from the numerator and denominator of the taxpayer's sales factor pursuant to R.S. 47:287.95(M).

3. Non-Direct Personal Services Received by a Natural Person. Non-direct personal services delivered to a natural person shall be sourced to the customer's billing address.

a. Non-direct personal services include, without limitation, management services, bank and financial services, financial custodial services, investment and brokerage services, fiduciary services, tax preparation, payroll and accounting services, lending services, credit card services (including credit card processing services), data processing services, legal services, consulting services, video production services, graphic and other design services, engineering services, and architectural services.

b. *Billing Address*—the location indicated in the books and records of the taxpayer as the primary mailing address relating to a customer's account as of the time of the transaction as kept in good faith in the normal course of business and not for tax avoidance purposes.

4. Services Delivered to an Unrelated Business Entity. In any instance in which the service provided is delivered to a business customer, the state or states in which the service is delivered must be reasonably approximated as set forth in this section. In particular, unless the taxpayer may use the safe harbor set forth below, the taxpayer shall assign the sales as follows: first, by assigning the sales to the state where the contract of sale is principally managed by the customer; second, if the place of customer management is not reasonably determinable, to the customer's place of order; and third, if the customer place of order is not reasonably determinable, to the customer's billing address; provided, however, in any instance in which the taxpayer derives more than 5 percent of its receipts from sales of all services from a customer, the taxpayer is required to identify the state in which the contract of sale is principally managed by the customer.

a. Safe Harbor; Large Volume of Transactions. A taxpayer may assign its sales to a particular customer based on the customer's billing address in any taxable year in which the taxpayer:

i. engages in substantially similar service transactions with more than 250 customers, whether individual or business; and

ii. does not derive more than 5% of its receipts from sales of all services from that customer.

5. Services Delivered to a Related Business Entity. In any instance in which the service is sold to a related entity, the state or states to which the service is assigned is the place of receipt by the related entity as reasonably approximated using the following hierarchy:

a. if the service primarily relates to specific operations or activities of a related entity conducted in one or more locations, then to the state or states in which those operations or activities are conducted in proportion to the related entity's payroll at the locations to which the service relates in the state or states; or

b. if the service does not relate primarily to operations or activities of a related entity conducted in particular locations, but instead relates to the operations of the related entity generally, then to the state or states in which the related entity has employees, in proportion to the related entity's payroll in those states. The taxpayer may use the safe harbor provided above provided that the Secretary of the Louisiana Department of Revenue may aggregate the sales to related entities in applying the 5 percent rule if necessary or appropriate to avoid distortion.

H. Sale of Intangible Property

1. Assignment of Sales. The assignment of sales to a state or states in the instance of a sale or exchange of intangible property depends upon the nature of the intangible property sold.

2. Sale Where Receipts are Contingent on Productivity, Use or Disposition of the Intangible Property. In the case of a sale or exchange of intangible property where the receipts from the sale or exchange are contingent on the productivity, use or disposition of the property, the receipts from the sale are assigned as follows:

a. the receipts are in Louisiana if and to the extent the intangible is used in Louisiana. In general, the term "use" is construed to refer to the location of the market for the use of the intangible property that is being sold and is not to be construed to refer to the location of the property or payroll of the owner.

3. Contract Right or Government License that Authorizes Business Activity in Specific Geographic Area.

In the case of a sale or exchange of intangible property where the property sold or exchanged is a contract right, government license or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area, the sale is assigned to a state if and to the extent that the intangible property is used or is authorized to be used within the state. If the intangible property is used or may be used only in this state, the taxpayer shall assign the sale to Louisiana. If the intangible property is used or is authorized to be used in Louisiana and one or more other states, the taxpayer shall assign the sale to Louisiana to the extent that the intangible property is used in or authorized for use in Louisiana through the means of a reasonable approximation.

4. Excluded Sales. The sale of intangible property that is excluded from the numerator and denominator of the taxpayer's sales factor under this provision includes, without limitation, the sale of a partnership interest, the sale of business "goodwill," the sale of an agreement not to compete, or similar intangible value. Also, in any instance in which, the state to which the receipts from a sale is to be assigned can be determined or reasonably approximated, but where the taxpayer is not taxable in such state, the receipts that would otherwise be assigned to such state shall be excluded from the numerator and denominator of the taxpayer's receipts factor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47:287.95.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 43:

Family Impact Statement

The proposed adoption of LAC 61:I.1135 regarding corporation income tax; apportionment of income; sourcing of sales other than sales of tangible personal property should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed regulation will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

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

Provider Impact Statement

The proposed regulation will have no known or foreseeable effect on:

1. the staffing levels requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Any interested person may submit written data, views, arguments or comments regarding this proposed regulation to David Hansen, Attorney, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4 p.m., November 10, 2016.

Public Hearing

A public hearing will be held on November 30, 2016, at 11 a.m. in the LaBelle Room, on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Kimberly Lewis Robinson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Corporation Income Tax; Apportionment of Income; Sourcing of Sales Other Than Sales of Tangible Personal Property

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The purpose of the proposed rule is to implement some of the provisions of Act 8 of the 2016 Second Extraordinary Session of the Louisiana Legislature. Act 8 enacted rules for the sourcing of sales, other than sales of tangible personal property, for purposes of determining the sales ratio component of the corporate income tax apportionment ratio. Generally, the new rules source a sale to Louisiana, to the extent the market for the sale is in Louisiana. Also, a sale is excluded from the numerator and denominator if the taxpayer is not taxable in the state to which the sale is assigned or the state of assignment cannot be determined or reasonably approximated. The proposed rule provides guidance and clarification for complying with these sourcing rules. Implementation costs of the Department of Revenue (LDR) are for the revision of tax form instructions and taxpayer inquiries. These costs are relatively small and will be absorbed in LDR's budget allocation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The impact on revenue collections is indeterminable. LDR does not have the information necessary to estimate the impact. Market sourcing may incorporate an increased amount of net incomes of firms selling into the state into the state's tax base. However, to the extent firms have large out-of-state sales, market sourcing may reduce their tax liabilities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No additional tax forms or paperwork is anticipated for affected taxpayers. The question of whether or not sales are

being sourced to the appropriate locations will be reviewed by LDR staff. Tax liabilities of affected taxpayers will increase or decrease by an indeterminable amount, dependent on the individual business model of each taxpayer.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules may have an effect on competition and employment as a result of shifting tax burdens among firms, both in-state and out-of-state. However, the degree to which the proposed rules will affect aggregate competition and employment as a result of shifting the tax burden is indeterminable.

Kimberly Lewis Robinson	Gregory V. Albrecht
Secretary	Chief Economist
1610#068	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Imposition of Tax; Determination of Taxable Capital; Newly Taxable Corporations
(LAC: 61:I.Chapter 3)

Under the authority of R.S. 47:601, R.S. 47:602, and R.S. 47:611 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:I.301, 302, and 311.

The primary purpose of these proposed amendments is to implement Act 12 of the 2016 First Extraordinary Session of the Louisiana Legislature.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 3. Corporation Franchise Tax
§301. Imposition of Tax

A. General. Except as specifically exempted by R.S. 47:608, R.S. 47:601 imposes a corporation franchise tax, in addition to all other taxes levied by any other statute, on all domestic corporations, for the right granted by the laws of this state to exist as such an organization and on both domestic and foreign corporations for the enjoyment under the protection of the laws of this state of the powers, rights, privileges, and immunities derived by reason of the corporate form of existence and operation. Liability for the tax is created whenever any such organization qualifies to do business in this state, owns or uses any part of its capital, plant, or any other property in this state, whether owned directly or indirectly by or through a partnership, joint venture, or any other business organization of which the domestic or foreign corporation is a related party as defined in R.S. 47:605.1, through the buying, selling, or procuring of services in this state, or actually does business in this state through exercising or enjoying each and every act, power, right, privilege, or immunity as an incident to or by virtue of the powers and privileges acquired by the nature of such organizations.

1. The term "domestic corporation" shall include any of the following:

a. corporations, joint stock companies or associations, or other business organizations organized under the laws of the State of Louisiana which have privileges, powers, rights, or immunities not possessed by individuals or partnerships;

b. all entities taxed as corporations pursuant to 26 U.S.C. Subtitle A, Chapter 1, Subchapter C, for federal income tax purposes, notwithstanding any provisions of law to the contrary. Such entities will be treated and taxed in the same manner that such entities are treated and taxed for federal income tax purposes.

2. Exclusions

a. Nothing in this subsection shall extend franchise tax liability to any limited liability company qualified and eligible to make an election to be taxed in accordance with the provisions of 26 U.S.C. Subtitle A, Chapter 1, Subchapter S on the first day of its fiscal or annual year or to any other entity that was acquired before January 1, 2014, but not earlier than January 1, 2012, by an entity that was taxed pursuant to 26 U.S.C. subtitle A, chapter 1, subchapter S.

b. To be qualified and eligible for subchapter S status, the corporation must meet the following requirements:

i. the corporation must be a domestic corporation;

ii. the corporation must have only allowable shareholders, including individuals, certain trusts, and estates, not partnerships, corporations or non-resident alien shareholders;

iii. the corporation must have no more than 100 shareholders;

iv. the corporation must have only one class of stock; and

v. the corporation must not be an ineligible corporation, such as certain financial institutions, insurance companies, and domestic international sales corporations.

c. Examples

i. Corporation A is not subject to Louisiana corporation franchise tax pursuant to the provisions of R.S. 47:601(A). Corporation A owns an interest in partnership B, which is qualified to do business in Louisiana. Corporation A would be subject to Louisiana corporation franchise tax.

ii. Corporation A is not subject to Louisiana corporation franchise tax pursuant to the provisions of R.S. 47:601(A). Corporation A owns an interest in limited liability company B, which is doing business in Louisiana and owns property located in Louisiana. Corporation A would be subject to Louisiana corporation franchise tax.

iii. Subsidiary is a domestic corporation and is a 100 percent owned subsidiary of parent. Parent is a domestic limited liability company and elects to be taxed as an S corporation pursuant to I.R.C. §1362 for federal income tax purposes. Subsidiary is a QSub, as provided for in I.R.C. §1361(b)(3). For Louisiana corporation franchise tax purposes, Parent would not be subject to the franchise tax, because Parent is a limited liability company, eligible to be taxed as an S corporation. Subsidiary would be subject to the franchise tax, because Subsidiary is a corporation.

B. …

C. Thus, both domestic and foreign corporations which enjoy or exercise within this state any of the powers, privileges, or immunities granted to business corporations organized under the provisions of the "Business Corporation Act", as found in R.S. 12:1-101 through 1-1704, are subject to and liable for the payment of the franchise tax imposed by this Section.

D. - G. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:601.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income and Corporation Franchise Taxes Section, Office of Group III, LR 6:25 (January 1980), amended LR 11:108 (February 1985), repromulgated by the Department of Revenue, Policy Services Division, LR 30:448 (March 2004), amended by the Department of Revenue, Policy Services Division, LR 43:

§302. Determination of Taxable Capital

A. …

B. Holding Corporation Deduction. Any corporation which owns at least 80 percent of the capital stock of a banking corporation organized under the laws of the United States or of the state of Louisiana may deduct from its total taxable base, determined as provided in §302.A and before the allocation of taxable base to Louisiana as provided in R.S. 47:606 and R.S. 47:607, the amount by which its investment in and advances to such banking corporation exceeds the excess of total assets of the holding corporation over total taxable capital of the holding corporation, determined as provided in §302.A.

1. Any corporation, as defined in R.S. 47:601(C), that is subject to the franchise tax imposed by R.S. 47:601(A) and that is not subject to R.S. 47:602(B), (C), (D), (E), or (F), that has one or more subsidiaries, will be entitled to deduct from its taxable capital its investments in and advances to one or more subsidiaries, whether made directly or indirectly, when computing its franchise tax.

2. The term "subsidiaries" shall include any corporation, as provided for in R.S. 47:601(C), that is subject to the franchise tax imposed by R.S. 47:601(A), and in which at least 80 percent of the voting and nonvoting power of all classes of their stock, membership, partnership, or other ownership interests are owned, directly or indirectly, by a corporation subject to the franchise tax imposed by R.S. 47:601(A).

3. The amount of deduction allowed will be the sum of the amounts determined by multiplying the parent corporation's investments in and advances to each subsidiary by each subsidiary's average ratio, as determined pursuant to R.S. 47:606.

4. Any direct or indirect subsidiary of a regulated company, as provided for in R.S. 47:602(C), that directly owns at least 80 percent of the voting power of the stock, membership, partnership, or other membership interests in a "public-utility company", as defined by the Public Utility Holding Company Act of 1935 prior to its repeal, may use the holding corporation deduction with respect to investments in and advances to subsidiary corporations or subsidiary limited liability companies to calculate its taxable capital.

5. Example. Company A is a corporation owning one hundred percent of company B. Company B is a non-Louisiana corporation qualified to do business in Louisiana. Company B is a 100 percent member of XYZ LLC. XYZ LLC is an out of state limited liability company that owns property in Louisiana and has elected to be treated as a corporation pursuant to 26 U.S.C. Subtitle A, Chapter 1, Subchapter C, for federal income tax purposes. XYZ LLC would be subject to Louisiana corporation franchise tax. XYZ LLC reports a franchise tax apportionment percentage of 25 percent. Company B would be subject to Louisiana corporation franchise tax. Company B reports a franchise tax apportionment ratio of 15 percent and has an investment in XYZ LLC on its books of $400,000. Company A would be subject to Louisiana corporation franchise tax. Company A has an investment in company B on its books of $600,000. Company A and company B would both be eligible for the holding company deduction.

6. Nothing in this Subsection shall extend franchise tax liability to any limited liability company wholly owned by any entity subject to the bank shares tax pursuant to R.S. 47:1967.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:602.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income and Corporation Franchise Taxes Section, Office of Group III, LR 6:25 (January 1980), amended LR 11:108 (February 1985), repromulgated by the Department of Revenue, Policy Services Division, LR 30:449 (March 2004), amended by the Department of Revenue, Policy Services Division, LR 43:

§311. Newly Taxable Corporations

A. Every corporation or other entity subject to the franchise tax shall pay only the minimum tax in the first accounting period or fraction thereof in which it becomes subject to the tax. It is immaterial whether the corporation became liable for the tax on the first day or the last day of the accounting period regularly used by the taxpayer in keeping its books; the minimum tax is due for that accounting period. The tax accrues immediately upon the corporation's becoming subject thereto.

B. - C. …

D. Notwithstanding the provisions of this Section, the initial tax of an entity in existence and actually conducting business in Louisiana during its previous calendar or fiscal year shall be calculated pursuant to R.S. 47:609, based on its corporate books on the first day of the calendar or fiscal year in which the tax levied under this Chapter becomes due and shall be payable on or before the date otherwise required by this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:611.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income and Corporation Franchise Taxes Section, Office of Group III, LR 6:25 (January 1980), amended LR 11:108 (February 1985), repromulgated by the Department of Revenue, Policy Services Division, LR 30:469 (March 2004), amended by the Department of Revenue, Policy Services Division, LR 43:

Family Impact Statement

The proposed amendment of LAC 61:I.301 regarding the imposition of tax, LAC 61:I.302 regarding the determination of taxable capital, and LAC 61:I.311 regarding newly taxable corporations, should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy.

Specifically, the implementation of these proposed rules will have no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform this function.

Poverty Impact Statement

These proposed regulations will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

It is anticipated that these proposed amendments should not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting these proposed amendments to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed amendments will have no known or foreseeable effect on:

1. the staffing levels requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the provider to provide the same level of service;
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Any interested person may submit written data, views, arguments or comments regarding these proposed amendments to William E. Little, Attorney, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4 p.m., November 29, 2016.

Public Hearing

A public hearing will be held on November 30, 2016, at 1:30 p.m. in the LaBelle Room, on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Kimberly Lewis Robinson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Imposition of Tax; Determination of Taxable Capital; Newly Taxable Corporations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The purpose of the proposed rule amendments is to implement the provisions of Act 12 of the 2016 First Extraordinary Session of the Louisiana Legislature. The Act and these proposed rule changes expand corporate franchise tax applicability to also include partnerships, joint ventures, and limited liability companies (LLCs) electing to be treated as C-corporations for federal income tax purposes. An exception is provided for LLCs that qualify to elect to be treated as S-corporations. An exception is also provided for non-corporate entities acquired during the period January 1, 2012 through December 31, 2014 by an entity that was taxed as an S-corporation. A holding company deduction from taxable capital for debt to related parties is also added. The initial (first year) franchise tax is raised by $100, from $10 to $110, but taxpayers becoming subject to the tax must pay the actual franchise tax if in existence and doing business in Louisiana during the year before becoming subject to the tax.

Implementation costs of the Department of Revenue (LDR) are for computer system modification and testing, tax form redesign, and taxpayer inquires. These costs are relatively small and will be absorbed in LDR's current appropriation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Act and these proposed rule changes expand corporate franchise tax applicability to also include partnerships, joint ventures, and limited liability companies (LLCs) electing to be treated as C-corporations for federal income tax purposes. As a result of the proposed rule changes, corporate franchise tax receipts are estimated to increase by $10.3 million in FY 17, $89.3 million in FY 18, and $94 million in FY 19.

Furthermore, The initial (first year) franchise tax is also raised by $100, from $10 to $110, but taxpayers becoming subject to the tax must pay the actual franchise tax if in existence and doing business in Louisiana during the year before becoming subject to the tax. However, based upon a review prior year tax data spanning the years from FY 11 - 13, it is unclear if raising the initial franchise tax will lead to an overall increase in corporate franchise tax receipts, and as a result no growth has been included in the estimates.

The holding company tax base deduction will reduce increased receipts by an indeterminable amount.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The franchise tax liabilities of the newly taxed entities are estimated to total $10.3 million in FY 17, $89.3 million in FY 18, and $94 million in FY 19. These taxpayers will also incur relatively small costs to prepare additional schedules on the corporate tax return. Furthermore, each entity becoming subject to the franchise tax, that did not exist or do business in Louisiana before becoming subject to the tax, will pay an additional $100 for the initial (first year) tax.

Taxpayers affected by the addition of the holding company tax base deduction will benefit by an indeterminable amount.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Extension of the franchise tax to various business structures not currently subject the tax may discourage these types relative to other structures currently subject to the tax. The aggregate amount of business activity, without regard to specific types of organizational structures, is not likely to be materially affected.

Kimberly Lewis Robinson
Secretary
1610#070

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of the Treasury
Board of Trustees of the Louisiana State Employees' Retirement System

General Provisions (LAC 58:I.Chapter 1)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System (LASERS) proposes amendment in part and repeal in part of provisions contained in Chapter 1 Part I of LAC Title 58. Seven definitions in Section 101 are recommended for repeal, as they are unused in the Part or are already defined in statutory law. Sections 103 and 105 are recommended for repeal in their entirety because they are unneeded. Section 107 is recommended for repeal because it is unsuited for the LASERS appeal process. The proposed Rule changes comply with and are enabled by R.S. 11:515.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement System

Chapter 1. General Provisions

§101. Definitions

A. Wherever in these regulations the masculine is used, it includes the feminine and vice versa. Wherever the singular is used, it includes the plural and vice versa. The following definitions shall apply to all regulations promulgated under Part I, unless the usage clearly indicates another meaning.

Active Member—a member of the Louisiana State Employees' Retirement System who is in state service.

Active Member Trustees—those members of the board of trustees of the Louisiana State Employees' Retirement System who are active employees, or participating in DROP.

Board of Trustees or *Board*—the board of trustees of the Louisiana State Employees' Retirement System.

Director—the executive director of the Louisiana State Employees' Retirement System.

DROP—Deferred Retirement Option Plan.

Inactive Member—a member who is out of state service but is not retired and has left his contributions in the system.

LASERS—the Louisiana State Employees' Retirement System.

Retired Member Trustees—those members of the board of trustees of the Louisiana State Employees' Retirement System who are retired, but not those members who are participating in DROP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:120 (January 1998), amended LR 43:

§103. Petitions for Adoption, Amendment, or Repeal of Rules; Form and Procedure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), repealed LR 43:

§105. Petitions for Declaratory Rulings on the Applicability of Agency Statutes, Rules or Orders

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:962 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), repealed LR 43:

§107. Appeal to the Board of Trustees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), repealed LR 43:

Family Impact Statement

The proposed Rule repeal is not anticipated to have an impact on family formation, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule repeal is not anticipated to have an impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule repeal is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule repeal is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments on the proposed changes until 4:30 pm, November 30, 2016 to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804. No rule preamble has been prepared.

Cindy Rougeou
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: General Provisions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local government expenditures. The proposed change is part of the streamlining of the Louisiana State Employees' Retirement System (LASERS) regulatory structure. The proposed rule change removes language that is redundant or no longer needed. Seven definitions in Section 101 are recommended for repeal, since they are already defined in statutory law. The proposed rule change amends a definition to correct a typographical error. Sections 103 and 105 are recommended for

repeal since the rules have never been invoked in the twenty years since they were originally promulgated. Section 107 is being repealed because it is designed for adjudicatory hearings, which are not a part of the LASERS appeal process.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The rule definitions proposed for repeal and amendment are general provisions. They do not single out specific persons or non-governmental groups, but are designed to aid persons navigating the body of LASERS rules and regulations. Sections 103 and 105 have never been invoked, which strongly implies that no particular persons or non-governmental groups would be directly affected by their proposed repeal. Section 107 affects persons seeking an appeal, but the right to appeal a LASERS action is not rendered null by its repeal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition or employment.

Cindy Rougeou	Evan Brasseaux
Executive Director	Staff Director
1610#037	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Alligator Egg Collections (LAC 76:V.701)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby advertise their intent to amend the rules for alligator egg collections in the alligator regulations.

Title 76
WILDLIFE AND FISHERIES
Part V. Wild Quadrupeds and Wild Birds
Chapter 7. Alligators
§701. Alligator Regulations

A. - A.13.d. ...

14. Alligator Egg Collections

a. - i. …

j. The alligator egg collection permittee and the landowner are responsible for the return of the percentage of live alligators to the wild described on the alligator egg collection permit. This requirement is nontransferable. Minimum return rates will be based upon the state average hatching success which is 78 percent. In no case shall the return rate be less than 10 percent at 48 inches total length. Each alligator shall be returned to the original egg collection area within a maximum time of two years from date of hatching. Each alligator shall be a minimum of 36 inches and a maximum of 60 inches (no alligator over 60 inches total length will be accepted for release) in total length and the returned sex ratio should contain at least 50 percent females. The alligator egg collection permittee/landowner are responsible for and must compensate in kind for alligator mortality which occurs for department-authorized return to the wild alligators while being processed, stored, or transported. The department shall be responsible for supervising the required return of these alligators. A department transfer authorization permit is not required for return to the wild alligators which are delivered to the farm of origin no more than 48 hours prior to being processed for wild release. Releases back to the wild will only occur between March 15 and August 25 of each calendar year provided that environmental conditions as determined by the department are favorable for survival of the released alligators. Any farmer who owes 1000 or more alligators at 48 inches must release at least 1/4 of the total owed for that year by April 30; at least another quarter by June 15, at least another quarter by July 31; and the remainder by August 25. A farmer may do more than the required 1/4 of his releases earlier if available unscheduled days allow. Should an alligator egg collection permittee be unable to release the required number of alligators to the wild from his own stock, he shall be required to purchase additional alligators from another farmer to meet compliance with the alligator egg collection permit and these regulations, as supervised by the department. Department-sanctioned participants in ongoing studies involving survivability and return rates are exempt from these requirements during the period of the study. Violation of this Subparagraph is a class four violation as described in R.S. 56.

14.k. - 18.c. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263 and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), LR 28:1996 (September 2002), LR 30:2338 (October 2004), LR 30:2878 (December 2004), LR 31:2267 (September 2005), LR 33:677 (April 2007), LR 35:690 (April 2009), LR 37:2421 (August 2011), LR 39:2291 (August 2013), LR 42:909 (June 2016), LR 43:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed Rule to Buddy Baker, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000 or

bbaker@wlf.la.gov no later than 4:30 p.m., November 30, 2016.

Bart R. Yakupzack
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Alligator Egg Collections

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in additional costs for state or local governmental units.

The proposed rule change lowers the percentage of live alligators that must be returned to the wild from 12% to 10% of the number of eggs collected from the wild.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may increase revenues for the statutorily dedicated Alligator Resource fund within the LA Dept. of Wildlife & Fisheries (LDWF) by an indeterminable amount. The proposed rule allows for alligator farmers to return a lower percentage of live alligators hatched from harvested eggs to the wild. As a result, merchants will be able to sell a greater amount of alligator hides and meat. Presently the LDWF collects $4.25 fee per alligator hide sold in Louisiana. To the extent more alligators are harvested for their hides, the LDWF will realize an increase in statutorily dedicated revenues. Due to LDWF's alligator population counts being derived from egg collections from two years earlier, any revenues generated as a result of the proposed rule change will be classified as FY 19 collections.

For reference, the most recent three-year average compiled from 2012, 2014, and 2015 (2013 data is excluded due to irregularities in the data collection) yields a total of 320,936 alligator hides sold in Louisiana. A 2% increase in alligator hides available for sale totals 6,419 (320,936 hides * 2%). To the extent alligator hides available for sale increases by the full 2% and all hides are sold, the LDWF would realize an increase of $27,281 ($4.25 per hide * 6,419 hides) in revenues to the statutorily dedicated Alligator Resource Fund. However, because the actual increase in alligators hides sold cannot be predicted, the exact increase is indeterminable.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may increase revenues for alligator farmers by an indeterminable amount. Because the proposed rule allows alligator farmers to retain an additional 2% of alligators hatched from harvested eggs, alligator farmers may potentially realize a 2% increase in alligator meat and hide harvests.

For reference, the most recent three-year average compiled from 2012, 2014, and 2015 (2013 data is excluded due to irregularities in the data collection) yields a total of $67.8 M in alligator hide sales and $6.7 M in alligator meat sales. To the extent alligator farmers realize a 2% increase in meat and hide sales based upon historical averages, the maximum amount of additional revenue the farmers may generate totals approximately $1.49 M.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not have an effect on competition or employment.

Bryan McClinton
Undersecretary
1610#051

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Freshwater Sport and Commercial Fishing—Poverty Point Reservoir Netting Prohibition (LAC 76:VII.106)

The Wildlife and Fisheries Commission does hereby give notice of its intent to modify the current net ban and to establish and permit a special recurring commercial fishing season, allowing the use of certain nets in Poverty Point Reservoir, Richland Parish, Louisiana.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 1. Freshwater Sport and Commercial Fishing
§106. Poverty Point Reservoir Netting Prohibition

A. The Wildlife and Fisheries Commission hereby prohibits the use of freshwater trammel and gill nets in Poverty Point Reservoir, Richland Parish, Louisiana, except their use will be allowed for the legal harvest of commercial fish during a special recurring trammel and gill netting season to commence each year at sunrise on October 1 and close at sunset on the last day of February the following year.

1. Commercial fishing with certain nets will be allowed on Poverty Point Reservoir only during the above described special season and only by licensed commercial fishermen. The use of nets in Poverty Point Reservoir will be limited to gill and trammel nets greater than or having at least a minimum mesh size of 3 1/2-inch bar and 7-inch stretch.

2. Commercial fishing will be allowed during daylight hours in designated areas only except that gear can remain set overnight but fish captured shall be removed during daylight hours only.

B. The Wildlife and Fisheries Commission hereby prohibits the use of hoop nets, wire nets and fish seines in Poverty Point Reservoir. No person shall use or possess any hoop nets, wire nets or fish seines in or on Poverty Point Reservoir. Violation of this provision shall be a class 2 violation as specified in R.S. 56:32.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:2569 (October 2005), amended LR 43:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out in R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S.49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments relative to the proposed Rule to Ryan Daniel, District 2 Biologist Manager, Louisiana Department of Wildlife and Fisheries, 368 Century Tel Dr., Monroe, LA 71203-8732, prior to December 5, 2016.

Bart R. Yakupzack
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Freshwater Sport and Commercial Fishing—Poverty Point Reservoir Netting Prohibition

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is expected to have no effect on implementation costs to state or local governmental units.

The proposed rule change rescinds a ban on the possession or use of commercial trammel nets and gill nets in Poverty Point Reservoir in Richland Parish. The proposed rule would allow the use of commercial fishing gear in the Poverty Point Reservoir between October 1 and the last day of February of the following year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule may result in a minor increase in commercial fishing activity, harvests, and revenues.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is expected to have no effect on competition or employment.

Bryan McClinton
Undersecretary
1610#046

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Oyster Harvest—Establishment of Recreational Reef Sites and Restrictions (LAC 76:VII.537)

Notice is hereby given that the Wildlife and Fisheries Commission proposes to amend LAC 76:VII.537 to remove oyster reefs 1-3 in Calcasieu Lake from the list of established recreational reef sites, and thus allow for the harvest of oysters thereon. Furthermore, a new area of water bottoms in Calcasieu Lake (East Calcasieu reef site) would be designated and set aside as a recreational reef whereby the restriction of all harvest of oysters thereon would be applied. Two new areas of water bottoms in Lake Pontchartrain (West End and St. John) would also be added to the list of established recreational reef sites. Additional changes to this Section include removal of duplicative reef site coordinates (Redfish Pointe [original]), consistency corrections (Bay Ronquille, St. Tammany East, St. Tammany West, Orleans, South Shore, Bully Camp, St. Charles, Rabbit Island, Finfish, Turner's Bay Island, Sweet Lake, Bird Island, Cypremort Point, and Redfish Point), and subsequent renumbering of reef sites.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 5. Oyster
§537. Establishment of Recreational Reef Sites and Restriction of Oyster Harvest

A. The Wildlife and Fisheries Commission hereby establishes the following recreational reef sites as that area within the following coordinates (North America Datum 1983):

1. California Point—Plaquemines Parish:
   a. 29 degrees 29 minutes 08.86 seconds N, 89 degrees 29 minutes 11.15 seconds W;
   b. 29 degrees 29 minutes 08.63 seconds N, 89 degrees 28 minutes 54.46 seconds W;
   c. 29 degrees 28 minutes 54.02 seconds N, 89 degrees 28 minutes 54.73 seconds W;
   d. 29 degrees 28 minutes 54.25 seconds N, 89 degrees 29 minutes 11.42 seconds W;
2. Bay Ronquille—Plaquemines Parish:
   a. 29 degrees 20 minutes 04.46 seconds N, 89 degrees 50 minutes 33.38 seconds W;
   b. 29 degrees 20 minutes 04.54 seconds N, 89 degrees 50 minutes 39.29 seconds W;
   c. 29 degrees 20 minutes 07.96 seconds N, 89 degrees 50 minutes 40.22 seconds W;
   d. 29 degrees 20 minutes 09.09 seconds N, 89 degrees 50 minutes 44.75 seconds W;
   e. 29 degrees 20 minutes 01.34 seconds N, 89 degrees 50 minutes 44.21 seconds W;
   f. 29 degrees 20 minutes 01.59 seconds N, 89 degrees 50 minutes 41.69 seconds W;
   g. 29 degrees 19 minutes 50.07 seconds N, 89 degrees 50 minutes 38.19 seconds W;

h. 29 degrees 19 minutes 53.35 seconds N, 89 degrees 50 minutes 34.71 seconds W;
i. 29 degrees 19 minutes 52.76 seconds N, 89 degrees 50 minutes 34.16 seconds W;
j. 29 degrees 20 minutes 02.34 seconds N, 89 degrees 50 minutes 24.99 seconds W;
k. 29 degrees 20 minutes 05.37 seconds N, 89 degrees 50 minutes 31.18 seconds W;

3. St. Tammany East—St. Tammany Parish:
a. 30 degrees 13 minutes 48.36 seconds N, 89 degrees 57 minutes 15.24 seconds W;
b. 30 degrees 13 minutes 48.36 seconds N, 89 degrees 56 minutes 27.24 seconds W;
c. 30 degrees 13 minutes 06.36 seconds N, 89 degrees 56 minutes 27.24 seconds W;
d. 30 degrees 13 minutes 06.36 seconds N, 89 degrees 57 minutes 15.24 seconds W;

4. St. Tammany West—St. Tammany Parish:
a. 30 degrees 18 minutes 41.88 seconds N, 90 degrees 09 minutes 24.00 seconds W;
b. 30 degrees 18 minutes 41.88 seconds N, 90 degrees 08 minutes 36.00 seconds W;
c. 30 degrees 17 minutes 59.88 seconds N, 90 degrees 08 minutes 36.00 seconds W;
d. 30 degrees 17 minutes 59.88 seconds N, 90 degrees 09 minutes 24.00 seconds W;

5. St. Tammany Pier—St. Tammany Parish:
a. 30 degrees 12 minutes 28.34 seconds N, 89 degrees 47 minutes 54.03 seconds W;
b. 30 degrees 12 minutes 27.96 seconds N, 89 degrees 47 minutes 53.57 seconds W;
c. 30 degrees 12 minutes 20.66 seconds N, 89 degrees 48 minutes 01.30 seconds W;
d. 30 degrees 12 minutes 21.03 seconds N, 89 degrees 48 minutes 01.76 seconds W;

6. North Shore—St. Tammany Parish:
a. 30 degrees 16 minutes 38.00 seconds N, 90 degrees 04 minutes 08.00 seconds W;
b. 30 degrees 16 minutes 38.00 seconds N, 90 degrees 03 minutes 21.00 seconds W;
c. 30 degrees 15 minutes 58.00 seconds N, 90 degrees 03 minutes 21.00 seconds W;
d. 30 degrees 15 minutes 58.00 seconds N, 90 degrees 04 minutes 08.00 seconds W;

7. North Twin Span—St. Tammany Parish:
a. 30 degrees 11 minutes 39.13 seconds N, 89 degrees 50 minutes 15.54 seconds W;
b. 30 degrees 11 minutes 39.13 seconds N, 89 degrees 50 minutes 10.78 seconds W;
c. 30 degrees 11 minutes 35.02 seconds N, 89 degrees 50 minutes 10.78 seconds W;
d. 30 degrees 11 minutes 35.02 seconds N, 89 degrees 50 minutes 15.54 seconds W;

8. South Twin Span—Orleans Parish:
a. 30 degrees 10 minutes 12.23 seconds N, 89 degrees 50 minutes 47.04 seconds W;
b. 30 degrees 10 minutes 12.23 seconds N, 89 degrees 50 minutes 42.27 seconds W;
c. 30 degrees 10 minutes 08.11 seconds N, 89 degrees 50 minutes 42.27 seconds W;
d. 30 degrees 10 minutes 08.11 seconds N, 89 degrees 50 minutes 47.04 seconds W;

9. Orleans—Orleans Parish:
a. 30 degrees 07 minutes 47.46 seconds N, 90 degrees 05 minutes 05.70 seconds W;
b. 30 degrees 07 minutes 47.46 seconds N, 90 degrees 04 minutes 17.70 seconds W;
c. 30 degrees 07 minutes 05.46 seconds N, 90 degrees 04 minutes 17.70 seconds W;
d. 30 degrees 07 minutes 05.46 seconds N, 90 degrees 05 minutes 05.70 seconds W;

10. Lake Front—Orleans Parish:
a. 30 degrees 03 minutes 34.72 seconds N, 89 degrees 59 minutes 40.25 seconds W;
b. 30 degrees 03 minutes 35.72 seconds N, 89 degrees 59 minutes 38.25 seconds W;
c. 30 degrees 03 minutes 35.57 seconds N, 89 degrees 59 minutes 38.05 seconds W;
d. 30 degrees 03 minutes 30.22 seconds N, 89 degrees 59 minutes 33.25 seconds W;
e. 30 degrees 03 minutes 28.22 seconds N, 89 degrees 59 minutes 35.25 seconds W;

11. West End—Orleans Parish:
a. 30 degrees 01 minutes 54.23 seconds N, 90 degrees 07 minutes 17.97 seconds W;
b. 30 degrees 01 minutes 54.70 seconds N, 90 degrees 07 minutes 11.13 seconds W;
c. 30 degrees 01 minutes 47.65 seconds N, 90 degrees 07 minutes 09.28 seconds W;
d. 30 degrees 01 minutes 47.19 seconds N, 90 degrees 07 minutes 16.12 seconds W;

12. St. John—St. John the Baptist Parish:
a. 30 degrees 05 minutes 53.21 seconds N, 90 degrees 24 minutes 20.29 seconds W;
b. 30 degrees 05 minutes 53.16 seconds N, 90 degrees 24 minutes 12.77 seconds W;
c. 30 degrees 05 minutes 46.63 seconds N, 90 degrees 24 minutes 12.83 seconds W;
d. 30 degrees 05 minutes 46.68 seconds N, 90 degrees 24 minutes 20.35 seconds W;

13. South Shore 1, 2, and 3—Jefferson Parish
a. 30 degrees 05 minutes 25.00 seconds N, 90 degrees 12 minutes 42.00 seconds W;
b. 30 degrees 05 minutes 25.00 seconds N, 90 degrees 11 minutes 56.00 seconds W;
c. 30 degrees 04 minutes 44.00 seconds N, 90 degrees 11 minutes 56.00 seconds W;
d. 30 degrees 04 minutes 44.00 seconds N, 90 degrees 12 minutes 42.00 seconds W;

14. Laketown—Jefferson Parish:
a. 30 degrees 02 minutes 40.92 seconds N, 90 degrees 14 minutes 23.11 seconds W;
b. 30 degrees 02 minutes 38.30 seconds N, 90 degrees 14 minutes 18.46 seconds W;
c. 30 degrees 02 minutes 35.07 seconds N, 90 degrees 14 minutes 20.28 seconds W;
d. 30 degrees 02 minutes 37.69 seconds N, 90 degrees 14 minutes 24.93 seconds W;

15. Independence Island—Jefferson Parish:
a. 29 degrees 18 minutes 34.48 seconds N, 89 degrees 56 minutes 13.37 seconds W;
b. 29 degrees 18 minutes 34.22 seconds N, 89 degrees 55 minutes 48.52 seconds W;
c. 29 degrees 18 minutes 24.32 seconds N,

89 degrees 55 minutes 48.66 seconds W;
d. 29 degrees 18 minutes 24.58 seconds N, 89 degrees 56 minutes 13.51 seconds W;

16. Bully Camp 1—Lafourche Parish:
a. 29 degrees 27 minutes 30.08 seconds N, 90 degrees 22 minutes 43.33 seconds W;
b. 29 degrees 27 minutes 30.04 seconds N, 90 degrees 22 minutes 38.63 seconds W;
c. 29 degrees 27 minutes 25.92 seconds N, 90 degrees 22 minutes 38.67 seconds W;
d. 29 degrees 27 minutes 25.96 seconds N, 90 degrees 22 minutes 43.37 seconds W;

17. Bully Camp 2—Lafourche Parish:
a. 29 degrees 27 minutes 44.08 seconds N, 90 degrees 23 minutes 03.33 seconds W;
b. 29 degrees 27 minutes 44.04 seconds N, 90 degrees 22 minutes 58.63 seconds W;
c. 29 degrees 27 minutes 39.92 seconds N, 90 degrees 22 minutes 58.67 seconds W;
d. 29 degrees 27 minutes 39.96 seconds N, 90 degrees 23 minutes 03.37 seconds W;

18. St. Charles—St. Charles Parish:
a. 30 degrees 08 minutes 26.10 seconds N, 90 degrees 19 minutes 26.28 seconds W;
b. 30 degrees 08 minutes 26.10 seconds N, 90 degrees 18 minutes 38.28 seconds W;
c. 30 degrees 07 minutes 44.10 seconds N, 90 degrees 18 minutes 38.28 seconds W;
d. 30 degrees 07 minutes 44.10 seconds N, 90 degrees 19 minutes 26.28 seconds W;

19. Rabbit Island—St. Mary Parish:
a. 29 degrees 30 minutes 41.31 seconds N, 91 degrees 34 minutes 00.39 seconds W;
b. 29 degrees 30 minutes 41.34 seconds N, 91 degrees 33 minutes 43.68 seconds W;
c. 29 degrees 30 minutes 26.73 seconds N, 91 degrees 33 minutes 43.65 seconds W;
d. 29 degrees 30 minutes 26.70 seconds N, 91 degrees 34 minutes 00.35 seconds W;

20. Finfish—Cameron Parish:
a. 29 degrees 58 minutes 15.58 seconds N, 93 degrees 18 minutes 12.25 seconds W;
b. 29 degrees 58 minutes 15.83 seconds N, 93 degrees 17 minutes 55.47 seconds W;
c. 29 degrees 58 minutes 01.22 seconds N, 93 degrees 17 minutes 55.19 seconds W;
d. 29 degrees 58 minutes 00.97 seconds N, 93 degrees 18 minutes 11.97 seconds W;

21. Turner's Bay Island—Calcasieu Parish:
a. 30 degrees 03 minutes 20.56 seconds N, 93 degrees 18 minutes 29.54 seconds W;
b. 30 degrees 03 minutes 20.11 seconds N, 93 degrees 18 minutes 26.51 seconds W;
c. 30 degrees 03 minutes 18.54 seconds N, 93 degrees 18 minutes 26.82 seconds W;
d. 30 degrees 03 minutes 18.99 seconds N, 93 degrees 18 minutes 29.85 seconds W;

22. East Calcasieu—Cameron Parish:
a. 29 degrees 53 minutes 16.49 seconds N, 93 degrees 16 minutes 58.85 seconds W;
b. 29 degrees 53 minutes 16.52 seconds N, 93 degrees 16 minutes 34.79 seconds W;
c. 29 degrees 52 minutes 57.20 seconds N, 93 degrees 16 minutes 34.74 seconds W;
d. 29 degrees 52 minutes 57.17 seconds N, 93 degrees 16 minutes 56.85 seconds W;

23. Sweet Lake—Cameron Parish:
a. 29 degrees 56 minutes 38.05 seconds N, 93 degrees 17 minutes 33.42 seconds W;
b. 29 degrees 56 minutes 38.27 seconds N, 93 degrees 17 minutes 16.65 seconds W;
c. 29 degrees 56 minutes 23.66 seconds N, 93 degrees 17 minutes 16.36 seconds W;
d. 29 degrees 56 minutes 23.41 seconds N, 93 degrees 17 minutes 33.14 seconds W;

24. Bird Island 1 and 2—Terrebonne Parish:
a. 29 degrees 03 minutes 40.34 seconds N, 90 degrees 43 minutes 34.07 seconds W;
b. 29 degrees 03 minutes 41.97 seconds N, 90 degrees 43 minutes 29.63 seconds W;
c. 29 degrees 03 minutes 41.89 seconds N, 90 degrees 43 minutes 12.99 seconds W;
d. 29 degrees 03 minutes 27.28 seconds N, 90 degrees 43 minutes 13.08 seconds W;
e. 29 degrees 03 minutes 25.65 seconds N, 90 degrees 43 minutes 17.53 seconds W;
f. 29 degrees 03 minutes 25.73 seconds N, 90 degrees 43 minutes 34.16 seconds W;

25. Point Mast—Terrebonne Parish:
a. 29 degrees 06 minutes 34.01 seconds N, 90 degrees 38 minutes 16.87 seconds W;
b. 29 degrees 06 minutes 33.92 seconds N, 90 degrees 38 minutes 00.24 seconds W;
c. 29 degrees 06 minutes 19.31 seconds N, 90 degrees 38 minutes 00.34 seconds W;
d. 29 degrees 06 minutes 19.40 seconds N, 90 degrees 38 minutes 16.97 seconds W;

26. Cypremort Point 1—Iberia Parish:
a. 29 degrees 43 minutes 21.03 seconds N, 91 degrees 52 minutes 23.19 seconds W;
b. 29 degrees 43 minutes 21.04 seconds N, 91 degrees 52 minutes 20.82 seconds W;
c. 29 degrees 43 minutes 18.97 seconds N, 91 degrees 52 minutes 20.81 seconds W;
d. 29 degrees 43 minutes 18.96 seconds N, 91 degrees 52 minutes 23.18 seconds W;

27. Cypremort Point 2—Iberia Parish:
a. 29 degrees 44 minutes 26.95 seconds N, 91 degrees 52 minutes 54.25 seconds W;
b. 29 degrees 44 minutes 27.02 seconds N, 91 degrees 52 minutes 37.51 seconds W;
c. 29 degrees 44 minutes 12.41 seconds N, 91 degrees 52 minutes 37.43 seconds W;
d. 29 degrees 44 minutes 12.34 seconds N, 91 degrees 52 minutes 54.17 seconds W;

28. Redfish Point—Vermilion Parish:
a. 29 degrees 40 minutes 44.28 seconds N, 92 degrees 07 minutes 13.40 seconds W;
b. 29 degrees 40 minutes 44.38 seconds N, 92 degrees 06 minutes 56.67 seconds W;
c. 29 degrees 40 minutes 29.76 seconds N, 92 degrees 06 minutes 56.56 seconds W;
d. 29 degrees 40 minutes 29.66 seconds N, 92 degrees 07 minutes 13.29 seconds W;

29. Prien Point—Vermilion Parish:
   a. 29 degrees 39 minutes 45.53 seconds N, 92 degrees 08 minutes 05.36 seconds W;
   b. 29 degrees 39 minutes 45.64 seconds N, 92 degrees 07 minutes 48.63 seconds W;
   c. 29 degrees 39 minutes 31.02 seconds N, 92 degrees 07 minutes 48.52 seconds W;
   d. 29 degrees 39 minutes 30.92 seconds N, 92 degrees 08 minutes 05.25 seconds W.

B. No person shall harvest oysters from these recreational reefs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:805.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 41:1309 (July 2015), amended LR 43:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S.49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments relative to the proposed rule to Craig Gothreaux, Artificial Reef Program Manager, Department of Wildlife and Fisheries, Fisheries Extension Section, P.O. Box 98000, Baton Rouge, LA, 70898-9000 prior to November 28, 2016.

Bart R. Yakupzack
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Oyster Harvest—Establishment of Recreational Reef Sites and Restrictions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will involve expenditures of $250,000 from the Artificial Reef Development Fund to create two recreational reefs in FY 17, one in Saint John the Baptist Parish and one in Cameron Parish. The $250,000 from the Artificial Reef Development Fund is included in the LA Dept. of Wildlife and Fisheries (LDWF) current appropriation. For reference, the Artificial Reef Development Fund has a current balance of approximately $20.25 M and budgeted authority of approximately $10.97 M in FY 17. The Coastal Conservation Association (CCA), which has partnered with LDWF in the reef projects, funds additional costs for reef construction. Furthermore, the proposed rule change adds the recently completed 10-acre West End reef site within Lake Pontchartrain in Orleans Parish to the list of recreational reefs.

The proposed rule change establishes a new 10-acre recreational reef site, the Saint John Reef, within Lake Pontchartrain in Saint John the Baptist Parish. This reef has not been completed. In addition, the proposed rule change establishes a new recreational reef site, the East Calcasieu Reef, within Calcasieu Lake in Cameron Parish, which has yet to begin construction. This site would have a planning area of 87 acres and would be a constructed with a minimum 6,000 tons of material.

The proposed rule removes the recreational reef status from the 87-acre Chenier Reef complex (i.e., Oyster Reefs 1, 2, and 3) in Calcasieu Lake, within Cameron Parish. The removal of recreational reef status would allow the commercial harvest of oysters from this area. Recreational fishing would be allowed to continue at these locations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is not anticipated to affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule establishing the Saint John Recreational Reef in Lake Pontchartrain would create new habitat for commonly-targeted fish species and provide additional fishing opportunities for anglers.

The proposed rule establishing the East Calcasieu Recreational Reef in Calcasieu Lake would create new habitat for commonly-targeted fish species and provide additional fishing opportunities for anglers.

The proposed rule removing recreational reef status from the Chenier Reef complex in Calcasieu Lake would benefit commercial oyster harvesters who would thus be allowed to harvest market-sized oysters that are known to exist in this area. The removal of recreational reef status from the Chenier Reef complex in Calcasieu Lake is not expected to reduce significantly the recreational fishing opportunities currently available at those locations though there may be an increase in competition for space over the reefs between recreational fishing vessels and commercial oyster boats when the season for harvesting oysters from the public oyster reefs opens. Commercial oystermen may realize an increase in gross revenues as a result of the Chenier Reef lending greater oyster harvesting opportunities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not anticipated to impact competition and employment. However, increased competition for oysters may occur as a result of the Chenier Reef being available for commercial oystermen to harvest. The exact effect of opening the Chenier Reef to commercial oyster harvesting is indeterminable.

Bryan McClinton
Undersecretary
1610#045

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: January-September 2016

LAC Title	Part #.Section #	Action	Location: LR 42 Month	Page #
4	V.Chapter 15 (PPM)	Amended	July	981
	V.Chapter 53 (PPM)	Adopted	Jan.	2
	V.Chapter 55 (PPM)	Adopted	Jan.	3
	V.Chapter 59 (PPM)	Adopted	Mar.	370
7	V.919	Amended	Feb.	219
	V.Chapter 29	Adopted	Mar.	393
	V.Chapter 29	Repromulgated	April	540
	XIII.121,123,519,749,763	Amended	Feb.	211
	XV.127	Amended	May	730
	XXI.1301,1312	Adopted	Mar.	391
	XXI.1311,1321	Amended	Mar.	391
	XXIII.103,307,1101,1103	Amended	May	730
	XXIII.309	Adopted	May	730
	XXIII.727	Repealed	May	730
	XXV.Chapter 1	Amended	Feb.	212
	XXVII.Chapter 1	Amended	Sept.	1498
	XXVII.114	Adopted	Sept.	1498
	XXVII.157,161	Repealed	Sept.	1498
	XXXV.125	Amended	Feb.	218
	XXXIX.Chapter 5	Adopted	Sept.	1503
	XXXIX.1307,1501,1503	Amended	May	733
10	XIII.Chapter 13	Amended	July	1087
	XIII.1309	Repealed	July	1087
13	I.Chapter 7	Amended	June	867
	I.Chapter 9	Amended	Feb.	223
	I.Chapter 11	Amended	June	865
	I.1133	Adopted	June	865
	I.2715	Amended	Feb.	224
	I.2719	Adopted	Feb.	224
	I.2904,2905	Amended	Jan.	41
	I.2915	Repealed	Jan.	41
	I.3307	Amended	Jan.	35
	I.3309	Adopted	Jan.	35
	I.3903,3923	Amended	Feb.	222
	I.3999	Adopted	Feb.	222
19	V.100,500,700,900,1100	Adopted	June	905
	V.701,703	Adopted	Jan.	69
22	I.337	Amended	Mar.	424
	III.4703	Amended	Feb.	274
	III.4761	Adopted	Feb.	274
	V.Chapter 2	Amended	July	1087
	XI.303,307	Amended	Aug.	1283
	XIII.103,303,503	Amended	April	569
	XIII.303,503	Amended	May	743
25	V.505	Amended	Jan.	35
28	I.503	Amended	April	563
	IV.705,803,805	Amended	Jan.	47
	IV.2005,2007	Amended	Jan.	46
	IV.2009	Repealed	Jan.	46
	V.221,233	Amended	Jan.	46
	VI.Chapters 1,3	Amended	July	1070
	XXXIII.Chapters 1-21	Repealed	April	558
	XLIII.133,905	Amended	Feb.	234
	LXIII.Chapters 1-19	Repealed	July	1067
	LXXIX.2109,2323	Amended	July	1063
	LXXXIII.405,409,705,707	Amended	April	548
	LXXXIII.613	Amended	July	1017
	LXXXIII.1107	Adopted	April	548
	CI.305,307,511,711,713,717,719,1509	Amended	Mar.	399
	CXI.321	Adopted	May	734
	CXI.1113,1115,1701,1705,1707,1125-1149	Amended	Feb.	224
	CXI.,1335-1343,1349-1357,1703	Repealed	Feb.	224
	CXI.1709-1729,1805-1810,1815,1817,1907	Repealed	Feb.	224
	CXI.1909,1915-1925,2305,2313-2323	Repealed	Feb.	224
	CXI.2401-2415	Repealed	Feb.	224
	CXIII.501,903,907,1301,1303	Amended	Feb.	230
	CXV.901	Amended	April	557
	CXV.1703	Amended	April	556
	CXV.1707	Repealed	April	556
	CXV.Chapter 23	Amended	Feb.	232
	CXV.2318,2353	Amended	July	1062
28	CXIX.Chapters 1-17	Repealed	July	1065
	CXXXI.243	Amended	Feb.	232
	CXXXIX.103,2701	Amended	July	1017
	CXXXIX.2301	Amended	July	1019
	CXXXIX.2301,2713,2801	Amended	April	549
	CXLV.505,1103,1105	Amended	April	551
	CXLV.1111	Amended	July	1019
	CLIII.1305	Amended	April	553
	CLV.103,303	Amended	April	553
	CLXI.709,905,1303,1307,1713,1719,1721	Amended	April	554
	CLXI.1901,2103	Amended	April	554
	CLXV.103,501,505,513,515,517,521,903	Amended	Jan.	42
	CLXV.503,507,509,511,519	Adopted	Jan.	42
	CLXIX.Chapters 1-23	Adopted	July	1019
	CLXXI.Chapters 1-25	Adopted	July	1043
32	I.317	Amended	Jan.	51
33	I.Chapter 8	Amended	Feb.	235
	III.502,509	Amended	April	563
	III.504	Amended	Mar.	401
	III.506,507,2160,3003,5116,5122,5311	Amended	July	1084
	III.509	Amended	Mar.	402
	III.5901	Amended	July	1084
	V.109,1107,1301,1307,1516	Amended	April	565
	V.10303	Amended	Feb.	280
	VII.10505-10513,10516,10517,10519	Amended	Feb.	244
	VII.10514,10515,10518,10524,10531	Adopted	Feb.	244
	VII.10521,10523,10525-10529,10534	Amended	Feb.	244
	VII.10532,10533,11101	Adopted	Feb.	244
	VII.10535-10543,11103	Amended	Feb.	244
	VII.10536	Repealed	Feb.	244
	IX.107,1105,1113,1117,1123	Amended	May	736
	IX.2701	Amended	May	735
34	I.5521,5523,5525	Adopted	June	869
	V.Chapter 5	Amended	Jan.	51
37	XIII.Chapter 3	Amended	July	1095
	XIII.317,319,321,323	Adopted	July	1095
	XIII.Chapter 27	Repealed	Jan.	65
	XIII.Chapter 29	Repealed	Jan.	66
40	I.2519,2701,2705,2707,5101,5113,5315	Amended	Feb.	283
	I.5399	Amended	Feb.	283
	I.6605	Amended	May	763
	XXI.101	Adopted	Mar.	445
42	III.120	Amended	April	575
	XI.2405	Amended	April	574
43	XVII.Chapter 3	Amended	Mar.	418
	XVII.Chapter 33	Amended	Mar.	413
46	VIII.Chapter 5	Amended	Sept.	1515
	VIII.509,511,513,515,517	Adopted	Sept.	1515
	VIII.Chapter 8	Adopted	Sept.	1513
	VIII.Chapter 10	Adopted	Sept.	1515
	XXI.1303	Amended	June	868
	XXIX.1515,1517	Adopted	Jan.	52
	XXXIII.304,313	Amended	Jan.	59
	XXXIII.301,801	Amended	June	872
	XXXIII.710,712	Amended	Jan.	58
	XXXIII.714	Repealed	Jan.	58
	XXXIII.Chapter 8	Adopted	Jan.	56
	XXXIII.903	Amended	Jan.	56
	XXXIII.Chapter 11	Repealed	Jan.	56
	XXXIII.1502-1511	Adopted	Jan.	53
	XXXIII.1503-1513	Repealed	Jan.	53
	XXXVII.707,901,903,905,907,909,1107	Amended	Mar.	404
	XXXVII.709	Repealed	Mar.	404
	XXXVII.2001	Amended	Mar.	404
	XLI.742	Adopted	May	744
	XLV.1307	Amended	Sept.	1519
	XLV.Chapters 23,53	Amended	Aug.	1284
	XLV.2321,2325,2327,2329,2335,2365	Repealed	Aug.	1284
	XLV.2367,2369,2371,2373	Repealed	Aug.	1284
	XLV.3519	Amended	May	752

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46	XLV.5303,5313,5361,5375	Adopted	Aug.	1284
	XLV.8315	Adopted	April	570
	XLV.Chapter 97	Amended	April	570
	XLVII.1703	Amended	Feb.	274
	XLVII.3324	Adopted	May	753
	XLVII.Chapter 35	Amended	June	875
	XLVII.3534,3536,3542,4509	Repealed	June	875
	XLVII.3547	Adopted	June	875
	XLVII.3703	Amended	June	873
	XLVII.3709	Adopted	June	873
	XLVII.4507	Amended	Mar.	405
	XLVII.4513	Amended	April	571
	LIII.2519	Amended	Sept.	1519
	LIII.2525,2745	Amended	July	1090
	LIII.2535	Amended	June	891
	LIV.151,181,187,193,195,501	Amended	Aug.	1299
	LV.101,301,303,304,305,306,307,310,312	Amended	April	575
	LV.313,1005	Amended	April	575
	LVII.518,519	Amended	Aug.	1301
	LXI.1509,2701	Amended	Mar.	443
	LXIII.701,705,1503,2103	Repromulgated	July	1089
	LXVII.2901	Amended	Jan.	53
	LXVII.10308,10309,10313	Amended	June	870
	LXVII.10317	Repealed	June	870
	LXVII.10319	Adopted	June	870
	LXVII.30701,30901,31101	Amended	June	871
	LXVII.31103	Adopted	June	871
48	I.3901	Adopted	Jan.	64
	I.6037	Amended	July	1090
	I.Chapter 90	Amended	Feb.	219
	I.Chapter 92	Amended	June	893
	I.9287,9293	Repealed	June	893
	I.12501,12503	Amended	Jan.	61
	I.12524	Repealed	Jan.	61
	I.12537	Adopted	Aug.	1298
	I.19121	Adopted	June	904
	IX.Chapter 9	Amended	Sept.	1525
50	I.105	Amended	June	892
	I.3103	Amended	Sept.	1521
	I.3103,3105,3301,3507,3509	Amended	May	754
	I.3511	Amended	Feb.	276
	I.Chapters 101-103	Adopted	May	756
	II.20001	Amended	Sept.	1522
	II.20029	Adopted	Jan.	63
	III.101	Adopted	June	901
	III.301	Adopted	June	901
	III.505	Amended	July	1091
	III.803	Amended	Sept.	1531
	III.2317	Adopted	May	755
	V.965	Amended	Mar.	406
	V.967	Amended	Feb.	274
	V.1701	Adopted	Mar.	406
	V.1703	Adopted	April	573
	V.2711	Repealed	Aug.	1298
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Potpourri

POTPOURRI

Department of Environmental Quality
Office of the Secretary
Legal Division

State Implementation Plan for Regional Haze Program
Electrical Generating Units BART

Under the authority of the Louisiana Environmental Quality Act, R. S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Services, Air Permits Division, will submit a proposed revision to the State Implementation Plan (SIP) for the Regional Haze Program as required under the Clean Air Act, Part C, Section 169 and 40 CFR Part 51.308. Regional haze is visibility impairment caused by the cumulative air pollutant emissions from numerous sources over a wide geographic area. (1610Pot1)

On July 3, 2012, the Environmental Protection Agency (EPA) made final a partial limited approval and partial disapproval of the original SIP submitted on June 13, 2008. This revision answers the requirements for the electrical generating units (EGU) facilities that were addressed under the Best Available Retrofit Technology (BART) section and that are the subject of the EPA partial disapproval.

All interested persons are invited to submit written comments concerning the SIP revision no later than 4:30 p.m., on November 30, 2016, to Vivian H. Aucoin, Office of Environmental Services, Box 4313, Baton Rouge, LA 70821-4314, Fax (225) 219-3482; or e-mail at vivian.aucoin@la.gov. A public hearing will be held upon request. The deadline for requesting a public hearing is Friday, November 4, 2016.

A copy of the proposal may be viewed on the LDEQ website, or at LDEQ headquarters at 602 North 5th Street, Baton Rouge, LA 70802.

Herman Robinson, CPM
General Counsel

1610#022

POTPOURRI

Office of the Governor
Coastal Protection and Restoration Authority

Deepwater Horizon Oil Spill: Louisiana Trustee Implementation Group Draft Restoration Plan #1: Restoration of Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; and Birds

ACTION:

Notice of Availability of Draft Restoration Plan

SUMMARY:

In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), the Federal and State *Deepwater Horizon* (*DWH*) oil spill natural resource trustee agencies for the Louisiana Trustee Implementation Group (Louisiana TIG) are preparing a "Louisiana Trustee Implementation Group Draft Restoration Plan #1: Restoration of Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; and Birds" (Draft RP). The Louisiana TIG prepared this Draft RP in accordance with the *DWH* Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/PEIS), the *DWH* Record of Decision (ROD), and OPA. This Draft RP describes the *DWH* Natural Resource Damage Assessment (NRDA) restoration planning process, identifies a reasonable range of restoration alternatives to address a portion of the injuries to resources and habitats caused by the *DWH* oil spill, and proposes from those alternatives a suite of preferred restoration alternatives on which the Louisiana TIG proposes to conduct engineering and design (E&D). For the projects identified as preferred restoration alternatives in this Draft RP, the Louisiana TIG may, after completion of the E&D process discussed in this plan, propose some or all of those projects for implementation using *DWH* NRDA funds. Those proposed projects would then be fully evaluated under NEPA and OPA in a future Restoration Plan which would be provided to the public for review and comment in accordance with the appropriate Louisiana and federal laws. The purpose of this notice is to inform the public of the availability of the Draft RP and to seek public comments on the proposed restoration alternatives.

DATES:

Comments Due Date: We will consider public comments received on or before November 21, 2016. Additional details regarding the comment period will be available at http://la-dwh.com once the document is published.

Public Meetings: If requested, the Trustees will schedule a public meeting to facilitate public review and comment on the Draft RP.

ADDRESSES:

Obtaining the Document: You will be able to download the Draft RP, which is expected to be released October 20, 2016, at http://la-dwh.com/. Alternatively, you may request a CD of the Draft RP (see FOR FURTHER INFORMATION CONTACT). You will also be able to review copies of the document at the public repositories listed at http://la-dwh.com/.

Submission of Comments: You may submit comments on the Draft RP by one of the following methods:

Via the web: http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana.

Via U.S. Mail: Louisiana Coastal Protection & Restoration Authority, ATTN: Liz Williams, P.O. Box 44027, Baton Rouge, LA 70804; or U.S. Fish & Wildlife Service, P.O. Box 49567, Atlanta, GA 30345. Submissions must be postmarked no later than 30 days after the release date of the Draft RP.

FOR FURTHER INFORMATION CONTACT:

Liz Williams at LATIG@la.gov.

SUPPLEMENTARY INFORMATION:

Background

On or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon*, which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252 – MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over 1 million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The *Deepwater Horizon* state and Federal natural resource trustees (Trustees) conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and state agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The DWH Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);
- State of Louisiana Coastal Protection and Restoration Authority (CPRA), Oil Spill Coordinator's Office (LOSCO), Department of Environmental Quality (LDEQ), Department of Wildlife and Fisheries (LDWF), and Department of Natural Resources (LDNR);
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- For the State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

Upon completion of the NRDA, the Trustees reached and finalized a settlement of their natural resource damage claims with BP in a Consent Decree approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in Louisiana are now chosen and managed by the Louisiana Trustee Implementation Group (TIG). The Louisiana TIG is composed of the following Trustees:

- DOI, as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- NOAA, on behalf of the U.S. Department of Commerce;
- USDA;
- EPA;
- CPRA;
- LDNR;
- LDEQ;
- LOSCO; and
- LDWF.

Overview of the Draft RP

The Draft RP is being released in accordance with the Oil Pollution Act (OPA), the Natural Resources Damage Assessment (NRDA) regulations found in the Code of Federal Regulations at 15 C.F.R. 990, the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), the Consent Decree, and Final PDARP/PEIS.

The total estimated cost for the proposed engineering and design activities for the six proposed restoration projects is $22,300,000. Details on the proposed engineering and design activities for the restoration projects are provided in the Draft RP.

Invitation to Comment

The Louisiana TIG will seek public review and comment on the restoration planning process, reasonable range of restoration alternatives, and propose from those alternatives a suite of preferred restoration alternatives presented in this Draft RP. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time.

Next Steps

As described above, a thirty-day comment period shall run from the date of release of the document. If requested, a public meeting will be scheduled to facilitate the public review and comment process. After the public comment period ends, the Trustees will consider and address the comments received before issuing the Final Restoration Plan. The Final version of the plan will include a summary of comments submitted, and the manner in which they were addressed.

Administrative Record

When they are completed, the documents comprising the Administrative Record will be available electronically at the following locations:

http://www.doi.gov/deepwaterhorizon; or
http://la-dwh.com/AdminRecord.aspx.

Authority

The authorities for this action are the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), the National Environmental Policy Act (42 U.S.C. 4321 et seq.) the implementing Natural Resource Damage Assessment regulations found at 15 CFR 990, the Louisiana Oil Spill Prevention and Response Act (La. R.S. 30:2451 et seq.), and the

implementing Natural Resource Damage Assessment Regulations found at La. Admin. Code 43:101 et seq.

Michael Ellis
Executive Director

1610#042

POTPOURRI

Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
C. L. Morris, Inc.	Caddo Pine Island	S	Raines	046	55927
Excalibur Resources, Inc.	Red River-Bull Bayou	S	A C Whatley	001	166256
Sutton-Zwolle Oil Co	Blue Lake	S	Bowman Hicks	002	22100 (28)
Shreveport Oil Corp.	Caddo Pine Island	S	Muslow	B-8	20809
Chenola Oil Corporation	EOLA	L	Ritchie Grocer Co	003	23765
C. H. Tuttle et al	Red River-Bull Bayou	S	Fee	002	31124
Ross Exploration, Inc.	Caddo Pine Island	S	Sample	006	45525 (30)
Quest Exploration L.L.C.	Fresh Water Bayou, North	L	La Furs Inc	F016	163553
C. H. Tuttle Oil Company	Red River-Bull Bayou	S	C H Tuttle Fee	006	36618
Wayne Pender	Monroe	M	J H Thatcher	001	168206
Wayne Pender	Monroe	M	J H Thatcher	002	191730
Neosho Operating LA, LLC	Centerville	L	Aus C Ra Sua;Basco 6	001	220147
Neosho Operating LA, LLC	Centerville	L	Basco 6 Swd	001	974025
Neosho Operating LA, LLC	Cheneyville, West	L	Aus C RA Sun; Foreman	001	234595
Neosho Operating LA, LLC	Cheneyville, West	L	Foreman Swd	001	973527

Richard P. Ieyoub
Commissioner

1610#030

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ORIGINAL

DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
AUG 1 0 2016
LA. DEPT. OF ENV. QUALITY
LEGAL DIVISION

Repeal of LAC 33:III.1507.A and B

Log Number: AQ360

The public hearing in the above titled matter was taken at the Department of Environmental Quality, 602 North Fifth Street, Baton Rouge, Louisiana, beginning at 1:31 p.m. on July 27, 2016.

Before Mark LaCour, Certified Stenomask Reporter, in and for the State of Louisiana.

1 **H E A R I N G**

2 **MS. HAM:**

3 Good afternoon! My name is Susan
4 Ham, and I'm employed by the Louisiana
5 Department of Environmental Quality.
6 I'll be serving as the hearing officer
7 this afternoon to receive comments
8 regarding proposed amendments to the air
9 regulations.
10 The comment period for these
11 amendments began on June 20, 2016, when
12 the notice of intent was published in
13 the Louisiana Register. The comment
14 period will close at 4:30 p.m. August 3,
15 2016. It would be helpful to us if all
16 oral comments received today were
17 followed up in writing.
18 This public hearing provides a
19 forum for all interested parties to
20 present comments on the proposed
21 changes. This hearing is not being
22 conducted in a question and answer
23 format. Please remember that the
24 purpose of this public hearing is to
25 allow you, the public, an opportunity to

express your thoughts concerning today's proposed amendments.

I'll ask that each person commenting come up and sit at the front table and begin by stating his or her name and affiliation for the record.

The First Amendment is designated by the log number AQ360.

This rule will repeal LAC 33:III.1507.A and B, which apply to existing sulfuric acid plants (i.e., those constructed or last modified on or before August 17, 1971, and therefore not subject to 40 CFR 60 subpart H).

LAC 33:III.1507.A states, in relevant part, that a four-hour (continuous) startup exemption from the SO2 and sulfuric acid mist emission limitations of LAC 33:III.1507.A will be authorized by the administrative authority for facilities not subject to 40 CFR 60.82 and 60.83 of Subpart H. LAC 33:III.1507.B provides a similar exemption where upsets have caused excessive emissions and online operating

1 changes will eliminate a temporary
2 condition. These provisions were
3 approved by EPA into Louisiana's State
4 Implementation Plan (SIP) on July 15,
5 1993 (58 FR 38060).
6 However, on June 12, 2015, EPA
7 promulgated a rule finding that several
8 Louisiana air quality regulations,
9 including LAC 33:III.1507.A and B, are
10 substantially inadequate to meet Clean
11 Air Act requirements because they
12 provide quote impermissible
13 discretionary exemptions from otherwise
14 applicable SIP emission limitations.
15 Consequently, EPA issued a SIP call
16 directing affected states to submit
17 corrective SIP revisions by November 22,
18 2016.
19 Based on a review of effective
20 permits, LDEQ has determined that no
21 sulfuric acid plants are eligible for
22 the aforementioned exemptions because
23 each is subject to 40 CFR 60.82 and
24 60.83. Therefore, in response to EPA's
25 SIP call, LDEQ will repeal LAC

1 33:III.1507.A and B.
2 Does anyone care to comment on
3 this regulation?
4 If not, the hearing on AQ360 is
5 closed.
6
7 **THE HEARING ENDED AT 1:35 P.M.**
8 * * * * *

1 **R E P O R T E R ' S P A G E**

2 I, Mark LaCour, Certified Court
3 Reporter, in and for the State of Louisiana,
4 the officer, as defined in Rule 28 of the
5 Federal Rules of Civil Procedure and/or
6 Article 1434(b) of the Louisiana Code of Civil
7 Procedure, before whom this hearing testimony
8 was taken, do hereby state on the record:
9 That due to the interaction in the
10 spontaneous discourse of this proceeding,
11 dashes (--) have been used to indicate pauses,
12 changes in thought, and/or talk overs; that
13 same is the proper method for a Court
14 Reporter's transcription of proceeding, and
15 that the dashes (--) do not indicate that
16 words or phrases have been left out of this
17 transcript.
18 Also, any words and/or names which could
19 not be verified through reference material
20 have been denoted with the phrase
21 "(inaudible)."
22
23 _____
24 Mark LaCour, C.C.R.
25 # 89054

1 **C E R T I F I C A T I O N**

2 I, the undersigned reporter, do hereby
3 certify that the above and foregoing is a true
4 and correct transcription of the stenomask
5 tape of the proceedings had herein, taken down
6 by me and transcribed under my supervision, to
7 the best of my ability and understanding, at
8 the time and place hereinbefore noted, in the
9 above-entitled cause.

10 I further certify that the witness was
11 duly sworn by me in my capacity as a Certified
12 Court Reporter pursuant to the provisions of
13 R.S. 37:2551 et seq. in and for the state of
14 Louisiana; that I am not of counsel nor
15 related to any of the counsel of any of the
16 parties, nor in the employ of any of parties,
17 and that I have no interest in the outcome of
18 this action.

19 I further certify that my license is in
20 good standing as a court reporter in and for
21 the state of Louisiana.

22

23 _____

24 Mark LaCour, C.C.R.

25 # 89054

In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY

Repeal of LAC 33:III.1507.A and B . Log Number: AQ360

PUBLIC HEARING

July 27, 2016

Associated Reporters, Incorporated

225-216-2036

Original File DEQ111.TXT

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In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY

Repeal of LAC 33:III.1507.A and B Log Number: AQ360

PUBLIC HEARING

July 27, 2016

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DEPARTMENT OF ENVIRONMENTAL QUALITY

Repeal of LAC 33:III.1507.A and B

Log Number: AQ360

The public hearing in the above titled matter was taken at the Department of Environmental Quality, 602 North Fifth Street, Baton Rouge, Louisiana, beginning at 1:31 p.m. on July 27, 2016.

Before Mark LaCour, Certified Stenomask Reporter, in and for the State of Louisiana.

HEARING

MS. HAM:

Good afternoon! My name is Susan Ham, and I'm employed by the Louisiana Department of Environmental Quality. I'll be serving as the hearing officer this afternoon to receive comments regarding proposed amendments to the air regulations.

The comment period for these amendments began on June 20, 2016, when the notice of intent was published in the Louisiana Register. The comment period will close at 4:30 p.m. August 3, 2016. It would be helpful to us if all oral comments received today were followed up in writing.

This public hearing provides a forum for all interested parties to present comments on the proposed changes. This hearing is not being conducted in a question and answer format. Please remember that the purpose of this public hearing is to allow you, the public, an opportunity to

express your thoughts concerning today's proposed amendments.

I'll ask that each person commenting come up and sit at the front table and begin by stating his or her name and affiliation for the record.

The First Amendment is designated by the log number AQ360.

This rule will repeal LAC 33:III.1507.A and B, which apply to existing sulfuric acid plants (i.e., those constructed or last modified on or before August 17, 1971, and therefore not subject to 40 CFR 60 subpart H).

LAC 33:III.1507.A states, in relevant part, that a four-hour (continuous) startup exemption from the SO2 and sulfuric acid mist emission limitations of LAC 33:III.1507.A will be authorized by the administrative authority for facilities not subject to 40 CFR 60.82 and 60.83 of Subpart H. LAC 33:III.1507.B provides a similar exemption where upsets have caused excessive emissions and online operating

changes will eliminate a temporary condition. These provisions were approved by EPA into Louisiana's State Implementation Plan (SIP) on July 15, 1993 (58 FR 38060).

However, on June 12, 2015, EPA promulgated a rule finding that several Louisiana air quality regulations, including LAC 33:III.1507.A and B, are substantially inadequate to meet Clean Air Act requirements because they provide quote impermissible discretionary exemptions from otherwise applicable SIP emission limitations. Consequently, EPA issued a SIP call directing affected states to submit corrective SIP revisions by November 22, 2016.

Based on a review of effective permits, LDEQ has determined that no sulfuric acid plants are eligible for the aforementioned exemptions because each is subject to 40 CFR 60.82 and 60.83. Therefore, in response to EPA's SIP call, LDEQ will repeal LAC

33:III.1507.A and B.

Does anyone care to comment on this regulation?

If not, the hearing on AQ360 is closed.

THE HEARING ENDED AT 1:35 P.M.

* * * * *

REPORTER'S PAGE

I, Mark LaCour, Certified Court Reporter, in and for the State of Louisiana, the officer, as defined in Rule 28 of the Federal Rules of Civil Procedure and/or Article 1434(b) of the Louisiana Code of Civil Procedure, before whom this hearing testimony was taken, do hereby state on the record:

That due to the interaction in the spontaneous discourse of this proceeding, dashes (--) have been used to indicate pauses, changes in thought, and/or talk overs; that same is the proper method for a Court Reporter's transcription of proceeding, and that the dashes (--) do not indicate that words or phrases have been left out of this transcript.

Also, any words and/or names which could not be verified through reference material have been denoted with the phrase "(inaudible)."

Mark LaCour, C.C.R.
89054

CERTIFICATION

I, the undersigned reporter, do hereby certify that the above and foregoing is a true and correct transcription of the stenomask tape of the proceedings had herein, taken down by me and transcribed under my supervision, to the best of my ability and understanding, at the time and place hereinbefore noted, in the above-entitled cause.

I further certify that the witness was duly sworn by me in my capacity as a Certified Court Reporter pursuant to the provisions of R.S. 37:2551 et seq. in and for the state of Louisiana; that I am not of counsel nor related to any of the counsel of any of the parties, nor in the employ of any of parties, and that I have no interest in the outcome of this action.

I further certify that my license is in good standing as a court reporter in and for the state of Louisiana.

Mark LaCour, C.C.R.
89054

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STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL SERVICES

PUBLIC HEARING IN RE:

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LEGAL DIVISION

LOG# AQ361

REPEAL OF LAC 33:III.1107.A

* *

A Public Hearing was held by the Louisiana Department of Environmental Quality, Office of Environmental Services, at the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, Louisiana 70802, beginning at 1:34 p.m. on Wednesday, May 25, 2016.

* *

Reported by:

Susan Erkel

Certified Court Reporter

In and for the State of Louisiana

1 **A P P E A R A N C E S**

2

3 **HEARING OFFICER:**

4 Susan Ham

5 Department of Environmental Quality

6 Office of Environmental Services

7 602 North Fifth Street

8 Baton Rouge, Louisiana 70802

9

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1 **P R O C E E D I N G S**

2 **MS. HAM:**

3 Good afternoon. My name is Susan
4 Ham, and I am employed by the Louisiana
5 Department of Environmental Quality.
6 I'll be serving as the Hearing Officer
7 this afternoon to receive comments
8 regarding a proposed amendments to the
9 Air and Office of Secretary Regulations.
10 The comment period for these
11 amendments began on April 20, 2016, when
12 the Notices of Intent were published in
13 the "Louisiana Register". The comment
14 period will close at 4:30 p.m. today,
15 May 25, 2016 for the Log Number(s)
16 AQ359ft and 1604Pot1, and at 4:30 p.m.,
17 June 1, 2016, for the Log Number(s)
18 AQ361 and AQ362. It would be helpful to
19 us if all oral comments received today
20 were followed up in writing.
21 This public hearing provides a forum
22 for all interested parties to present
23 comments on the proposed changes. This
24 hearing is not being conducted in a
25 question and answer format. Please

1 remember that the purpose of this public
2 hearing is to allow you, the public, an
3 opportunity to express your thoughts
4 concerning today's proposed amendments.
5 I'll ask that each person commenting
6 come up and sit at the front table and
7 begin by stating his or her name and
8 affiliation for the record.
9 The next amendment is designated by
10 the Log Number AQ361. This Rule will
11 repeal LAC 33:III.1107.A. In LAC
12 33:III.1105 (Smoke from Flaring Shall
13 Not Exceed 20 Percent Opacity) provides,
14 in relevant part, that the "emission of
15 smoke from a flare or other similar
16 device used for burning in connection
17 with pressure valve releases for control
18 over process upsets shall be controlled
19 so that the shade or the appearance of
20 the emission does not exceed 20 percent
21 opacity for a combined total of six (6)
22 hours in any 10 consecutive days."
23 LAC 33:III.1107.A allows LDEQ to
24 grant an exception from the provisions
25 of LAC 33:III.1105 "during start-up and

1 shutdown periods if the flaring was not
2 the result of failure to maintain or
3 repair equipment." This exception was
4 approved by EPA into Louisiana's State
5 Implementation Plan (SIP) on July 5,
6 2011. This can be found at 76 Federal
7 Register 38977.
8 However, on June 12, 2015, EPA
9 promulgated a Rule finding that several
10 Louisiana Air Quality regulations,
11 including LAC 33:III.1507.A and B, are
12 "substantially inadequate to meet Clean
13 Air Act requirements" because they
14 provide "impermissible discretionary
15 exceptions" from "otherwise applicable
16 SIP emission limitations."
17 Consequently, EPA issued a "SIP call"
18 directing affected states to submit
19 corrective SIP revisions by November 22,
20 2016.
21 In response to EPA's SIP call, LDEQ
22 will repeal LAC 33:III.1107.A for two
23 primary reasons. One, there is
24 incongruity between the provisions of
25 LAC 33:III.1105 and LAC 33:III.1107.A.

LAC 33:III.1105 applies to the flaring in connection with process upsets, whereas LAC 33:III.1107.A addresses start-up and shutdown periods (not malfunctions or upsets).

Two, the other standards for flares that are commonly applicable, such as 40 CFR 63.11(b)(4), require the control device to "be designed for and operated with no visible emissions, except for periods not to exceed a total of five (5) minutes during any two (2) consecutive hours."

Does anyone care to comment on this regulation? (No response.)

If not, the hearing on AQ361 is closed.

Thank you for your attention and participation.

This hearing is now closed.

(THE HEARING ADJOURNED AT 1:37 P.M.)

1 **C E R T I F I C A T E**

2 This certification is valid only for a transcript
3 accompanied by my original signature and official seal on this
4 page.

5 I, SUSAN ERKEL, Certified Court Reporter, in and for the
6 State of Louisiana, as the officer before whom this public
7 hearing was taken, do hereby certify that the foregoing 6 pages
8 were reported by me in the voice-writing method, and was
9 prepared and transcribed by me or under my personal direction
10 and supervision, and is a true and correct transcript to the
11 best of my ability and understanding;

12 That the transcript has been prepared in compliance with
13 transcript format guidelines required by statute or by rules of
14 the board;

15 That I have acted in compliance with the prohibition on
16 contractual relationships, as defined by Louisiana Code of
17 Civil Procedure Article 1434 and in rules and advisory opinions
18 of the board; and

19 That I am not related to counsel or to the parties
20 herein, nor am I otherwise interested in the outcome of this
21 matter.

22 Susan Erkel

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24 CERTIFIED COURT REPORTER
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1 **R E P O R T E R ' S P A G E**

2

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4 the State of Louisiana, before whom this sworn testimony
5 was taken, do hereby state on the Record:
6 That due to the interaction in the spontaneous
7 discourse of this proceeding, dashes (--) have been used
8 to indicate pauses, changes in thought, and/or talkovers;
9 That same is the proper method for a Court Reporter's
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11 not indicate that words or phrases have been left out of
12 this transcript;
13 That any words and/or names which could not be
14 verified through reference material have been denoted with
15 the phrase "(spelled phonetically)."
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17 Susan Erkel
18
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In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY

LOG# AQ361 REPEAL OF LAC 33:III.1107.A

PUBLIC HEARING

May 25, 2016

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In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY

LOG# AQ361 REPEAL OF LAC 33:III.1107.A

PUBLIC HEARING

May 25, 2016

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STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL SERVICES

PUBLIC HEARING IN RE:

LOG# AQ361
REPEAL OF LAC 33:III.1107.A

* *

A Public Hearing was held by the Louisiana Department of Environmental Quality, Office of Environmental Services, at the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, Louisiana 70802, beginning at 1:34 p.m. on Wednesday, May 25, 2016.

* *

Reported by:
Susan Erkel
Certified Court Reporter
In and for the State of Louisiana

A P P E A R A N C E S

HEARING OFFICER:
Susan Ham
Department of Environmental Quality
Office of Environmental Services
602 North Fifth Street
Baton Rouge, Louisiana 70802

* * * * * * * * * *

P R O C E E D I N G S

MS. HAM:

Good afternoon. My name is Susan Ham, and I am employed by the Louisiana Department of Environmental Quality. I'll be serving as the Hearing Officer this afternoon to receive comments regarding a proposed amendments to the Air and Office of Secretary Regulations.

The comment period for these amendments began on April 20, 2016, when the Notices of Intent were published in the "Louisiana Register". The comment period will close at 4:30 p.m. today, May 25, 2016 for the Log Number(s) AQ359ft and 1604Pot1, and at 4:30 p.m., June 1, 2016, for the Log Number(s) AQ361 and AQ362. It would be helpful to us if all oral comments received today were followed up in writing.

This public hearing provides a forum for all interested parties to present comments on the proposed changes. This hearing is not being conducted in a question and answer format. Please

remember that the purpose of this public hearing is to allow you, the public, an opportunity to express your thoughts concerning today's proposed amendments.

I'll ask that each person commenting come up and sit at the front table and begin by stating his or her name and affiliation for the record.

The next amendment is designated by the Log Number AQ361. This Rule will repeal LAC 33:III.1107.A. In LAC 33:III.1105 (Smoke from Flaring Shall Not Exceed 20 Percent Opacity) provides, in relevant part, that the "emission of smoke from a flare or other similar device used for burning in connection with pressure valve releases for control over process upsets shall be controlled so that the shade or the appearance of the emission does not exceed 20 percent opacity for a combined total of six (6) hours in any 10 consecutive days."

LAC 33:III.1107.A allows LDEQ to grant an exception from the provisions of LAC 33:III.1105 "during start-up and

1 shutdown periods if the flaring was not
2 the result of failure to maintain or
3 repair equipment." This exception was
4 approved by EPA into Louisiana's State
5 Implementation Plan (SIP) on July 5,
6 2011. This can be found at 76 Federal
7 Register 38977.
8 However, on June 12, 2015, EPA
9 promulgated a Rule finding that several
10 Louisiana Air Quality regulations,
11 including LAC 33:III.1507.A and B, are
12 "substantially inadequate to meet Clean
13 Air Act requirements" because they
14 provide "impermissible discretionary
15 exceptions" from "otherwise applicable
16 SIP emission limitations."
17 Consequently, EPA issued a "SIP call"
18 directing affected states to submit
19 corrective SIP revisions by November 22,
20 2016.
21 In response to EPA's SIP call, LDEQ
22 will repeal LAC 33:III.1107.A for two
23 primary reasons. One, there is
24 incongruity between the provisions of
25 LAC 33:III.1105 and LAC 33:III.1107.A.

1 LAC 33:III.1105 applies to the flaring
2 in connection with process upsets,
3 whereas LAC 33:III.1107.A addresses
4 start-up and shutdown periods (not
5 malfunctions or upsets).
6 Two, the other standards for flares
7 that are commonly applicable, such as 40
8 CFR 63.11(b)(4), require the control
9 device to "be designed for and operated
10 with no visible emissions, except for
11 periods not to exceed a total of five
12 (5) minutes during any two (2)
13 consecutive hours."
14 Does anyone care to comment on this
15 regulation? (No response.)
16 If not, the hearing on AQ361 is
17 closed.
18 Thank you for your attention and
19 participation.
20 This hearing is now closed.
21
22 (THE HEARING ADJOURNED AT 1:37 P.M.)
23
24
25

1 C E R T I F I C A T E
2 This certification is valid only for a transcript
3 mpanied by my original signature and official seal on this
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6 e of Louisiana, as the officer before whom this public
7 ing was taken, do hereby certify that the foregoing 6 pages
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9 ared and transcribed by me or under my personal direction
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11 of my ability and understanding;
12 That the transcript has been prepared in compliance with
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15 That I have acted in compliance with the prohibition on
16 ractual relationships, as defined by Louisiana Code of
17 l Procedure Article 1434 and in rules and advisory opinions
18 he board; and
19 That I am not related to counsel or to the parties
20 in, nor am I otherwise interested in the outcome of this
21 er.
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5 taken, do hereby state on the Record:
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7 ourse of this proceeding, dashes (--) have been used
8 ndicate pauses, changes in thought, and/or talkovers;
9 That same is the proper method for a Court Reporter's
10 scription of proceedings, and that the dashes (--) do
11 indicate that words or phrases have been left out of
12 transcript;
13 That any words and/or names which could not be
14 fied through reference material have been denoted with
15 phrase "(spelled phonetically)."
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ORIGINAL

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL SERVICES

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LEGAL DIVISION

PUBLIC HEARING IN RE:

LOG# AQ362

REPEAL OF LAC 33:III.2153.B.1.I

* *

A Public Hearing was held by the Louisiana Department of Environmental Quality, Office of Environmental Services, at the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, Louisiana 70802, beginning at 1:37 p.m. on Wednesday, May 25, 2016.

* *

Reported by:

Susan Erkel

Certified Court Reporter

In and for the State of Louisiana

1 **A P P E A R A N C E S**

2

3 **HEARING OFFICER:**

4 Susan Ham

5 Department of Environmental Quality

6 Office of Environmental Services

7 602 North Fifth Street

8 Baton Rouge, Louisiana 70802

9

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1 **P R O C E E D I N G S**

2 **MS. HAM:**

3 Good afternoon. My name is Susan
4 Ham, and I am employed by the Louisiana
5 Department of Environmental Quality.
6 I'll be serving as the Hearing Officer
7 this afternoon to receive comments
8 regarding a proposed amendments to the
9 Air and Office of Secretary Regulations.
10 The comment period for these
11 amendments began on April 20, 2016, when
12 the Notices of Intent were published in
13 the "Louisiana Register". The comment
14 period will close at 4:30 p.m. today,
15 May 25, 2016 for the Log Number(s)
16 AQ359ft and 1604Pot1, and at 4:30 p.m.,
17 June 1, 2016, for the Log Number(s)
18 AQ361 and AQ362. It would be helpful to
19 us if all oral comments received today
20 were followed up in writing.
21 This public hearing provides a forum
22 for all interested parties to present
23 comments on the proposed changes. This
24 hearing is not being conducted in a
25 question and answer format. Please

1 remember that the purpose of this public
2 hearing is to allow you, the public, an
3 opportunity to express your thoughts
4 concerning today's proposed amendments.
5 I'll ask that each person commenting
6 come up and sit at the front table and
7 begin by stating his or her name and
8 affiliation for the record.
9 The next amendment is designated by
10 the Log Number AQ362. This Rule will
11 repeal LAC 33:III.2153.B.1.i. In LAC
12 33:III.2153 (Limiting VOC Emissions from
13 Industrial Wastewater) requires
14 "affected VOC wastewater streams" to be
15 controlled. More specifically, LAC
16 33:III.2153.B.1.d.i requires vents on
17 covers and certain junction box covers
18 to be "equipped with either a control
19 device or a vapor recovery system that
20 maintains a minimum control efficiency
21 of 90 percent VOC removal or a VOC
22 concentration of less than or equal to
23 50 parts per million by volume."
24 LAC 33:III.2153.B.1.i provides that
25 the aforementioned control device or

1 recovery device is "not required to meet
2 the 90 percent removal efficiency or 50
3 parts per million by volume
4 concentration during periods of
5 malfunction or maintenance on the
6 devices for periods not to exceed 336
7 hours per year." This exception was
8 approved by EPA into the Louisiana State
9 Implementation Plan (SIP) on July 5,
10 2011. It can be found at 76 Federal
11 Register 38977.
12 However, on June 12, 2015, EPA
13 promulgated a rule finding that several
14 Louisiana Air Quality regulations,
15 including LAC 33:III.2153.B.1.i, are
16 "substantially inadequate to meet Clean
17 Air Act requirements" because they
18 provide "automatic exceptions for excess
19 emissions from otherwise applicable SIP
20 emission limitations." Consequently,
21 EPA issued a "SIP call" directing
22 affected states to submit corrective SIP
23 revisions by November 22, 2016.
24 Therefore, in response to EPA's SIP
25 call, LDEQ will repeal LAC

33:IIII.2153.B.1.i.

Does anyone care to comment on this regulation? (No response.)

If not, the hearing on AQ362 is closed.

Thank you for your attention and participation.

This hearing is now closed.

(THE HEARING ADJOURNED AT 1:40 P.M.)

1 C E R T I F I C A T E

2 This certification is valid only for a transcript
3 accompanied by my original signature and official seal on this
4 page.

5 I, SUSAN ERKEL, Certified Court Reporter, in and for the
6 State of Louisiana, as the officer before whom this public
7 hearing was taken, do hereby certify that the foregoing 6 pages
8 were reported by me in the voice-writing method, and was
9 prepared and transcribed by me or under my personal direction
10 and supervision, and is a true and correct transcript to the
11 best of my ability and understanding;

12 That the transcript has been prepared in compliance with
13 transcript format guidelines required by statute or by rules of
14 the board;

15 That I have acted in compliance with the prohibition on
16 contractual relationships, as defined by Louisiana Code of
17 Civil Procedure Article 1434 and in rules and advisory opinions
18 of the board; and

19 That I am not related to counsel or to the parties
20 herein, nor am I otherwise interested in the outcome of this
21 matter.

22 Susan Erkel

23 SUSAN ERKEL
24 CERTIFIED COURT REPORTER
25 LICENSE NO. 24005

1 R E P O R T E R ' S P A G E

2

3 I, SUSAN ERKEL, Certified Court Reporter in and for
4 the State of Louisiana, before whom this sworn testimony
5 was taken, do hereby state on the Record:
6 That due to the interaction in the spontaneous
7 discourse of this proceeding, dashes (--) have been used
8 to indicate pauses, changes in thought, and/or talkovers;
9 That same is the proper method for a Court Reporter's
10 transcription of proceedings, and that the dashes (--) do
11 not indicate that words or phrases have been left out of
12 this transcript;
13 That any words and/or names which could not be
14 verified through reference material have been denoted with
15 the phrase "(spelled phonetically)."
16
17
18 Susan Erkel
19 SUSAN ERKEL
20 CERTIFIED COURT REPORTER
21 LICENSE NO. 24005
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25

In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY

LOG# AQ362 REPEAL OF LAC 33:III.2153.B.1.I

PUBLIC HEARING

May 25, 2016

Associated Reporters, Incorporated

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In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY

LOG# AQ362 REPEAL OF LAC 33:III.2153.B.1.I

PUBLIC HEARING

May 25, 2016

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STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL SERVICES

PUBLIC HEARING IN RE:

LOG# AQ362
REPEAL OF LAC 33:III.2153.B.1.I

* *

A Public Hearing was held by the Louisiana Department of Environmental Quality, Office of Environmental Services, at the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, Louisiana 70802, beginning at 1:37 p.m. on Wednesday, May 25, 2016.

* *

Reported by:
Susan Erkel
Certified Court Reporter
In and for the State of Louisiana

A P P E A R A N C E S

HEARING OFFICER:
Susan Ham
Department of Environmental Quality
Office of Environmental Services
602 North Fifth Street
Baton Rouge, Louisiana 70802

* * * * * * * * * *

P R O C E E D I N G S

MS. HAM:

Good afternoon. My name is Susan Ham, and I am employed by the Louisiana Department of Environmental Quality. I'll be serving as the Hearing Officer this afternoon to receive comments regarding a proposed amendments to the Air and Office of Secretary Regulations.

The comment period for these amendments began on April 20, 2016, when the Notices of Intent were published in the "Louisiana Register". The comment period will close at 4:30 p.m. today, May 25, 2016 for the Log Number(s) AQ359ft and 1604Pot1, and at 4:30 p.m., June 1, 2016, for the Log Number(s) AQ361 and AQ362. It would be helpful to us if all oral comments received today were followed up in writing.

This public hearing provides a forum for all interested parties to present comments on the proposed changes. This hearing is not being conducted in a question and answer format. Please

remember that the purpose of this public hearing is to allow you, the public, an opportunity to express your thoughts concerning today's proposed amendments.

I'll ask that each person commenting come up and sit at the front table and begin by stating his or her name and affiliation for the record.

The next amendment is designated by the Log Number AQ362. This Rule will repeal LAC 33:III.2153.B.1.i. In LAC 33:III.2153 (Limiting VOC Emissions from Industrial Wastewater) requires "affected VOC wastewater streams" to be controlled. More specifically, LAC 33:III.2153.B.1.d.i requires vents on covers and certain junction box covers to be "equipped with either a control device or a vapor recovery system that maintains a minimum control efficiency of 90 percent VOC removal or a VOC concentration of less than or equal to 50 parts per million by volume."

LAC 33:III.2153.B.1.i provides that the aforementioned control device or

Page 5

1 recovery device is "not required to meet
2 the 90 percent removal efficiency or 50
3 parts per million by volume
4 concentration during periods of
5 malfunction or maintenance on the
6 devices for periods not to exceed 336
7 hours per year." This exception was
8 approved by EPA into the Louisiana State
9 Implementation Plan (SIP) on July 5,
10 2011. It can be found at 76 Federal
11 Register 38977.
12 However, on June 12, 2015, EPA
13 promulgated a rule finding that several
14 Louisiana Air Quality regulations,
15 including LAC 33:III.2153.B.1.i, are
16 "substantially inadequate to meet Clean
17 Air Act requirements" because they
18 provide "automatic exceptions for excess
19 emissions from otherwise applicable SIP
20 emission limitations." Consequently,
21 EPA issued a "SIP call" directing
22 affected states to submit corrective SIP
23 revisions by November 22, 2016.
24 Therefore, in response to EPA's SIP
25 call, LDEQ will repeal LAC

Page 6

1 33:III.2153.B.1.i.
2 Does anyone care to comment on this
3 regulation? (No response.)
4 If not, the hearing on AQ362 is
5 closed.
6 Thank you for your attention and
7 participation.
8 This hearing is now closed.
9
10 (THE HEARING ADJOURNED AT 1:40 P.M.)
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Page 7

1 C E R T I F I C A T E
2 This certification is valid only for a transcript
3 mpanied by my original signature and official seal on this
4 .
5 I, SUSAN ERKEL, Certified Court Reporter, in and for the
6 e of Louisiana, as the officer before whom this public
7 ing was taken, do hereby certify that the foregoing 6 pages
8 reported by me in the voice-writing method, and was
9 ared and transcribed by me or under my personal direction
10 supervision, and is a true and correct transcript to the
11 of my ability and understanding;
12 That the transcript has been prepared in compliance with
13 script format guidelines required by statute or by rules of
14 board;
15 That I have acted in compliance with the prohibition on
16 ractual relationships, as defined by Louisiana Code of
17 l Procedure Article 1434 and in rules and advisory opinions
18 he board; and
19 That I am not related to counsel or to the parties
20 in, nor am I otherwise interested in the outcome of this
21 er.
22
23 SUSAN ERKEL
24 CERTIFIED COURT REPORTER
25 LICENSE NO. 24005

Page 8

1 R E P O R T E R ' S P A G E
2
3 I, SUSAN ERKEL, Certified Court Reporter in and for
4 State of Louisiana, before whom this sworn testimony
5 taken, do hereby state on the Record:
6 That due to the interaction in the spontaneous
7 ourse of this proceeding, dashes (--) have been used
8 ndicate pauses, changes in thought, and/or talkovers;
9 That same is the proper method for a Court Reporter's
10 scription of proceedings, and that the dashes (--) do
11 indicate that words or phrases have been left out of
12 transcript;
13 That any words and/or names which could not be
14 fied through reference material have been denoted with
15 phrase "(spelled phonetically)."
16
17
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19 SUSAN ERKEL
20 CERTIFIED COURT REPORTER
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22
23
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25

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DEPARTMENT OF ENVIRONMENTAL QUALITY

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LEGAL DIVISION

Repeal of LAC 33:III.2307.C

Log Number: AQ363

The public hearing in the above titled matter was taken at the Department of Environmental Quality, 602 North Fifth Street, Baton Rouge, Louisiana, beginning at 1:35 p.m. on July 27, 2016.

Before Mark LaCour, Certified Stenomask Reporter, in and for the State of Louisiana.

1 **H E A R I N G**

2 **MS. HAM:**

3 Good afternoon! My name is Susan
4 Ham, and I'm employed by the Louisiana
5 Department of Environmental Quality.
6 I'll be serving as hearing officer this
7 afternoon to receive comments regarding
8 proposed amendments to the air
9 regulations.
10 The comment period for these
11 amendments began on June 20, 2016, when
12 the notice of intent was published in
13 the Louisiana Register. The comment
14 period will close at 4:30 p.m. August 3,
15 2016. It would be helpful to us if all
16 oral comments received today were
17 followed up in writing.
18 This public hearing provides a
19 forum for all interested parties to
20 present comments on the proposed
21 changes. This hearing is not being
22 conducted in a question and answer
23 format. Please remember that the
24 purpose of this public hearing is to
25 allow you, the public, an opportunity to

1 express your thoughts concerning today's
2 proposed amendments.
3 I'll ask that each person
4 commenting come up and sit at the front
5 table and begin by stating his or her
6 name and affiliation for the record.
7 The next amendment is designated
8 by the log number AQ363.
9 This rule will repeal LAC
10 33:III.2307.C, which applies to the
11 nitric acid plants that are not subject
12 to 40 CFR 60 subpart G or standards of
13 performance for nitric acid plants.
14 LAC 33:III.2307.C.1.a states, in
15 relevant part, that a four hour startup
16 exemption from NOX emission regulations
17 may be authorized by the administrative
18 authority for plants not subject to 40
19 CFR part 60, subpart G. LAC
20 33:III.2307.C.2.a provides a similar
21 exemption where upsets have caused
22 excessive emissions and online operating
23 changes will eliminate a temporary
24 condition. These provisions were
25 approved by EPA into Louisiana's State

1 Implementation Plan (SIP) on July 5,
2 2011 (76 FR 38977).
3 However, on June 12, 2015, EPA
4 promulgated a rule finding that several
5 Louisiana air quality regulations,
6 including LAC 33:III.2307.C, are
7 substantially inadequate to meet the
8 Clean Air Act] requirements because they
9 provide impermissible discretionary
10 exemptions from otherwise applicable SIP
11 emission limitations. Consequently, EPA
12 issued a SIP call directing affected
13 states to submit corrective SIP
14 revisions by November 22, 2016.
15 Based on a review of the effective
16 permits, LDEQ identified only one nitric
17 acid plant that is not subject to 40 CFR
18 60 subpart G, that being Nitric Acid
19 Train 4 located at PCS Nitrogen
20 Fertilizer's Geismar Agricultural
21 Nitrogen and Phosphate Plant (Agency
22 Interest Number 3732). Nitric Acid
23 Train 4 is currently operating under
24 Permit Number 2240-V8, which was issued
25 February 6, 2015.

A Consent Decree between EPA, LDEQ, and PCS which is civil action number 14-707-BAJ-SCR, entered February 26, 2014, requires PCS to install NOX control equipment (i.e., selective catalytic reduction, or SCR) on their Nitric Acid Train 4 as a supplemental environmental project. Based on conversations with representatives from PCS, LDEQ understands that the SCR control device will be installed in summer of 2016 and, after that time, the exemptions provided by LAC 33:III.2307.C will no longer be needed. Therefore, in response to EPA's SIP call, LDEQ will repeal LAC 33:III.2307.C.

Does anyone care to comment on this regulation?

If not, the hearing on AQ363 is closed.

THE HEARING CLOSED AT 1:39 P.M.

* * * * *

1 **R E P O R T E R ' S P A G E**

2 I, Mark LaCour, Certified Court
3 Reporter, in and for the State of Louisiana,
4 the officer, as defined in Rule 28 of the
5 Federal Rules of Civil Procedure and/or
6 Article 1434(b) of the Louisiana Code of Civil
7 Procedure, before whom this hearing testimony
8 was taken, do hereby state on the record:
9 That due to the interaction in the
10 spontaneous discourse of this proceeding,
11 dashes (--) have been used to indicate pauses,
12 changes in thought, and/or talk overs; that
13 same is the proper method for a Court
14 Reporter's transcription of proceeding, and
15 that the dashes (--) do not indicate that
16 words or phrases have been left out of this
17 transcript.
18 Also, any words and/or names which could
19 not be verified through reference material
20 have been denoted with the phrase
21 "(inaudible)."
22
23 _____
24 Mark LaCour, C.C.R.
25 # 89054

1 **C E R T I F I C A T I O N**

2 I, the undersigned reporter, do hereby
3 certify that the above and foregoing is a true
4 and correct transcription of the stenomask
5 tape of the proceedings had herein, taken down
6 by me and transcribed under my supervision, to
7 the best of my ability and understanding, at
8 the time and place hereinbefore noted, in the
9 above-entitled cause.
10 I further certify that the witness was
11 duly sworn by me in my capacity as a Certified
12 Court Reporter pursuant to the provisions of
13 R.S. 37:2551 et seq. in and for the state of
14 Louisiana; that I am not of counsel nor
15 related to any of the counsel of any of the
16 parties, nor in the employ of any of parties,
17 and that I have no interest in the outcome of
18 this action.
19 I further certify that my license is in
20 good standing as a court reporter in and for
21 the state of Louisiana.
22
23 _____
24 Mark LaCour, C.C.R.
25 # 89054

In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY

Repeal of LAC 33:III.2307.C Log Number: AQ363

PUBLIC HEARING

July 27, 2016

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In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY

Repeal of LAC 33:III.2307.C Log Number: AQ363

PUBLIC HEARING

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DEPARTMENT OF ENVIRONMENTAL QUALITY

Repeal of LAC 33:III.2307.C

Log Number: AQ363

The public hearing in the above titled matter was taken at the Department of Environmental Quality, 602 North Fifth Street, Baton Rouge, Louisiana, beginning at 1:35 p.m. on July 27, 2016.

Before Mark LaCour, Certified Stenomask Reporter, in and for the State of Louisiana.

HEARING

MS. HAM:

Good afternoon! My name is Susan Ham, and I'm employed by the Louisiana Department of Environmental Quality. I'll be serving as hearing officer this afternoon to receive comments regarding proposed amendments to the air regulations.

The comment period for these amendments began on June 20, 2016, when the notice of intent was published in the Louisiana Register. The comment period will close at 4:30 p.m. August 3, 2016. It would be helpful to us if all oral comments received today were followed up in writing.

This public hearing provides a forum for all interested parties to present comments on the proposed changes. This hearing is not being conducted in a question and answer format. Please remember that the purpose of this public hearing is to allow you, the public, an opportunity to

express your thoughts concerning today's proposed amendments.

I'll ask that each person commenting come up and sit at the front table and begin by stating his or her name and affiliation for the record.

The next amendment is designated by the log number AQ363.

This rule will repeal LAC 33:III.2307.C, which applies to the nitric acid plants that are not subject to 40 CFR 60 subpart G or standards of performance for nitric acid plants.

LAC 33:III.2307.C.1.a states, in relevant part, that a four hour startup exemption from NOX emission regulations may be authorized by the administrative authority for plants not subject to 40 CFR part 60, subpart G. LAC 33:III.2307.C.2.a provides a similar exemption where upsets have caused excessive emissions and online operating changes will eliminate a temporary condition. These provisions were approved by EPA into Louisiana's State

Implementation Plan (SIP) on July 5, 2011 (76 FR 38977).

However, on June 12, 2015, EPA promulgated a rule finding that several Louisiana air quality regulations, including LAC 33:III.2307.C, are substantially inadequate to meet the Clean Air Act] requirements because they provide impermissible discretionary exemptions from otherwise applicable SIP emission limitations. Consequently, EPA issued a SIP call directing affected states to submit corrective SIP revisions by November 22, 2016.

Based on a review of the effective permits, LDEQ identified only one nitric acid plant that is not subject to 40 CFR 60 subpart G, that being Nitric Acid Train 4 located at PCS Nitrogen Fertilizer's Geismar Agricultural Nitrogen and Phosphate Plant (Agency Interest Number 3732). Nitric Acid Train 4 is currently operating under Permit Number 2240-V8, which was issued February 6, 2015.

A Consent Decree between EPA, LDEQ, and PCS which is civil action number 14 707 BAJ SCR, entered February 26, 2014, requires PCS to install NOX control equipment (i.e., selective catalytic reduction, or SCR) on their Nitric Acid Train 4 as a supplemental environmental project. Based on conversations with representatives from PCS, LDEQ understands that the SCR control device will be installed in summer of 2016 and, after that time, the exemptions provided by LAC 33:III.2307.C will no longer be needed. Therefore, in response to EPA's SIP call, LDEQ will repeal LAC 33:III.2307.C.

Does anyone care to comment on this regulation?

If not, the hearing on AQ363 is closed.

THE HEARING CLOSED AT 1:39 P.M.

* * * * *

REPORTER'S PAGE

I, Mark LaCour, Certified Court Reporter, in and for the State of Louisiana, the officer, as defined in Rule 28 of the Federal Rules of Civil Procedure and/or Article 1434(b) of the Louisiana Code of Civil Procedure, before whom this hearing testimony was taken, do hereby state on the record:

That due to the interaction in the spontaneous discourse of this proceeding, dashes (--) have been used to indicate pauses, changes in thought, and/or talk overs; that same is the proper method for a Court Reporter's transcription of proceeding, and that the dashes (--) do not indicate that words or phrases have been left out of this transcript.

Also, any words and/or names which could not be verified through reference material have been denoted with the phrase "(inaudible)."

Mark LaCour, C.C.R.
89054

CERTIFICATION

I, the undersigned reporter, do hereby certify that the above and foregoing is a true and correct transcription of the stenomask tape of the proceedings had herein, taken down by me and transcribed under my supervision, to the best of my ability and understanding, at the time and place hereinbefore noted, in the above-entitled cause.

I further certify that the witness was duly sworn by me in my capacity as a Certified Court Reporter pursuant to the provisions of R.S. 37:2551 et seq. in and for the state of Louisiana; that I am not of counsel nor related to any of the counsel of any of the parties, nor in the employ of any of parties, and that I have no interest in the outcome of this action.

I further certify that my license is in good standing as a court reporter in and for the state of Louisiana.

Mark LaCour, C.C.R.
89054

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ORIGINAL

DEPARTMENT OF ENVIRONMENTAL QUALITY

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LA. DEPT. OF ENV. QUALITY
LEGAL DIVISION

Work Practice Standards

During Start-up and Shutdown

Log Number: AQ364

The public hearing in the above titled matter was taken at the Department of Environmental Quality, 602 North Fifth Street, Baton Rouge, Louisiana, beginning at 1:39 p.m. on July 27, 2016.

Before Mark LaCour, Certified Stenomask Reporter, in and for the State of Louisiana.

1 **H E A R I N G**

2 **MS. HAM:**

3 Good afternoon! My name is Susan
4 Ham, and I'm employed by the Louisiana
5 Department of Environmental Quality.
6 I'll be serving as hearing officer this
7 afternoon to receive comments regarding
8 proposed amendments to the air
9 regulations.
10 The comment period for these
11 amendments began on June 20, 2016, when
12 the notice of intent was published in
13 the Louisiana Register. The comment
14 period will close at 4:30 p.m. August 3,
15 2016. It would be helpful to us if all
16 oral comments received today were
17 followed up in writing.
18 This public hearing provides a
19 forum for all interested parties to
20 present comments on the proposed
21 changes. This hearing is not being
22 conducted in a question and answer
23 format. Please remember that the
24 purpose of this public hearing is to
25 allow you, the public, an opportunity to

express your thoughts concerning today's proposed amendments.

I'll ask that each person commenting come up and sit at the front table and begin by stating his or her name and affiliation for the record.

The next amendment is designated by the log number AQ364.

This rule will repeal the exemption set forth in LAC 33:III.2201.C.8 and replace it with provisions allowing the owner/operator of an affected point source to comply either with the emission factors imposed by LAC 33:III.2201.D at all times, including periods of start-up and shutdown, or with newly established work practice standards designed to minimize emissions during periods of start-up and shutdown.

LAC 33:III.2201 establishes NOX standards for certain boilers, process heaters/furnaces, stationery gas turbines, and stationary internal combustion engines located at affected

1 facilities in the following nine
2 parishes: Ascension, East Baton Rouge,
3 East Feliciana, Iberville, Livingston,
4 Pointe Coupee, St. Helena, West Baton
5 Rouge, and West Feliciana.
6 LAC 33:III.2201.C.8 provides an
7 exemption from the aforementioned NOX
8 standards during start-up and shutdown
9 are during a malfunction. Notably, this
10 exemption does not apply to units that
11 are shutdown intentionally on a routine
12 basis (i.e., more than once per month).
13 This provision was approved by EPA into
14 Louisiana's State Implementation Plan
15 (SIP) on July 5, 2011 (76 FR 38977).
16 However, on June 12, 2015, EPA
17 promulgated a rule finding that several
18 Louisiana air quality regulations,
19 including LAC 33:III.2201.C.8 are
20 substantially inadequate to meet the
21 Clean Air Act requirements because they
22 provide automatic exemptions for excess
23 emissions from otherwise applicable SIP
24 emission limitations. Consequently, EPA
25 issued a SIP call directing affected

1 states to submit corrective SIP
2 revisions by November 22, 2016.
3 In this same rulemaking, EPA
4 revised and updated its start-up,
5 shutdown, and malfunction (SSM) policy
6 for SIP provisions. According to EPA's
7 SSM SIP policy as of 2015 (80 FR 33976),
8 SIP emission limitations must be
9 applicable to the source continuously,
10 but do not need to be numerical in
11 format, do not have to apply the same
12 limitation (e.g., numerical level) at
13 all times. It may be composed of a
14 combination of numerical limitations,
15 specific technological control
16 requirements and/or work practice
17 requirements, with each component of the
18 emission limitation applicable during a
19 defined mode of source operation.
20 In response to EPA's SIP call,
21 LDEQ will repeal the exemption set forth
22 in LAC 33:III.2201.C.8 and amend chapter
23 22 to allow the owner/operator of an
24 affected point source to comply either
25 with the emission factors imposed by LAC

1 33:III.2201.D at all times (including
2 periods of start-up and shutdown) or
3 with the newly established work practice
4 standards designed to minimize emissions
5 during periods of start-up and shutdown.
6 Does anyone care to comment on
7 this regulation?
8 **MR. GRAHAM:**
9 Good afternoon. My name is Henry
10 Graham. I am vice-president of
11 environmental affairs and legal counsel
12 for the Louisiana Chemical Association.
13 LCA is a trade association chemical
14 manufacturer and some of our members are
15 located within the Baton Rouge five
16 parish non-attainment area subject to
17 these -- this rulemaking. We do plan to
18 submit written comments on this
19 particular rule applied to the comment
20 deadline. We also will probably be
21 commenting on the proposed SIP provision
22 that you have proposed in the Potpourri
23 notice and obviously we will have a
24 hearing later this next month. Some of
25 our concerns with this particular

1 rulemaking, we certainly appreciate the
2 flexibility that DEQ has had in its
3 current SIP and we do not believe that
4 repeal of some of these exemptions is
5 the only option afforded to the agency,
6 that some flexibility may still remain
7 within the EPA SIP policy rather than
8 simply repealing some of the provisions
9 that are in question. We do recognize
10 that a use of work practice standards as
11 an alternative is a good option.
12 However, it appears that the review of
13 sub-section E shows alternative plans
14 were only referenced in emission factors
15 and not the work practice standards. So
16 were not sure if that was a technical
17 glitch in the reference materials or
18 not. We also have some concern because
19 different units have different times for
20 start-ups and shutdowns. It's not a
21 one-size-fits-all. Some may take up to
22 18 hours to get to start-up or shutdown.
23 And as pointed out in that guidance
24 which was recently cited they don't all
25 have to have the same numerical limits

so we think that some flexibility is needed, especially in the fact that these alternative plans have to be pre-approved prior to use. So there will take some time and place to be able to initiate that and that may require that you get additional time before imposing this requirement.

Again, we plan to submit some additional comments on this in writing and thank you for your opportunity to comment today.

MS. HAM:

Thank you, Henry. Does anyone else care to comment on this regulation?

If not, the hearing on AQ364 is closed. I'd like to thank you for your attention and participation.

This hearing is closed.

THE HEARING ENDED AT 1:46 P.M.

* * * * *

1 **R E P O R T E R ' S P A G E**

2 I, Mark LaCour, Certified Court
3 Reporter, in and for the State of Louisiana,
4 the officer, as defined in Rule 28 of the
5 Federal Rules of Civil Procedure and/or
6 Article 1434(b) of the Louisiana Code of Civil
7 Procedure, before whom this hearing testimony
8 was taken, do hereby state on the record:
9 That due to the interaction in the
10 spontaneous discourse of this proceeding,
11 dashes (--) have been used to indicate pauses,
12 changes in thought, and/or talk overs; that
13 same is the proper method for a Court
14 Reporter's transcription of proceeding, and
15 that the dashes (--) do not indicate that
16 words or phrases have been left out of this
17 transcript.
18 Also, any words and/or names which could
19 not be verified through reference material
20 have been denoted with the phrase
21 "(inaudible)."
22
23 _____
24 Mark LaCour, C.C.R.
25 # 89054

1 **C E R T I F I C A T I O N**

2 I, the undersigned reporter, do hereby
3 certify that the above and foregoing is a true
4 and correct transcription of the stenomask
5 tape of the proceedings had herein, taken down
6 by me and transcribed under my supervision, to
7 the best of my ability and understanding, at
8 the time and place hereinbefore noted, in the
9 above-entitled cause.
10 I further certify that the witness was
11 duly sworn by me in my capacity as a Certified
12 Court Reporter pursuant to the provisions of
13 R.S. 37:2551 et seq. in and for the state of
14 Louisiana; that I am not of counsel nor
15 related to any of the counsel of any of the
16 parties, nor in the employ of any of parties,
17 and that I have no interest in the outcome of
18 this action.
19 I further certify that my license is in
20 good standing as a court reporter in and for
21 the state of Louisiana.
22
23 _____
24 Mark LaCour, C.C.R.
25 # 89054

In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY

Work Practice Standards Log Number: AQ364

PUBLIC HEARING

July 27, 2016

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LEGAL DIVISION

In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY

Work Practice Standards Log Number: AQ364

PUBLIC HEARING

July 27, 2016

Associated Reporters, Incorporated

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DEPARTMENT OF ENVIRONMENTAL QUALITY

Work Practice Standards
During Start-up and Shutdown

Log Number: AQ364

The public hearing in the above titled matter was taken at the Department of Environmental Quality, 602 North Fifth Street, Baton Rouge, Louisiana, beginning at 1:39 p.m. on July 27, 2016.

Before Mark LaCour, Certified Stenomask Reporter, in and for the State of Louisiana.

HEARING

MS. HAM:

Good afternoon! My name is Susan Ham, and I'm employed by the Louisiana Department of Environmental Quality. I'll be serving as hearing officer this afternoon to receive comments regarding proposed amendments to the air regulations.

The comment period for these amendments began on June 20, 2016, when the notice of intent was published in the Louisiana Register. The comment period will close at 4:30 p.m. August 3, 2016. It would be helpful to us if all oral comments received today were followed up in writing.

This public hearing provides a forum for all interested parties to present comments on the proposed changes. This hearing is not being conducted in a question and answer format. Please remember that the purpose of this public hearing is to allow you, the public, an opportunity to

express your thoughts concerning today's proposed amendments.

I'll ask that each person commenting come up and sit at the front table and begin by stating his or her name and affiliation for the record.

The next amendment is designated by the log number AQ364.

This rule will repeal the exemption set forth in LAC 33:III.2201.C.8 and replace it with provisions allowing the owner/operator of an affected point source to comply either with the emission factors imposed by LAC 33:III.2201.D at all times, including periods of start-up and shutdown, or with newly established work practice standards designed to minimize emissions during periods of start-up and shutdown.

LAC 33:III.2201 establishes NOX standards for certain boilers, process heaters/furnaces, stationery gas turbines, and stationary internal combustion engines located at affected

facilities in the following nine parishes: Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, and West Feliciana.

LAC 33:III.2201.C.8 provides an exemption from the aforementioned NOX standards during start-up and shutdown are during a malfunction. Notably, this exemption does not apply to units that are shutdown intentionally on a routine basis (i.e., more than once per month). This provision was approved by EPA into Louisiana's State Implementation Plan (SIP) on July 5, 2011 (76 FR 38977).

However, on June 12, 2015, EPA promulgated a rule finding that several Louisiana air quality regulations, including LAC 33:III.2201.C.8 are substantially inadequate to meet the Clean Air Act requirements because they provide automatic exemptions for excess emissions from otherwise applicable SIP emission limitations. Consequently, EPA issued a SIP call directing affected

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1 states to submit corrective SIP
2 revisions by November 22, 2016.
3 In this same rulemaking, EPA
4 revised and updated its start-up,
5 shutdown, and malfunction (SSM) policy
6 for SIP provisions. According to EPA's
7 SSM SIP policy as of 2015 (80 FR 33976),
8 SIP emission limitations must be
9 applicable to the source continuously,
10 but do not need to be numerical in
11 format, do not have to apply the same
12 limitation (e.g., numerical level) at
13 all times. It may be composed of a
14 combination of numerical limitations,
15 specific technological control
16 requirements and/or work practice
17 requirements, with each component of the
18 emission limitation applicable during a
19 defined mode of source operation.
20 In response to EPA's SIP call,
21 LDEQ will repeal the exemption set forth
22 in LAC 33:III.2201.C.8 and amend chapter
23 22 to allow the owner/operator of an
24 affected point source to comply either
25 with the emission factors imposed by LAC

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1 33:III.2201.D at all times (including
2 periods of start-up and shutdown) or
3 with the newly established work practice
4 standards designed to minimize emissions
5 during periods of start-up and shutdown.
6 Does anyone care to comment on
7 this regulation?
8 MR. GRAHAM:
9 Good afternoon. My name is Henry
10 Graham. I am vice-president of
11 environmental affairs and legal counsel
12 for the Louisiana Chemical Association.
13 LCA is a trade association chemical
14 manufacturer and some of our members are
15 located within the Baton Rouge five
16 parish non-attainment area subject to
17 these - this rulemaking. We do plan to
18 submit written comments on this
19 particular rule applied to the comment
20 deadline. We also will probably be
21 commenting on the proposed SIP provision
22 that you have proposed in the Potpourri
23 notice and obviously we will have a
24 hearing later this next month. Some of
25 our concerns with this particular

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1 rulemaking, we certainly appreciate the
2 flexibility that DEQ has had in its
3 current SIP and we do not believe that
4 repeal of some of these exemptions is
5 the only option afforded to the agency,
6 that some flexibility may still remain
7 within the EPA SIP policy rather than
8 simply repealing some of the provisions
9 that are in question. We do recognize
10 that a use of work practice standards as
11 an alternative is a good option.
12 However, it appears that the review of
13 sub-section E shows alternative plans
14 were only referenced in emission factors
15 and not the work practice standards. So
16 were not sure if that was a technical
17 glitch in the reference materials or
18 not. We also have some concern because
19 different units have different times for
20 start-ups and shutdowns. It's not a
21 one-size-fits-all. Some may take up to
22 18 hours to get to start-up or shutdown.
23 And as pointed out in that guidance
24 which was recently cited they don't all
25 have to have the same numerical limits

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1 so we think that some flexibility is
2 needed, especially in the fact that
3 these alternative plans have to be pre-
4 approved prior to use. So there will
5 take some time and place to be able to
6 initiate that and that may require that
7 you get additional time before imposing
8 this requirement.
9 Again, we plan to submit some
10 additional comments on this in writing
11 and thank you for your opportunity to
12 comment today.
13 MS. HAM:
14 Thank you, Henry. Does anyone
15 else care to comment on this regulation?
16 If not, the hearing on AQ364 is
17 closed. I'd like to thank you for your
18 attention and participation.
19 This hearing is closed.
20
21 THE HEARING ENDED AT 1:46 P.M.
22 * * * * *
23
24
25

1 REPORTER'S PAGE
2 I, Mark LaCour, Certified Court
3 Reporter, in and for the State of Louisiana,
4 the officer, as defined in Rule 28 of the
5 Federal Rules of Civil Procedure and/or
6 Article 1434(b) of the Louisiana Code of Civil
7 Procedure, before whom this hearing testimony
8 was taken, do hereby state on the record:
9 That due to the interaction in the
10 spontaneous discourse of this proceeding,
11 dashes (--) have been used to indicate pauses,
12 changes in thought, and/or talk overs; that
13 same is the proper method for a Court
14 Reporter's transcription of proceeding, and
15 that the dashes (--) do not indicate that
16 words or phrases have been left out of this
17 transcript.
18 Also, any words and/or names which could
19 not be verified through reference material
20 have been denoted with the phrase
21 "(inaudible)."
22
23
24 Mark LaCour, C.C.R.
25 # 89054

1 CERTIFICATION
2 I, the undersigned reporter, do hereby
3 certify that the above and foregoing is a true
4 and correct transcription of the stenomask
5 tape of the proceedings had herein, taken down
6 by me and transcribed under my supervision, to
7 the best of my ability and understanding, at
8 the time and place hereinbefore noted, in the
9 above-entitled cause.
10 I further certify that the witness was
11 duly sworn by me in my capacity as a Certified
12 Court Reporter pursuant to the provisions of
13 R.S. 37:2551 et seq. in and for the state of
14 Louisiana; that I am not of counsel nor
15 related to any of the counsel of any of the
16 parties, nor in the employ of any of parties,
17 and that I have no interest in the outcome of
18 this action.
19 I further certify that my license is in
20 good standing as a court reporter in and for
21 the state of Louisiana.
22
23
24 Mark LaCour, C.C.R.
25 # 89054

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RE: Sierra Club, Louisiana Environmental Action Network, and Concerned Citizens of Murphy Comments on Louisiana Department of Environmental Quality's Proposed State Implementation Plan ("SIP") Amendments in Response to EPA's Startup, Shutdown, and Malfunction SIP Call, 80 Fed. Reg. 33840 [LDEQ Doc. Nos. AQ 360; 363; 364; and 1607Pot1]

Dear Ms. Johnson and Mr. Johnston:

Please accept these comments submitted on behalf of Sierra Club, Louisiana Environmental Action Network ("LEAN"), and Concerned Citizens Around Murphy (collectively, "Conservation Organizations") regarding the Louisiana Department of Environmental Quality's ("LDEQ's") proposal to repeal LAC 33:III.1507.A and B (AQ 360); LAC 33:III.2307.C (AQ 363); and LAC 33:III.2201.C.8 and its proposed amendment to LAC 33:III.2201.K (AQ 364). *See also* LDEQ 1607Pot1. The rule is intended to comply with EPA's recently finalized rulemaking, State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction, 80 Fed. Reg. 33840 (June 12, 2015) [hereinafter, "SSM SIP Call"]. Although we agree that, as required by EPA's SSM SIP Call, LDEQ must repeal the subsections of its SIP that exempt excess emissions during periods of "start-up" and during "on-line adjustments," we have serious concerns regarding LDEQ's proposed "Work Practice Standards" in subsection 2201.k, and recommend revisions consistent with federal law.

I. INTRODCTION

On behalf of their thousands of members and supporters who live, work, and recreate in Louisiana, the undersigned Conservation Organizations appreciate the opportunity to provide these comments concerning Louisiana's proposal to amend its State Implementation Plan ("SIP") and associated Louisiana Administrative Code provisions in response to EPA's SSM SIP Call for Louisiana. Sierra Club is the nation's oldest and largest grassroots environmental organization and is dedicated to the protection of the natural environment and public health. LEAN is a Louisiana non-profit corporation, whose purpose is to preserve and protect the state's land, air, water, and other natural resources, and to protect its members and other residents of the state from threats of pollution. Concerned Citizens of Murphy is an association of residents in St Bernard Parish, Louisiana, who live and work in neighborhoods that have been historically and disproportionately impacted by pollution from industrial pollution. As described in the attached declarations and comments submitted in support of EPA's SSM SIP Call, members and supporters of the Conservation Organizations have been directly and adversely impacted by startup, shutdown, and malfunction events.[1]

This is because power plants and other industrial facilities can emit massive amounts of particulate matter and other pollutants during periods of startup, shutdown, or malfunction. Indeed, as part of its SSM SIP Call rulemaking, EPA recognized the practical consequences of SSM exemptions, noting "one malfunction that was estimated to emit 11,000 pounds of [sulfur dioxide] SO2 over a 9-hour period when the applicable limit was 3,200 pounds per day." Memorandum dated Feb. 4, 2013, to EPA Docket No. EPA-HQ-OAR-2012-0322 at 23, *available at* https://www3.epa.gov/airquality/urbanair/sipstatus/docs/ssm_memo_021213.pdf. These large SSM pollution exceedances can occur many times each year. After reviewing data from numerous power plants as part of the Mercury and Air Toxics rulemaking, EPA found that the "average" electric generating unit ("EGU") had between 9 and 10 startup events per year between 2011 and 2012, and that many EGUs had "over 100 startup events in 2011 and over 80 in 2012." Assessment of startup period at coal-fired electric generating units – Revised," at p. 4 (Nov. 2014).[2]

Given the huge emissions possible during startup and shutdown, and given that more than nearly three quarters of a million Louisianans live and work in parishes that are designated as

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[1] *See* Ex. 1 (Decl. of Velma White in support of EPA SSM SIP Call, EPA Docket No. EPA-HQ-OAR-2012-0322-0622), *available at* https://www.regulations.gov/contentStreamer?documentId=EPA-HQ-OAR-2012-0322-0622&attachmentNumber=10&disposition=attachment&contentType=pdf; Ex. 2 (Concerned Citizens of Murphy comments in support of EPA SSM SIP Call, EPA Docket No. EPA-HQ-OAR-2012-0322-0622), *available at* https://www.regulations.gov/contentStreamer?documentId=EPA-HQ-OAR-2012-0322-0088&attachmentNumber=3&disposition=attachment&contentType=pdf.

[2] *Available at* https://www3.epa.gov/airtoxics/utility/matsssfinalruletsd 110414.pdf.

nonattainment for 2008 ozone National Ambient Air Quality Standard, reducing startup and shutdown emissions from fuel-burning sources, including power plants, should be a priority for LDEQ. Indeed, as described in the attached declaration of Velma White of Shreveport Louisiana, these SSM events can severely impact the quality of life around power plants and industrial facilities, and many members of the Conservation Organizations are concerned that SSM events can cause or exacerbate respiratory illnesses, heart disease, renal failure, rashes, and nose and throat irritation, nausea, and even impairing smell and taste.[3] Moreover, these SSM events tend to disproportionately impact the minority and low income communities surrounding these facilities.

While we commend LDEQ for recognizing and proposing to repeal the unlawful SMM exemptions that EPA identified in its SSM SIP Call, the proposed SSM "work practices" proposal does little (if anything) to reduce particulate and nitrogen oxide ("NOx") emissions at affected facilities in the Baton Rouge area during SSM events. As described in more detail below, Louisiana's proposed "work practice standards" under LAC 33:III.2201.K are flawed in several respects, do not meet the requirements of the Clean Air Act or EPA's final SSM policy, and are not approvable by EPA. LDEQ must make several changes to ensure that those work practice standards conform with the Clean Air Act and EPA's SSM policy.

II. EPA's SSM SIP CALL

EPA's SSM SIP Call requires 36 states, including Louisiana, to remove from their SIPs exemptions and affirmative defenses that allow industrial facilities to pollute the air without consequences when those facilities start up, shut down, or experience self-diagnosed "malfunctions." 80 Fed. Reg. 33,840 (June 12, 2015). In particular, EPA found that SIPs with provisions that exempt emissions during start-up, shutdown, and maintenance—like Louisiana's current SIP— are substantially inadequate to meet Clean Air Act requirements. 80 Fed. Reg. at 33,840. In addition to requiring the 36 states whose SIPs contain these exemptions or affirmative defense provisions to remove these provisions from their SIPs, the SIP Call also revises EPA's policy for SIP provisions addressing excess emissions during SSM events. *Id*. The SIP Call allows states 18 months to submit revised SIPs to EPA, which is the maximum time allowable under the statute. *Id*. at 33,848; 42 U.S.C. § 7410(k)(5).

The SIP Call increases protections for communities against harmful air pollution from industrial facilities. EPA expects that "revision of the existing deficient SIP provisions has the potential to decrease emissions significantly in comparison to existing provisions,… encourage sources to reduce emissions during startup and shutdown and to take steps to avoid malfunctions, should provide increased incentive for sources to be properly designed, operated and maintained in order to reduce emissions at all times, … [and] has the potential to result in significant emission control and air quality improvements." *Id*. at 33,955-56. Importantly, beyond the legal deficiencies in the provisions, "the results of automatic and discretionary exemptions in SIP provisions, and of other provisions that interfere with effective enforcement of SIPs, are real-world consequences that adversely affect public health. *Id.* at 33,850.

[3] Ex. 1 at ¶¶7-10.

Because facilities subject to the Clean Air Act ("CAA") can emit massive amounts of particulate matter, sulfur dioxide, nitrogen oxide, and other harmful air pollution during periods of start-up, shutdown, and maintenance, it is imperative that Louisiana include strong SIP provisions governing emissions during these periods to protect fence-line and other communities. Indeed, EPA expects that "revision of the existing deficient SIP provisions [including Louisiana's] has the potential to decrease emissions significantly in comparison to existing provisions" because these required revisions will "encourage sources to reduce emissions during startup and shutdown and to take steps to avoid malfunctions, . . . should provide increased incentive for sources to be properly designed, operated and maintained in order to reduce emissions at *all* times." 80 Fed. Reg. at 33,955-56 (emphasis added). SSM exemptions, like those in the current Louisiana SIP, have "real-world consequences that adversely affect public health," and removing those exemptions "has the potential to result in significant emission control and air quality improvement." *Id*. at 33,850.

III. LDEQ MUST REMOVE THE SSM EXEMPTIONS FROM LOUISIANA REGULATIONS

As LDEQ correctly recognizes, EPA's SSM SIP Call requires the state to remove the start-up, shutdown, and malfunction exemptions currently found at LAC 33:III.1507.A and B; LAC 33:III.2307.C; and LAC 33.III.2201.C. As the agency recognized with its earlier proposals to repeal Louisiana's SSM exemptions for opacity and VOC emissions, however, the best approach to the SSM SIP Call is for LDEQ to simply remove the illegal SSM exemption from the Louisiana SIP.[4] Removing these exemptions would mean that the normal SIP limits that are designed to protect air quality and comply with the Act's requirements would apply during all "startup and shutdown and malfunctions." And EPA has made clear that it should be technically feasible for most sources to "meet the same emission limitation" during *both* "steady-state" and startup/shutdown periods. 80 Fed. Reg. 33,840, 33,979 (June 12, 2015). Indeed, in the SSM SIP Call EPA expressed its preference for numeric limitations during SSM operations, and many of the states and territories not included in EPA's SIP Call have regulations that require just that—*i.e.*, that sources meet SIP emission limits at *all* times. Moreover, removal of the exemption would avoid concerns about conformity with the Clean Air Act, as well as litigation and administrative risks associated with EPA review and approval. Because LDEQ's primary consideration should be protection of public health in strict compliance with the federal Clean Air Act, the agency should simply remove those exemptions without attempting to create impractical and unenforceable work practice standards.

IV. SPECIFIC PROBLEMS WITH LDEQ'S WORK PRACTICES PROPOSAL

A. EPA's SSM Work Practices Policy Under the Clean Air Act

In its SIP Call rule, EPA identifies the criteria by which alternative emissions limits for startup and shutdown should be developed, as follows:

[4] Sierra Club also supports Louisiana's previous proposals to repeal the SSM exemptions found at LAC 33:III1107, *see* AQ 361 (proposing to delete excess opacity exemption), and LAC 33:III.2153, *see* AQ362 (deleting VOC emission exemption for industrial waste water).

(1) the alternative emission limitation is "limited to specific, narrowly defined source categories using specific control strategies,"
(2) use of the control strategy for the source category is "technically infeasible" during startup/shutdown,
(3) the limit requires that the frequency and duration of operation in startup/shutdown mode are "minimized to the greatest extent practicable,"
(4) the state analyzes the potential worst-case emissions that could occur during startup/shutdown based on the proposed limit,
(5) the limit requires that "all possible steps are taken to minimize the impact of emissions during startup and shutdown on ambient air quality,"
(6) the limitation requires that "at all times, the facility is operating in a manner consistent with good practice for minimizing emissions and the source uses best efforts regarding planning, design, and operating procedures," and
(7) the actions during startup/shutdown are properly documented.

Id. at 33914.

Importantly, EPA further states that alternative requirements applicable to the source during startup and shutdown should be "narrowly tailored and take into account considerations such as the technological limitations of the specific source category and the control technology that is feasible during startup and shutdown." *Id.* at 33913.

B. LDEQ Has Failed to Demonstrate that its Proposed Reliance on SSM Work Practices is Appropriate Under these Circumstances

LDEQ's proposed work practice standards are not only too vague and ambiguous to be enforceable, but they do not appear to reflect consideration of the seven specific criteria by which alternative emission limitations for startup and shutdown should be developed. In particular, LDEQ's has failed to demonstrate that its work practice standards (1) are narrowly tailored to defined source categories using specific control strategies; (2) the use of the control strategy for the source category is "technically infeasible" during startup or shutdown; (3) the state analyzed the potential worst-case emissions that could occur during startup/shutdown based on the proposed limit; or (4) that the actions during startup and shutdown are properly documented or that the work practice standards are enforceable.

1. <u>LDEQ's Work Practice Standards Are Not Narrowly Tailored</u>

Louisiana's proposed work practices standards are not "limited to specific, narrowly defined source categories using specific control strategies." *Id.* at 33914. Indeed, the work practice standards apply to virtually every major source of nitrogen oxides in and surrounding the Baton Rouge nonattainment area without consideration of whether sources are technically capable of complying with numeric SIP limits during periods of startup, shutdown, or malfunction. *See* proposed LAC 33:III.2201.K.3.a (applying to all "affected point source[s]" Baton Rouge Nonattainment Area and Region of Influence). In the final SSM SIP call rule, EPA confirmed that startup and shutdown are "part of the normal operation of a source and should be

accounted for in the design and operation of the source. It should be possible to determine an appropriate form and degree of emission control during startup and shutdown and to achieve that control on a regular basis." 80 Fed. Reg. at 33979. EPA's final SSM Policy from the SIP call provides that a "state can develop special, alternative emission limitations that apply during startup or shutdown *if the source cannot meet the otherwise applicable emission limitation in the SIP*." *Id.* at 33,980. Thus, work practices or alternative compliance plans (in lieu of having to meet normal SIP limits during startup and shutdown) are *only* appropriate for those narrowly limited source categories that truly cannot meet numerical limits for particular pollutants during startup and shutdown.

Additionally, Louisiana's proposed work practice standards are not appropriately limited to specific, narrowly defined control strategies or operations. Proposed section 2201.K.3.c indicates that sources must engage "control devices *such as* selective catalytic reduction (SCR) . . . *as expeditiously as possible*, considering safety and *manufacturer recommendations*." LAC 33.III.2201.K.3.c (emphasis added). As an initial matter, control requirements that apply during startup and shutdown must be clearly stated as components of the emission limitation and must meet the applicable level of control required for the type of SIP provision (*e.g.*, be RACT for sources located in nonattainment areas). A generically applicable requirement to operate control equipment "such as" selective catalytic reduction "as expeditiously as possible" is not a narrowly tailored continuous and enforceable limitation. The same ambiguity and enforceability problem applies to the provision requiring operation of controls only to the extent the "manufacturer recommendations," which makes these standards difficult or impractical to enforce and may also result in exempt startup and shutdown periods. Indeed, manufacturers typically recommend that control equipment, such as SCR, be operated only at temperatures higher than those typical during startup and shutdown. Exempting sources from operating pollution controls according to manufacturer recommendations conflicts with EPA's mandate that some emission limitation be applicable at all times.

If work practices are proper (again, they are not), LDEQ should require pollution controls to be operated at specific time points during startup and shutdown. As an example for power plants, LDEQ can look to the startup and shutdown work practices from the final Mercury and Air Toxics Standards ("MATS") rule (*before* these work practices were changed on reconsideration).[5] There, for startup, EPA required all pollution controls to be operated once plants begin firing their primary fuel (*e.g.*, coal for coal-fired power plants). 77 Fed. Reg. 9304, 9493 (Feb. 16, 2012). Instead of allowing pollution controls to be engaged at some uncertain time that is purportedly "practicable," LDEQ must explicitly require that pollution controls be engaged no later than the end of startup, which is defined as the time when electricity is generated for any purpose. *See* LAC 33:III.2201.K.3.b (as proposed).

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[5] In the D.C. Circuit Court of Appeals, Sierra Club and other organizations are currently challenging EPA's final action on reconsideration of the startup and shutdown provisions of the MATS rule. Sierra Club maintains that EPA's final (reconsideration) definition of startup (which includes a four-hour exemption from numerical emission limits) and startup work practices do not meet the requirements of the Clean Air Act, including the requirement to achieve continuous reductions.

2. LDEQ Has Failed to Demonstrate that it is "Technically Infeasible" for Sources to Meet Numeric Limits During Startup and Shutdown

Consistent with the SIP Call, alternative emissions limits (including work practice standards) should only be available for sources showing that use of controls or meeting numeric limitations are "*technically infeasible"* during that time. 80 Fed. Reg. at 33980 (emphasis added). Such technical infeasibility cannot include sources with outdated or undersized pollution controls that, if properly designed, could operate during startup or shutdown. Many (if not all) of the affected sources in the Baton Rouge nonattainment area can and should be required to meet normal SIP limits during startup and shutdown. Because LDEQ has failed to provide a factual basis for demonstrating that affected sources are *not* capable of meeting their existing emission limitations at all times, the agency has failed to demonstrate that its proposed SSM work practice standards are appropriate under the circumstances. Accordingly, LDEQ's proposed work practice standards must be removed from the proposed SIP.

Even for those sources (if any) that truly cannot meet normal limits during startup and shutdown, LDEQ should establish alternative numerical limits instead of work practices. In its SIP Call, EPA also made clear that work practices are only appropriate for those limited periods of time when "*measurement of emissions during startup and/or shutdown is not reasonably feasible*." *See* 80 Fed. Reg. at 33980 (emphasis added). Where possible, establishing numerical limits in lieu of work practices is required by Clean Air Act § 110(a)(2), which provides that SIPs are to include "*enforceable* emission limitations . . . as may be necessary or appropriate to meet the applicable requirements" of the Act." 42 U.S.C. 7410(a)(2) (emphasis added). In the SSM SIP call, EPA echoed that numerical limits are preferable to work practices in terms of enforceability. *See* 80 Fed. Reg. at 33974-75 ("There are many sources for which a numerically expressed emission limitation will be the most appropriate and will result in the most legally and practically enforceable SIP requirements"); *id.* at 33979 ("In practice, it may be that numerical emission limitations are the most appropriate from a regulatory perspective (*e.g.,* to be legally and practically enforceable) and thus the emission limitation would need to be established in this form to meet CAA requirements"). At least for power plants, like Big Cajun II near Baton Rouge, it is demonstrably reasonable to measure NOx emissions during startup and shutdown. For decades, under the Clean Air Act Acid Rain Program, power plants like Big Cajun II have continuously monitored sulfur dioxide and nitrogen oxide emissions from the moment combustion begins throughout generation.

3. LDEQ Must Demonstrate that Its Proposal Will Not Violate the NAAQS or PSD Increments.

Under § 110(l) of the Clean Air Act, EPA cannot approve SIP revisions that would interfere with attainment of the NAAQS or PSD increments: "The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title), or any other applicable requirement of this chapter." 42 U.S.C. § 7410(l). In keeping with this requirement, EPA stated in the SSM SIP call that, "[a]s part of its justification of the SIP revision, the state [should] analyze[] the potential worst-case emissions that could occur during

startup and shutdown based on the applicable alternative emission limitation" 80 Fed. Reg. at 33980.

Excess emissions from startup and shutdown events have far-reaching impacts on other requirements of the Act. 78 Fed. Reg at 12,485. States must rely on assumed continuous compliance with emissions limitations in their modeling exercises to demonstrate attainment and maintenance of ambient air quality standards. See EPA Memorandum to Docket EPA-HQ-OAR-2012-0322, at 14, n. 41 (Feb. 4, 2013) (citing, inter alia, CAA sections 110(a)(2)(A)&(C)). In areas that are meeting air quality standards, state plans must include emission limitations designed to ensure that air quality does not worsen. 42 U.S.C. § 7475(a)(3), 40 C.F.R. § 51.166(k)(1); *see* 78 Fed. Reg. at 12,485. Similarly, in nonattainment areas, nonattainment SIPs must include emission inventories which are comprehensive, accurate, and current of actual emissions and must also include emission statements from stationary sources. *See, e.g.*, 42 U.S.C. §§ 7511(a)(1), (3). Also, in nonattainment areas, state plans must include a program that assures reasonable progress toward attainment of ambient air quality standards. 42 U.S.C. § 7501 et seq. Nonattainment NSR permitting requires offsetting of emissions based on permitted emission limits. *See, e.g.*, 42 U.S.C. § 7511(a)(4). There is no way to adjust the required offsets should a source exceed its permitted emission limits during SSM because nonattainment NSR permitting occurs prior to construction and the permits do not ever expire. Plans must also protect scenic views in many of America's most treasured public lands. 42 U.S.C. § 7491(a)(1).

Here, it does not appear that LDEQ has considered the potential effect of its proposed work practices on these required attainment demonstrations and planning under the Act. Indeed, LDEQ's narrative SIP revision contains a cursory description of the revision with no analysis whatsoever of the impact of uncontrolled nitrogen oxide emissions during startup and shutdown on the Baton Rouge nonattainment area. This is especially troubling given that LDEQ's proposed work practice standards will specifically apply to areas of Louisiana that have the worst air quality in the state—the Baton Rouge nonattainment area for ozone. Given the huge quantities of nitrogen oxide emissions that are possible during startup and shutdown (while NOx controls will not be required to operate), and given that NOx is a precursor pollutant that causes ground-level ozone, LDEQ must evaluate the potential worst-case emissions that could occur during startup/shutdown under the proposed work practice standards. It appears that LDEQ's proposal will do little (if anything) to reduce NOx emissions below the status quo, and could exacerbate Baton Rouge's nonattainment status.

4. <u>LDEQ Must Include Reporting Requirements</u>

LDEQ's work practices proposal does not require sources to report to LDEQ any information to assure that sources are complying with the requirements of the rule. Because there is no way for LDEQ to know—without requesting documentation from sources—whether sources are complying with the work practice requirements, there is also no way for citizens or EPA to obtain information about whether or not sources are complying with the requirements. Thus, the requirements are not practically enforceable by LDEQ in enforcement suits. Nor are they enforceable by EPA or citizens in federal court. If LDEQ insists on including work practices instead of numerical limits (which we maintain is not consistent with the requirements of the Clean Air Act or the SIP Call rule, and therefore not approvable by EPA or the 11th Circuit), the agency should require the work-practice compliance information from the proposed rule to be reported by sources through, at the least, their quarterly Title V compliance reports.

C. LDEQ's Work Practices Standards are Inappropriate for Multiple Additional Reasons

Apart from the fact that LDEQ failed to demonstrate that its work practices standards are appropriate or enforceable under EPA's SSM SIP criteria, Louisiana's proposal does not meet Clean Air Act § 110's enforceability requirement for other reasons:

1. LDEQ's Proposal Does Not Limit Emissions on a Continuous Basis

As noted above, Clean Air Act § 110(a)(2) requires that SIPs are to include "enforceable emission limitations . . . as may be necessary or appropriate to meet the applicable requirements" of the Act. "Emission limitations" are defined under § 302(k) of the Act to include work practices, and these must be continuous. More specifically, § 302(k) defines "emission limitation" as a "requirement established by the State or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants *on a continuous basis, including* any requirement relating to the operation or maintenance of a source to assure continuous emission reduction, and *any design, equipment, work practice or operational standard promulgated under this chapter*." 42 U.S.C. § 7602(k) (emphasis added). The D.C. Circuit Court of Appeals confirmed that exemptions for SSM events conflict with the Act's plain requirement that emission limitations and standards must be continuous. *Sierra Club v. EPA*, 551 F.3d 1019, 1027 (D.C. Cir. 2008).

Accordingly, EPA's Statement of SSM Policy in the final SSM SIP call states: "The EPA's longstanding interpretation of the CAA is that SIP provisions cannot include exemptions from emission limitations for emissions during SSM events. In order to be permissible in a SIP, an emission limitation must be applicable to the source continuously, *i.e.*, cannot include periods during which emissions from the source are legally or functionally exempt from regulation." 80 Fed. Reg. at 33976.

Here, LDEQ's proposal does not ensure continuous reductions in emissions throughout startup and shutdown, and LDEQ's proposal includes periods during which emissions are functionally exempt from regulation. As an initial matter, the language in the general work practice option only requires the operation of nitrogen oxide control technology as soon as "practicable" and only if consistent with "manufacturer recommendations." As discussed above, this language gives sources broad latitude to choose when to operate those controls, and many NOx control systems are only operated above operating temperatures. For those sources, until the point during startup when their particular pollution controls engage and begin to reduce emissions (or after these controls disengage in shutdown), there is no requirement in Louisiana's proposal to limit emissions during startup or shutdown. For example, coal-fired power plants could claim that manufacturers recommend that their equipment not be operated until close to full load, which could well into startup (sometimes perhaps after 9 or 10 hours of startup, based on our experience with power plants in Texas). During these 9 or 10 hours, there would be no requirement in the Louisiana rules for these plants to limit their emissions.

However, as noted in the attached report, prepared for Sierra Club by Dr. Ranajit (Ron) Sahu, Ph.D, QEP, CEM (Nevada), sources can, in fact, temporarily operate SCR technology

below the manufacturer's recommended minimum operating temperature (for up to 12 hours) *without* causing any irreversible adverse impacts to the SCR. *See* Attach. A to Ex. 3 at 10-13. Indeed, many SCR systems are capable of operating at a "range below the temperature at which" the catalyst condenses "while maintaining the required NOx removal efficiency." *Id*. at 11. "Benefits to the utility include higher overall NOx removal, improved flexibility for load cycling and maintenance, and the potential for eliminating the need for an economizer bypass or alternate methods of temperature control for the SCR system in new designs and retrofits." *Id*.

Separately, there are several industry-recognized methods that can be used to maintain boiler/SCR exit gas temperature above the minimum operating temperature for SCR even during low load operations at a unit, including during startup and shutdown. *Id*. § 5.0. In fact, vendors are currently able to optimize SCR systems "to allow for operation of the boiler *down to 25% load* with the SCR in service while maintaining unit efficiency at full load." Id. at 15 (emphasis added). Thus, there are in fact technically feasible methods for operating SCR technology, even during periods of low load operation such as start up. Accordingly, LDEQ must revise its work practice standards to make clear that control devices, such as SCR or SNCR must be engaged *during* startup.

Another reason that LDEQ's proposal does not achieve continuous reductions (and is not enforceable) is that LDEQ has not defined what it means to "engage" selective catalytic reduction systems and other NOx "control devices" in the general work practice option. *See* LAC 33:III.2201.K.3.c. Control devices, like selective catalytic reduction, have multiple levels of removal efficiency. LDEQ's work practice would allow such control devices to operate at widely varying performance levels, with some units choosing to "engage" the unit but operate at much lower efficiencies than the equipment is capable of achieving. The requirement to simply turn on NOx control equipment—if that is what LDEQ means by "engage"—does nothing to ensure that this equipment is functioning at the levels needed to assure the maximum possible control of NOx emissions. LDEQ must include clear definitions of what it means to engage the various controls listed in the general option. Those definitions should, at the least, require NOx controls to operate at near 100% efficiency at a clearly defined time early in startup.

Finally, LDEQ's proposal cannot assure continuous reductions because, as discussed above, the general work practice option essentially leaves it up to sources to choose when to begin to operate their various NOx pollution controls—*i.e.*, as expeditiously as practicable taking into consideration manufacturer recommendations. LDEQ should include a work practice requiring SCR and similar controls to be operated from (at the least) the point that plants begin to fire their primary fuel. Such a work practice for NOx controls is especially important given that NOx is an ozone precursor and Baton Rouge's nonattainment status for ozone.

2. <u>Particular Sources' Choices to Use the Alternative Work Practices Must Be Incorporated into Louisiana's SIP</u>

Any alternative limits or work practices must be incorporated through the SIP amendment process, allowing for public notice and comment and EPA approval. For example, in the SSM SIP call, EPA specifically stated that a "SIP needs to reflect the control obligations of sources, and any revision or modification of those obligations should not be occurring through a

separate process, such as a permit process, which would not ensure that 'alternative' compliance options do not weaken the SIP." 80 Fed. Reg. at 33915.

LDEQ's proposal for Section 2201.K does not comply with this requirement. Sources can choose between Section D's NOx emission factors, paragraph K.1's alternative plan approved in accordance with Paragraph E.1 or 2, or paragraph K.3's work practices standards. If LDEQ maintains this option (as discussed above, this is not proper), any choice by a particular source to use an alternative plan or the work practices rule should be incorporated into the Louisiana SIP.

Additionally, LDEQ proposes to include the following language in the revised section 2201.K: For affected point sources that are shut down intentionally more than once per month, the owner or operator shall include NOx emitted during periods of start-up and shutdown for purposes of determining compliance with the emission factors set forth in Subsection D of this Section, *or with an alternative plan approved* in accordance with Paragraph E.1 or 2 of this Section." (emphasis added). This language is impermissibly vague and appears to inappropriately allow for the development of alternative emission limits outside of the SIP approval process. The SIP Call Rule makes it clear that alternative emissions limits must be included in an approved SIP, not merely in permits. 80 Fed. Reg. at 33915. As EPA explains, the "SIP needs to reflect the control obligations of sources, and any revision or modification of those obligations *should not be occurring through a separate process, such as a permit process*, which would not ensure that "alternative" compliance options do not weaken the SIP." 80 Fed. Reg. 33915 (emphasis added). As a result, "any revisions to obligations in the SIP *need to occur through the SIP revision process*…." 80 Fed. Reg. 33916 (emphasis added). Any alternative emissions limits must therefore comply with the SIP process, including providing the requisite notice and comment period, and all other SIP limit change public participation and other process requirements. LDEQ must clarify in its proposed rule that any alternative emission limits will be incorporated into its SIP via normal SIP rule change procedures and provide for public participation.

3. <u>There are Additional Problems with the Options for Source-Specific Alternative Plans Under Section 2201.K.1.</u>

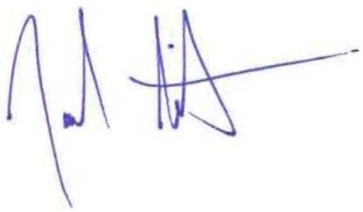
Proposed paragraph K.1 is problematic for additional reasons. First, source-specific alternative limits or work practices are generally not proper at all. In the SIP call, EPA specifically stated, "even where a specific type of operation may not during startup and/or shutdown be able to meet an emission limitation that applies during full operation, the state should be able to develop appropriate limitations that would apply to those types of operations at all similar types of facilities. The EPA believes that there will be limited, if any, cases where it may be necessary to develop source-specific emission requirements for startup and/or shutdown." 80 Fed. Reg. at 33915. Additionally, as quoted language above indicates, awarding sources alternative limits or work practices through permits would not ensure these compliance options do not weaken the SIP. *See* 80 Fed. Reg. at 33915. When a state issues SSM limits through alternative plans that are incorporated into permits, it would make it very difficult to assess the collective impact on the NAAQS or PSD increments of multiple permitted alternative SSM limits.

Another problem with the option to pursue source-specific alternative plans under Sections E.1 and 2 is that those provisions do not reflect any consideration of the factors EPA has identified as appropriate considerations for developing alternate SSM requirements. These alternative plans, implemented through a permit, also raise the prospect of "director's discretion" problems addressed in EPA's SIP Call notice because it would allow the state to create alternatives to SIP emission limits without complying with the CAA's SIP revision requirements. Among other things, a permit-based approach to establishing an alternative emission limitation (that does not involve submitting the permit requirement to EPA for inclusion in the SIP) eliminates EPA's role in reviewing and approving emission limitations to ensure that they are "enforceable" as required by CAA section 110(a)(2)(A)—*i.e.*, that they are sufficiently specific regarding the source's obligations and they include adequate monitoring, recordkeeping, and reporting requirements. To avoid these problems, LDEQ should include specific language explaining that source-specific alternative plans are only available as a very last resort upon a sufficient showing that the listed criteria are met, and as discussed above, that such requirements are continuous and enforceable, and subject to the SIP revision process, with the accompanying requirements for public notice and comment.

V. CONCLUSION

Thank you for the opportunity to submit these comments. We respectfully request that LDEQ revise its proposed rule as outlined above. Please do not hesitate to contact us with any questions or to discuss the matters raised in these comments.

Sincerely,



Joshua Smith
Staff Attorney
2101 Webster St.
Oakland, CA 94612
joshua.smith@sierraclub.org

DECLARATION OF VELMA WHITE

I, Velma White, declare as follows:

1. My name is Velma White, and I am of legal age and competent to give this declaration. All information herein is based on my own personal knowledge unless otherwise indicated.
2. I live at 3116 Fulton Street, Shreveport, Louisiana which is located two streets over from Calumet Lubricants Co.'s oil refinery in Shreveport. I have lived here for almost 38 years. I raised four children in this household.
3. When I moved to Fulton Street, the Calumet refinery was a much smaller facility. There was even an elementary school located on the property. Since then, I have seen the facility expand and it has grown from approximately half a block in size to over 12 blocks. Currently, there are four elementary schools close to the refinery. One of the elementary schools is so close that one can see the refinery from the playground.
4. I first became concerned about air pollution from the Calumet refinery after my daughter was diagnosed with renal failure at a young age. I decided to try to find out what caused her to become sick and began speaking with people knowledgeable about the health impacts from the pollution emitted from the refinery. I believe that her renal failure was caused by pollution from the plant.
5. I am the founder and president of Residents for Air Neutralization ("RAN"). I founded the group over 14 years ago in response to the impacts to my

community from pollution from the Calumet facility. RAN works to document the pollution emitted by the Calumet facility, educate people living in the surrounding communities about the impacts from the pollution to their health, and improve the quality of the air we breathe.

6. I spend five to seven days a week either at RAN's office which is located approximately half a mile from the facility or in the communities surrounding the refinery. My friends, family and neighbors know that they can call me if they notice any large pollution events at the facility. I often perform bucket sampling in response to either a phone call from a community member or my own personal observation. Bucket sampling involves taking air quality samples, which I forward to a testing lab for analysis. I often communicate with local, state and federal air quality officials as well.
7. I am aware that the Calumet refinery emits air pollution that can have adverse impacts on those living nearby. Many people in my community suffer from respiratory illnesses, such as asthma, heart disease, renal failure, cancer and skin problems, which I believe are caused my pollution from the Calumet refinery.
8. Three of my children and four of my grandchildren live very close to me. I worry about the impact from the refinery's pollution on their health, especially the health of my youngest grandchild, who is twelve. When I become aware of excess pollution events from the Calumet facility, either from witnessing a flaring incident or receiving a call from a concerned

community member, I pass that information on to my son so he can bring my twelve year old grandchild indoors.

9. I often witness excess pollution coming from the Calumet facility in the form of flaring. I estimate that approximately once a week I see flaring with either large flames or plumes of black smoke being emitted from the facility. Attached to my declaration are a number of photographs that I have taken over the last five months of separate flaring incidents. I took photographs 1 – 3 on Dec. 12, 2012, photographs 4 – 6 on February 4, 2013 and photograph 7 on March 4, 2013.

10. I usually smell strong odors accompanying the flaring. These odors range from a rotten egg, sulfuric smell to a more chemical smell. I often experience physical reactions to the chemicals I smell, including a burning sensation in my nose and throat, nausea, and a funny taste in my mouth. For instance, in early March 2013, I received a call from a community member alerting me to a strong smell coming from the Calumet refinery. I drove over to take an air sample and immediately upon my arrival and before I could put on my mask, I felt a burning sensation in my nose and mouth and a funny metallic taste in my mouth. Even though I put my mask on as soon as I could, these symptoms lasted for at least three days.

11. In addition to the smells, there is usually a loud, roaring noise when the facility is flaring as well. This noise has often awakened me in the middle of the night. Additionally, there can be a black ash or debris from the flaring,

which on occasion has covered my house and property, and if I am outside, even my skin.

12. I am aware that the state of Louisiana allows the Calumet refinery, as well as other large industrial facilities, to emit large amounts of air pollution during malfunctions, upsets and accidents, in amounts above the legal limits. I am very concerned that the flaring that I see on a regular basis pollutes the air and negatively impacts my health and the health of my family and my community.

13. I am aware that the U.S. Environmental Protection Agency recently issued a proposed rule to help address this problem. I am aware that the rule would hold facilities like the Calumet refinery accountable for their excess air emissions during upsets and malfunctions and would help people like myself take steps to try to reduce the violations of air quality standards at these facilities. I am strongly supportive of EPA's proposed rule and hope that it is not weakened.

I declare, under penalty of perjury under the laws of the United States of America and the foregoing is true and correct.

Dated: April 04, 2013.

Velma White Velma White

Velma White

Photographs

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Ph

March 20, 2013

Office of Air Quality Planning and Standards
Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington DC 20460

Docket ID No. EPA–HQ– OAR–2012–0322

Dear Sir or Madam:

"Concerned Citizens Around Murphy", an association of residents in St Bernard Parish, Louisiana, appreciates the opportunity to submit comments to the United States Environmental Protection Agency (EPA). Neighborhoods around the plants and refineries in St Bernard are over-burdened, under-served communities with intolerable pollution levels that residents are forced to breathe. The two-mile radii around the major sources in St Bernard extend across the Mississippi River into Orleans Parish, and include revitalized neighborhoods, recreational parks, national historical parks, a national cemetery, a global preserve for endangered animals, wetlands and sensitive estuaries, various community gardens, numerous schools and daycares, churches and libraries. Demographics in the two-mile radii around these plants range from 60% minority with 26% children in poverty (Orleans) to 6% minority and 34% children in poverty (St Bernard).[1]

Concerned Citizens support EPA's proposed rule to correct inadequacies in Louisiana's SIP that are inconsistent with the Clean Air Act and with current EPA rules and policies concerning treatment of a source's excess emissions during periods of startup, shutdown, and malfunction (SSM). Concerned Citizens understand that a corrective SIP revision will ensure that 1) all periods of excess emissions, regardless of cause, will be treated as violations subject to EPA enforcement action, and, 2) no periods of excess emissions can be automatically exempted from emissions limits.

Concerned Citizens believe the proposed rule for corrective SIP revisions will hold industry(s) accountable for all its emissions and hope it brings about a change in operations and or an installation of control technology that will directly lower pollution emissions during periods of startup, shutdown, and malfunction (SSM). Lowering the SSM pollution emissions will significantly and immediately improve air quality, public health and quality of life. The air quality in St. Bernard neighborhoods can be so poor at times that residents shelter themselves in place or hold their noses when they are on the roads that pass through the industrial facilities. Too often residents report the negative quality of life and health affects from flaring events that are part of shutdowns, startups, and malfunctions. This includes the nuisances of high pitched tones from the added steaming, rumbling and roaring jet-engine type noises from the flares, and the adverse health effects of heavy, strong petroleum or gaseous sulfur odors from the emissions, and the resultant headaches, coughing, burning eyes and nasal passages, sore throat, and negative quality of life. [6][7]

<u>Permitted Variances</u>. In St Bernard, some industries operate under variance exemptions. Some variances grant facility(s) a permit to bypass pollution controls for a set limited number of operating hours. Others grant an interim variance for increased pollution release rates. Yet, when residents report the adverse health effects and "odor complaints" or the ambient air monitors demonstrate violations of National Ambient Air Quality Standards (NAAQS), the facility(s) seem to get a 'pass' from enforcement. Perhaps this is because, technically, operations are within a regulatory permit limit. However, our health and quality of life is suffering from the unacceptable pollution levels created by the variance exemptions. The proposed rule could remedy this inconsistency and disallow the 'pass' for excess emissions and hold industry accountable for its offsite affects.

Planned Flaring and Hurricanes. Occasionally, plants shutdown and startup again for planned maintenance, and even unplanned malfunctions and shutdowns eventually become part of the facility's planned startup procedures. Plants also have planned shutdown and startup procedures as part of Hurricane Preparedness Plans. For safety reasons, monitoring sites are also taken down for hurricanes. So, while hurricane related shutdowns and startups may result in a violation of a NAAQS, there is no documented monitoring data. Yet, residents still suffer the adverse health effects. Technology is available and should be required to further reduce emissions from such planned events, and industry should not be allowed an affirmative defense, claim a force majeure event occurred, nor claim a hurricane was 'an act of their god'. Industries that do business in St Bernard must be equipped for such weather events and plan accordingly.

In August 2012, ExxonMobil-Chalmette refinery reported over 23 tons or 46,000 pounds of sulfur dioxide emissions from the planned shutdown of its Chalmette plant in preparation for Hurricane Isaac, and an additional estimated 23 tons of sulfur dioxide emissions from the subsequent startup procedures. The air monitors were also down due to the hurricane. [EDMS 8570922 dated 09/04/2012] [2] In August 2012, Valero Energy-Meraux refinery reported 1,102 pounds sulfur dioxide emissions from Hurricane Isaac shutdown and startup procedures at its Meraux plant. The air monitors were also down for the hurricane. [EDMS 8570942 dated 9/11/2012][2]

Hurricane Isaac did not call for a mandatory evacuation, so while residents cleared storm debris and spent more times outside awaiting utilities to be restored, they were exposed to the excess sulfur emissions from the plants' planned startup. A corrective SIP plan should address excess emissions during weather events.

Unplanned malfunctions and shutdowns also result in 'emergency' flaring that can cause chronic and acute health risks and may violate NAAQS. Some reported offsite health effects are listed in LDEQ public records. [6][7] Because fixed monitors are dependent on wind direction, not all excess emissions are carried to the monitoring station. However, there are times when even small amounts of excess emissions cause a violation of a NAAQS. Below are some examples of ambient air monitor readings during a few of the oil refinery SSM events in St Bernard.

ExxonMobil's Chalmette refinery is located southeast of the LDEQ "Ch_Vista" site ambient air monitor. According to EPA's AirData Monitor Value website, [3] the "Ch_Vista" site demonstrates what seems like countless violations of the 2010 SO2 NAAQS. In 2011, ExxonMobil emitted more than 333,000 pounds sulfur dioxide over its permitted limits; in 2010, the amount was more than 188,000 pounds over its permitted limits. [4] Some of the unplanned flaring events were:

a) In April 2012, ExxonMobil emitted 1,022 pounds of sulfur dioxide from the Flare Gas Management System and the LDEQ "Ch_Vista" monitor measured over 89 parts per billion SO2 (wind direction 180 decrees). [LDEQ EMDS document 8387226 dated 4/10/2012.] [5][10]

b) In May 2011, ExxonMobil emitted over 117, 000 pounds sulfur dioxide from a sulfur recovery unit (SRU) and the "Ch_Vista" site measured 126 ppb and 101 ppb SO2 (wind direction 171 and 212 decrees). [LDEQ EDMS document 8134597 dated 5/24/2011 and page 7 EDMS document 8221954 dated 9/29/2011][5][10]

c) In October 2011, ExxonMobil emitted nearly 165,000 pounds sulfur dioxide, again from an SRU; the highest hourly average at the "Ch_Vista" site was only four ppb SO2. The wind direction was opposite the monitor and carried the emissions to Orleans Parish on the west bank of the Mississippi River, where numerous residents complained of the offsite health effects to LDEQ.[6] More monitoring should be required in the west bank communities. [LDEQ EDMS documents 8161246 and 8274628 dated 10/10/2011][5] [10]

Valero Energy's Meraux refinery is located just southeast of the "Valero" site ambient air monitor that is operated by Valero Energy pursuant the Murphy Oil / Valero Energy – EPA Consent Decree. The "Valero" site demonstrates multiple violations of the one-hour sulfur health standard of 75 parts per billion. In 2012, Valero emitted more than 27,000 pounds sulfur dioxide over its permitted limits; in 2011, the amount was more than 3,000 pounds over its permitted limits. [7] Some of the unplanned flaring events were:
a) In April 2012 Valero Energy released over 4,000 pounds SO2 emissions at its flare from an unexpected hydrocracker shutdown after a lightning strike, and the "Valero" air monitor in Chalmette measured 12 ppb SO2 (wind direction 124 decrees). [LDEQ EDMS document 8424052 dated 4/03/2012] [8][9][11]
b) Later in April 2012 Valero Energy released over 4,500 pounds SO2 emissions at its flare from a power outage, and the "Valero" site measured one ppb SO2, as wind direction was opposite the monitor. In the subsequent startup, from April 13, 2012 to April 14, 2012, Valero Energy released additional sulfur dioxide for a total of more than 15,000 pounds SO2. Regrettably, there is no website data displayed for the "Valero" site for part of April 13, 2012 to April 14, 2012.[11] [LDEQ EDMS document 8501416 dated 4/10/2012] [8][9][11]
c) In May 2012 Valero Energy experienced a power outage and released flaring emissions of 1,850 pounds SO2, and the "Valero" site measured 120 ppb SO2 with a high reading of 247 ppb (wind direction 152 decrees).[LDEQ EDMS document 8485733 dated May 2, 2012]. [8][9][11]
d) In February 2013 Valero Energy released flaring emission of over 12,000 pounds SO2 in an unexpected trip of both SRU's; the "Valero" site measured 138 ppb SO2 and 180 ppb SO2 with a high reading above 500 ppb (wind directions 156 and 193 decrees). [LDEQ document link below, not yet in EDMS] [8][9][11]

SSM emissions in permit applications. Emissions from startup, shutdown, and malfunctions should not elude permit applications. All emissions should be appropriately accounted for in the regulatory permits and applications, and included in the emissions totals that determine whether or not the application reaches the threshold for review for the more stringent pollution controls.

The facility(s) should be required to install pollution controls and change operations to reduce the pollution during SSM events. Louisiana law prohibits LDEQ from issuing a permit that maintains a nuisance or a danger to public health and safety, and furthermore, technology exists that could protect public health and reduce toxic air emissions during SSM events. State-of-the-art technology and additional air monitoring should be required to ensure the major source's air permit limits are maintained, and air monitoring may even help the plants become more efficient.
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Respectfully submitted
On behalf of Concerned Citizens Around Murphy
CCAMLA1@gmail.com
Suzanne Kneale, Officer, Chalmette, LA

CC: Ms. Peggy Hatch, Secretary LDEQ
CC: Mr. Ron Curry, Administrator EPA Region VI

Concerned Citizens Around Murphy ("Concerned Citizens") is a neighborhood organization, whose members are dedicated to the revitalization of St. Bernard Parish, Louisiana, renewal of the environment, and advocacy for all residents. We encourage citizens to actively engage in public participation so that local residents affect the ever-changing decisions that concern their neighborhood and community. Concerned Citizens' air quality committee formed to address pollution issues through public outreach and education, community meetings, and active involvement in the public participation process.

[1] Louisiana Bucket Brigade statistics of 2-mile radii around major sources in St Bernard
http://www.docstoc.com/docs/145763852/LABB_Refinery_2_mi_Census_Table-_1_

[2] Hurricane Isaac Emissions ExxonMobil
http://edms.deq.louisiana.gov/app/doc/view.aspx?doc=8570922&ob=yes&child=yes
Hurricane Isaac Emissions Valero Energy
http://edms.deq.louisiana.gov/app/doc/view.aspx?doc=8570942&ob=yes&child=yes

[3] EPA AirData Monitor Value http://www.epa.gov/airdata/ad_rep_mon.html

[4] 2010 and 2011 ExxonMobil Incidents
Louisiana Bucket Brigade Refinery Efficiency Initiative databank
http://farm.ewg.org/sites/labb/refineryyear.php?refinery=BB005&year=2010
http://farm.ewg.org/sites/labb/refineryyear.php?refinery=BB005&year=2011

[5] ExxonMobil April 10, 2012, May 24, 2011, and October 10, 2011
http://edms.deq.louisiana.gov/app/doc/view.aspx?doc=8387226&ob=yes&child=yes
http://edms.deq.louisiana.gov/app/doc/view.aspx?doc=8134597&ob=yes&child=yes
http://edms.deq.louisiana.gov/app/doc/view.aspx?doc=8221954&ob=yes&child=yes
http://edms.deq.louisiana.gov/app/doc/view.aspx?doc=8161246&ob=yes&child=yes
http://edms.deq.louisiana.gov/app/doc/view.aspx?doc=8274628&ob=yes&child=yes

[6] http://edms.deq.louisiana.gov/app/doc/view.aspx?doc=8161246&ob=yes&child=yes

[7] Valero Energy Incidents
2012 http://www.docstoc.com/docs/149049341/2012-Incidents-EDMS-updated
2011 http://www.docstoc.com/docs/146424230/2011-Incidents-EDMS

[8] Valero Energy April 4 2012, April 10 2012, May 2 2012 and February 10 2013
http://edms.deq.louisiana.gov/app/doc/view.aspx?doc=8424052&ob=yes&child=yes
http://edms.deq.louisiana.gov/app/doc/view.aspx?doc=8501416&ob=yes&child=yes
http://edms.deq.louisiana.gov/app/doc/view.aspx?doc=8485733&ob=yes&child=yes
http://www.docstoc.com/docs/147386144/Valero_Energy_-2013_02_15_SPOC_No_3_SRU_Shutdown_SERC_No_13-00616-8-Pages

[9] Valero Energy CEMs Slides (onsite monitors)
April 2012 http://www.docstoc.com/docs/123216737/Valero-CEMS-20120417_Slides
May 2012 http://www.docstoc.com/docs/123216791/Valero-CEMS-20120515slides
February 2013 http://www.docstoc.com/docs/146395129/Valero-CEMs-20130219-Slides

[10] LDEQ "Ch_Vista" site data
http://www.deq.louisiana.gov/portal/DIVISIONS/Assessment/AirFieldServices/AmbientAirMonitoringProgram/AirMonitoringData.aspx

[11] Valero Energy's "Valero" site data http://lena.providenceeng.com/Hourly.aspx

Chalmette Visa neighborhood around ExxonMobil-Chalmette and Rain CII Carbon-Chalmette

Chalmette neighborhood around Valero Energy's hydrocracker expansion project location.

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Developing Alternate SSM Limits and Work Practices – Coal Units

[for EPA SSM SIP Call]

Report

By

Dr. Ranajit (Ron) Sahu[1]

Item 2. Control Equipment Characteristics

In this section, we provide brief descriptions of the more important "add-on" air pollution controls used on coal-fired electric generating units[2] in order to reduce pollutant emissions. The purpose of this section is to provide a context for discussing the operational range, and the startup[3]/shutdown characteristics of the respective controls.

The following controls [and the affected pollutant] will be discussed:

- Selective Catalytic Reduction (SCR), [NOx]
- Selective Non-Catalytic Reduction (SNCR), [NOx]
- Wet Flue Gas Desulfurization (WFGD), [SO2]
- Dry Flue Gas Desulfurization, DFGD, [SO2]
- Dry Sorbent Injection, (DSI) [HCl and SO2]

[1] See Ron Sahu Resume attached.

[2] We focus on that portion of the coal fleet which consists of pulverized coal (PC) units. Thus, we do not focus on circulating or bubbling fluidized bed boilers (CFB/BFB). In general, CFB/BFB units are smaller and often burn waste coal or other fuels. As such, electricity generation from CFB/BFB units is a very small fraction as compared to PC units.

[3] Startups at coal units can generally be classified as cold, warm, or hot depending on the length of time the unit was not burning fuel prior to the startup in question. While exact definitions of these terms vary with practice and operator, a unit is considered to have a hot start if it was offline for 24 hours or less before the start in question. It is considered to have a warm start if the preceding offline period was 24-119 hours and it is considered to undergo a cold start if was offline for 120 hours or more prior to the start. Per citation provided in Kokopeli, P., et. al., Assessment of startup period at coal-fired electric generating units, US EPA. June 17, 2013.

- Activated Carbon Injection (ACI), [Hg]

- Dry Electrostatic Precipitator (ESP) [PM]

- Fabric Filter, (FF) [PM]

Several variants of the controls noted above, are used in the PC coal fleet in the US. Several different types of WFGD are in use, with the most common being the spray absorber type. Similarly, many different types of DFGD are also in use – such as spray dryers and circulating bed dryers etc. Finally, while most ESPs are located on the "cold-side," (i.e., after the air pre-heater), in some units hot-side ESPs are in use. We discuss the most common configurations, as applicable.

2.1 SCR

SCR consists of a catalyst bed over which the exhaust flue gases pass, after being pre-mixed with a reducing agent such as ammonia. Reactions of the NOx present in the flue gases and ammonia in the presence of the catalyst can reduce significant a portion (between 85% to 95%) of the NOx, to harmless nitrogen. However, in order for the catalytic reactions to occur, the catalyst (and, by extension the flue gases) must be present within a proper temperature range. Most of the SCRs in the US coal fleet are located just after the flue gases exit the boiler (i.e., after the economizer section) and prior to the air pre-heater. This is often called the hot-side location.[4] Typically, exhaust flue gases in this location have the proper temperature range to warm up the catalyst, which can then effect the desired NOx reduction reactions.

While SCR catalysts can, when properly designed, provide significant NOx reduction benefits, SCRs only work if: (a) the flue gases pass through the catalyst beds (i.e., the gases do not bypass the SCR – by design or operation); (ii) the gases are pre-mixed with the reducing agent (i.e., by stopping the addition of the reducing agent, the SCR

[4] A very small number of units have SCRs located at the very end of the air pollution train, after the particulate control devices, where the gases are quite low in temperature – often called the "tail-end" configuration. While this has the benefit of lower particulate loads on the SCR catalyst, the flue gases must then be reheated in some fashion to allow the SCR reactions. Such reheating can reduce unit efficiency and increase operating costs.

reactions do not occur); and (iii) the SCR catalyst is in the proper temperature range. As to the last, often the critical temperature of the flue gas that can provide the proper minimum catalyst operating temperature is the so-called Minimum Operating Temperature (MOT).

Clearly, the lower the MOT, the earlier the SCR can be "turned on" during startup (i.e., the earlier the reducing agent can be injected and the desired reducing reactions enabled) and the later the SCR can be "turned off" during shutdown – thus providing the greatest benefits. The MOT of the SCR catalyst is, to a degree, a design and operating parameter. While it is conventionally considered to be around 600 F (+/-), the MOT can be as low as around 400 F. Please see Attachment A for more discussion on this, including the factors that affect the MOT – such as the sulfur content of the coal and the ability of the catalyst to oxidize sulfur dioxide in the flue gas to sulfur trioxide.

In a review of SCR performance of existing units (using operating data from 2011 and 2012), EPA concluded[5] that SCRs, on average, were able to reduce NOx 2-4 hours or so after the generation of electricity at coal units.[6] Best performing units were able to do so less than 2 hours after electricity generation, when unit loads were 25% or less.

Several strategies can be used to obtain flue gas temperatures greater than the MOT (and thereby obtain the benefits of NOx reduction sooner during startup and later during shutdown; and also obtain the NOx reduction benefits during periods of low load, when ordinarily the flue gas temperatures are lower than the MOT).

Two types of bypass in the economizer section of the boiler can be employed that will increase the temperature at the SCR catalyst so that the critical temperature required for reducing agent injection is reached at lower loads. One technology is "hot water" bypass where part of the economizer is not used or feedwater heaters are bypassed to increase the water temperature going to the economizer which in turn increases the flue gas temperature entering the SCR. The second bypass technology uses flue gas

[5] Kokopeli, P., et. al., Assessment of startup period at coal-fired electric generating units, US EPA. June 17, 2013.

[6] *Ibid.*, EPA noted that the time between fossil fuel combustion and start of generation was less than 9 hours. An examination of the data presented by EPA indicates that best performing units were generating electricity within 1 or 2 hours after start of fossil fuel combustion – certainly for warm or hot starts.

taken from the boiler as it is entering the economizer section, where the gas temperature is greater than 800°F, and mixes it with the flue gas exiting the economizer section to increase the flue gas temperature entering the SCR. While both of these strategies can affect unit efficiency to some degree, the trade-off is more NOx reduction. See Attachment A for more discussion on inlet flue gas temperature and SCR NOx reduction.

Alternatively, boiler combustion modifications can be implemented to minimize NOx production until the SCR can be placed into operation. Overfire air and/or low NOx burners that are present in all coal units can be utilized to minimize NOx emissions during startup and shutdown operation.

Finally, in some cases, to avoid emissions of "blue plumes" associated with the formation and emissions of sulfuric acid mist, units are injecting a sorbent upstream of an SCR (in effect, DSI, as discussed later) to capture sulfur tri-oxide. Reduction of flue gas sulfur trioxide upstream of the SCR allows a lower MOT, as discussed in Attachment A. Such sorbents are either sodium or calcium based. Sodium is an SCR catalyst poison if condensation occurs at the catalyst (water soluble poison). Calcium-based sorbents may contribute to the formation of gypsum on the surface of the catalyst, which masks the active sites responsible for NOx reduction. Effects can be mitigated, however, during shutdown by allowing flue gas to flow through the SCR reactor for some minutes after cessation of sorbent injection so the fly ash that remains on the catalyst after shutdown contains less sodium or calcium. While sorbent injection upstream of catalyst may shorten the catalyst life, such effects may be reversible through catalyst regeneration.

2.2 SNCR

Like SCR, SNCR is also considered to be an "add-on," post-combustion NOx reduction method. However, it is implemented within the boiler itself. Like SCR, SNCR reduces NOx through a controlled injection of a reducing agent (like ammonia or urea) – but directly into the combustion gases themselves. No catalyst is used. In order to be effective, SNCR systems reduce NOx when ammonia is injected at flue gas

temperatures between 1600°F and 1800°F, or urea is injected when temperatures are between 1600°F and 2200°F, with 1800°F to 2000°F being the optimal reaction temperature range. Injection at temperatures below these ranges can result in excessive unreacted reducing agents (i.e., ammonia) to slip through the boiler, and injection at higher temperatures will produce less efficient NOx reduction, or in the extreme, even create more NOx by oxidizing the ammonia or urea into NOx (and other species). Under even good conditions, it is difficult to obtain SNCR NOx reductions greater than 65% or so. More commonly, NOx reductions range from 25 to 40% or so.

SNCR systems typically undergo optimization upon installation so that the appropriate system performance guarantees can be met. This optimization includes the set points for which levels of reducing agent injectors will be in service at given boiler load and furnace temperatures. This control arrangement is customized to specific reagent injection rates and is based on boiler load since those loads have to be correlated to furnace temperatures. The controls are often interlocked for each specific system so that the SNCR system will not be allowed to operate until it reaches the defined minimum boiler load. Many systems are installed with a unit control signal that can use a MOT as measured at the furnace exit to determine when the SNCR system can be put into operation.

When boiler load and temperature ranges change based on different coals, combustion controls or other operating conditions, the needed temperature window at a given boiler load point may change location, and may require re-optimization of the system, or a change to the control logic for system operation. High CO levels in the flue gas in the SNCR temperature range can have a significant effect on SNCR performance and can also impact the effective temperature range. Operation of the SNCR system outside the defined temperature range can lead to unreacted reagent in the flue gas, i.e. ammonia slip, which can be detrimental to downstream components including the air preheater, particulate control devices or FGD systems.

The actual low boiler load at which an SNCR system can operate varies from unit to unit based on furnace type and geometry, flue gas velocities, heat transfer rates and combustion conditions. SNCR operation at 25% load from a cold start condition may be

affected by the economizer outlet temperatures. Low temperatures may affect allowable ammonia slip, which can in turn affect NOx reduction levels. Typically, reagent can be injected when the boiler load is at 30% of full load, although some operators do not often go lower than 40% of full load. Additional injectors can be added to allow operation at 30% of full load or lower.

2.3 WFGD

Modern WFGD systems for coal units are typically designed to achieve SO2 reductions ranging from 98% (with low sulfur coals, such as Power River Basic sub-bituminous coals) to greater than 99% control (with medium or high sulfur coals such as Eastern bituminous coals).

Most WFGD systems use recycle spray systems using headers and nozzles to cool the flue gas and to remove acid gases, including SO2, by contacting a sorbent slurry with the flue gas. Most WFGDs have between three to six independent spray header systems and have either fiberglass or plastic components integral to the system.

The plastic or fiberglass has to be protected against high gas temperatures (typically 220 F for fiberglass reinforced plastic (FRP)). One or two of the lower spray headers needs to be turned on once the FGD system manufacture's maximum temperature guideline is reached regardless if the auxiliary fuel or coal is being burned. Flaked glass-lined systems often require a recycle pump in service prior to the introduction of flue gas. A minimum number of recycle pumps should be placed in service at low load conditions to protect the system against a down draft of slurry. Generally, a recycle pump is placed in service when induced draft (ID) fans are placed in service and reagent addition placed in automatic mode. If the absorber inlet is not properly designed, the downdraft may result in slurry carryover into the inlet ductwork causing buildup.

The above notwithstanding, operating units with WFGD systems are capable of maintaining SO2 emissions during the entire startup and shutdown operating periods – i.e., the WGD can be turned on at the beginning of startup and can be turned off at

the conclusion of shutdown. This is confirmed by EPA's analysis of the US PC coal fleet operating data, previously referenced.[7]

2.4 DFGD

DFGD systems in use in the US coal fleet can be broadly grouped into two general categories; spray dryer absorbers (SDA) and circulating dry scrubbers (SDS). For the purpose of this discussion, a third variant (called the Novel Integrated Desulfurization (NID) system[8]) is grouped with CDS type as the technology and operating conditions are similar.

Modern DFGD systems can be designed to achieve SO2 reduction in the range of 80% (for low sulfur coals) to greater than 95% (for medium to high sulfur coals).

Both SDA and CDS systems have a common design feature – both have an absorber vessel followed by, in most units, a baghouse (for removal of the resulting "dry" products of the SO2 reduction reactions). SDA systems use injected lime slurry into the absorber while CDS systems use a dry hydrated lime sorbent and separate water injection.

This difference results in different startup conditions for these two systems. Neither system can be operated with slurry or water addition at low temperatures because of the potential for corrosion in the ductwork and baghouse.

Generally, these systems are operated at a 30-40 F approach temperature to saturation. In an SDA system since a wet lime slurry is being injected a minimum flue gas flow and temperature has to be maintained – otherwise the lime slurry will build up on the walls of the absorber vessel which can cause structural damage or pluggage in the vessel. Typically, current practice requires that operators not turn on their SDA lime slurry unit they have a minimum of 250 F gas temperature and approximately 50% of design flow. However, during normal startup operators do experience some SO2, SO3, HCl, and Hg removal due to some residual lime coating the bags in the baghouse.

[7] Kokopeli, P., et. al., Assessment of startup period at coal-fired electric generating units, US EPA. June 17, 2013.
[8] NID was developed by Alstom, an OEM of various pollution control equipment.

Particulate removal can be maintained during startup and shutdown operating periods.

A CDS system is typically operated in a different mode than an SDA. In a CDS lime can be injected during startup as soon as the lime can be suspended in the absorber vessel. This suspended hydrated lime will remove some SO2 even without water injection. Water for cooling and assisting the lime in absorbing additional SO2 is then injected when the flue gas reaches 180°F dependent on flue gas properties. Depending on different OEM designs and specification requirements, flue gas flow normally required to support the circulating a bed in the CDS would be about 50% of the design flow. However, flue gas recirculation can be utilized to reduce the boiler flow to 25% or lower. We recognize that utilizing flue gas recirculation at reduced loads may restrict how much water can be added to the system as the combined flue gas temperature to the CDS decreases when mixed with the cooler recirculation gas.

For an integrated system of a fabric filter with a spray dryer absorber (SDA) upstream, the potential for acid condensation in the fabric filter can be greatly reduced with the startup procedure requiring the spray dryer be in operation at the same time as the fabric filter. However, if the temperature of the flue gas is too low entering the spray dryer, lime slurry may not dry fully in the absorber and will coat the walls of the absorber vessel and allow carryover of moist reagent and ash into the fabric filter with the potential of blinding the filter bags. This is not desirable and should be avoided. Thus, as discussed previously, it is important to develop startup and shutdown procedures for multiple installed APC systems treated as an integrated system with not only the boiler flue gas characteristics in mind but also the effect on APC equipment operation upstream of each APC system. The aforementioned approach temperature is a key parameter that can be monitored to enable optimal operation of both the DFGD and the baghouse.

EPA's analysis of units equipped with DFGDs shows that, for supercritical coal units, they were effective commensurate with electricity generation while at subcritical units, they

were effective within 3-4 hours of electricity generation – with best performing units doing considerably better.[9]

2.5 DSI

DSI involves the injection of a dry fine powder, calcium- or sodium-based reagent directly into the gas path after the exhaust gases exit the boiler. DSI is used primarily to remove acid gases such as HCl and SO3, while also providing some SO2 removal as well. Additional details are provided in Attachment B.

If DSI is the primary method for acid gas removal, it should be started once minimum flow and temperature requirements are met, and then operated on a predetermined load related curve developed by the vendor specific to the unit. The effectiveness of the DSI system to maintain emissions is dependent on flow distribution and operating temperature range.

Depending on different original equipment manufacturer (OEM) designs and specification requirements, minimum flue gas flow normally required to keep the injected sorbent (calcium/sodium or carbon) in suspension and off the duct floor would be about 50% of the design flow. However, flue gas mixing can be utilized to keep sorbent suspended at 25% design flow. Sodium sorbents require a minimum temperature to be effective including trona, which requires flue gas temperature to be greater than 290 F at the point of injection. See Attachment B.

DSI can have significant benefits during startup, shutdown, and cycling load periods. One benefit is that DSI can reduce corrosion that might occur during low load conditions. A second benefit, discussed earlier, is that DSI can be used to reduce the minimum operating temperature when SCRs can begin injecting ammonia and thus begin reducing NOx. Finally, DSI can be used as a tool to reduce maintenance periods, especially with regard to air preheater cleanliness by reducing ammonium bisulfite formation.

[9] Kokopeli, P., et. al., Assessment of startup period at coal-fired electric generating units, US EPA. June 17, 2013.

2.6 ACI

There are currently two predominant forms of injected sorbent mercury control agents, powdered activated carbon (PAC) which is available in both brominated and non-brominated forms and non-carbon based powdered reagents. By far, the carbon sorbents are most common.

Powdered mercury control sorbents are injected using conveying air into the gas path outside of the boiler. Injection points range from upstream of the air preheater to downstream of a primary particulate collector or upstream of a scrubber. The material is conveyed from its storage point through piping or tubing to a series of lances that distributes the material into the flue gas stream.

Upon startup or shutdown of a unit, before beginning duct injection of a powdered sorbent material or in determining when to cease injection, certain conditions should be met. Suppliers and manufacturers provide recommendations on procedures, and may need to be consulted for the final configuration and process operation related to their materials.

A brief list of relevant parameters includes:

- carrying velocity - determines whether there is sufficient carrying velocity to convey the material in the duct without significant fallout. In turn, this will depend on the sorbent characteristics, including particle size range, of the material itself as well as in-duct flue gas conditions. For carbon sorbents, typically the minimum conveying velocity for dilute phase flow is 2000-2400 ft/min.

- condensation - depends on the moisture content of the flue gas and creates a potential for condensation in equipment, resulting in pluggage if sorbent is turned on prematurely. The equipment temperatures need to be high enough during injection to avoid condensation.

- particulate collector operation - since the injected sorbents are collected downstream in either the primary particulate collector or a scrubber, these

downstream emission control devices should be operating normally when injecting a powdered material.

2.7 ESP

ESPs are particulate control devices that rely on the mechanism that particulates, once electrically charged, can then be removed from the gas path by subjecting them to an electric field. Typically, an ESP consists of a charging section in which high voltage corona discharges are used to impact electric charge onto particles as the gases pass through the corona. The charged particles are then subsequently removed by passing the gases through an electric field, most commonly present between parallel plates.

In the US coal fleet, ESPs are primarily present in older, smaller units. Most newer units tend to have fabric filters or baghouses for particulate matter control. Given how ESPs and fabric filters operate, the latter are more robust and also more efficient. While either control can achieve very high levels of removal efficiency (greater than 99%), fabric filters can achieve levels greater than 99.9% removal which ESPs can achieve removal levels that are slightly lower.

Flue gas temperature has a major effect on ESP operation and its mechanical and electrical integrity. In the US coal fleet, it is typical that ESPs are not energized (i.e., therefore particles cannot be charged nor can they be removed from the gas stream) until the flue gas temperature reaches a specified minimum – either by the OEM for the ESP or based on operating practices by the operator. The rationale is that if the ESP high voltage power supplies are energized prior to the flue gas being above the acid dew point temperature, there is a high probability that wet ash particles will be collected on the emitting and collecting electrodes and hopper walls which is extremely difficult to remove with electrode rapping. When this material is subsequently dried upon reaching normal operating temperatures, the material can form hard crusty deposit firmly cemented to the ESP electrodes. With the 'fouling' of the electrodes, ESP collection efficiency will be reduced to a degree depending on the amount of ash buildup.

Thus, conventional wisdom in the industry is that boiler startup and shutdown are critical periods for the operation of an ESP that can directly and adversely impact on the ESP achieving its design performance and maintaining this performance. In addition to the aforementioned concern relating to flue gas temperature being below the acid dew point, operators also worry about the potential for spontaneous combustion or explosion with existence of unburned combustibles in the flue gas which could be ignited by sparking in the ESP. During boiler start and warm-up, there is the potential for excessive production of carbonaceous material (i.e., unburned carbon from the coal), CO or unburned fuel (such as startup diesel or fuel oil) caused by incomplete combustion. Operators worry that this can create a hazardous condition that could cause conditions for spontaneous combustion or even explosion particularly if there is sparking in the ESP with the ESP energized. This is also a period when excessive oxygen is passing through the system which could potentially exacerbate this condition.

Based on all of this, typical ESPs in the US coal fleet are not energized below a minimum flue gas temperature of 250 F or so.

We note, however, that in at least one instance, ESPs are operating and have been operated during all time periods at a coal plant, including startup and shutdown – without any of the operational issues or safety issues noted above. The Jim Bridger Plant in Point of Rocks, Wyoming, routinely operates its ESPs during startup and shutdown events. As the plant has noted, "[A]lthough the equipment is not fully effective until proper temperatures and stable conditions are reached, startup emissions are minimized by placing the electrostatic precipitator and flue gas desulfurization scrubber in service prior to the introduction of fuel to the boiler (emphasis added).[10] Placing the electrostatic precipitator in service early in the process provides for a reduction in

[10] The operations cover periods of startup and shutdown.

particulate matter emissions. . . ."[11] Further, PacifiCorp, the operator of the Jim Bridger plant, specifically notes that this procedure expressly deviates from the manufacturers recommendations. "Although the equipment is not fully effective until proper temperatures and stable conditions are reached, startup emissions are minimized by placing the electrostatic precipitator and flue gas desulfurization scrubber in service prior to the introduction of fuel to the boiler. PacifiCorp's commitment to fully energize the precipitator prior to bringing the unit up to operating temperature, which is done by first combusting fuel oil followed by gradual introduction of coal, does not follow the Original Equipment Manufacturer (OEM) recommendation. That OEM recommendation calls for energizing the precipitator after the unit is at full operating temperature and combustion of fuel oil has ceased."[12]

The continued safe operation of the units at the Jim Bridger plant[13] demonstrates the feasibility of ESP operation during startup and shutdown is possible by ensuring that the ESP is kept clean and is properly maintained.

2.8 Fabric Filter or Baghouse

Particulate matter collection in a baghouse is effected by flowing the "dirty" exhaust gases past a filter made of suitable fabric material (there are many candidates, depending on gas chemical and physical characteristics). These filters are configured as long tubes or bags – many of which are grouped into compartments in a typical baghouse. Depending on the type of fabric filter (the older shaker or reverse-air types or the current, standard pulse-jet types), particles are literally collected on the surface

[11] Jim Bridger Plant Startup and Shutdown Minimization Plan. The startup process at the Jim Bridger units is generally similar to that at many other coal units: "Fuel oil is the initial heat input source used during boiler unit startup, and unit startup begins when fuel oil is introduced into the boiler. As the boiler, turbine equipment and steam temperatures rise to design values, coal mills (pulverizers) are gradually placed into service concurrently with fuel oil firing. (Generally, two pulverizers are operational during the end phase of the boiler startup process.) As steam and equipment temperatures continue to rise while co-firing on fuel oil and coal, the boiler combustion process stabilizes adequately such that fuel oil firing can cease. Startup ends no later than the point in time when flue gas temperatures to the electrostatic precipitator reach a temperature of 220°F and two coal pulverizers have been placed into service. Startup does not extend beyond 20 hours per startup period." *Id.*

[12] Decision, In the Matter of a Permit Application (AP-5157) from PacifiCorp to Modify Operations at the Jim Bridger plant, in Sweetwater County, Wyoming. See page 8.

[13] The plant and its units have operated in this matter since at least 2007, when the referenced startup and shutdown plan went into effect.

of the fabric material (which is generally supported in some fashion), which are then periodically cleaned once the gas flow through the baghouse is impeded by increasing pressure drops across the fabric materials. Once cleaned, bags are ready to receive particles once more.

As noted earlier in the ESP discussion, baghouses are the control of choice for particulate matter removal from current or newer coal units. They are more robust and can typically operate at all times, including startup and shutdown.

To the extent there are concerns with a baghouse operating during low load conditions, low flue gas temperatures might result in moisture and damp ash collecting on the filter bags causing an increase in the pressure drop across the "filter cake" due to lower permeability in the particles previously collected.

If such low temperatures persist for an extended period of time (which is not typical or either startup, shutdown, or cycling load operations), there is the risk of permanently blinding the bags, making them unusable. Acid gas condensation with operation below the acid dew point could also lead to premature filter bag failure.

These conditions can be prevented by pre-coating the bags and/or by using a sacrificial chamber on initial startup. Bags may be pre-coated with sorbent from an upstream DSI or CDS system (which mitigated against acid gas damage) or per supplier's recommendation. For existing bags, the best practice is to not remove all the ash before shutdown so there is a protective layer existing for the following startup.

The baghouse for particulate removal does not have any minimum flow or temperature requirements prior to operation to minimize the number of bags that may weakened by operation below the acid dew point. Specific manufacturers may limit the number of compartments in service at reduced temperatures. The bags have a maximum continuous temperature limit dependent on the filter bag medium (for example 375 F for polyphenyl sulfide, PPS, the material most commonly used).

Attachment A

On the Minimum Operating Temperature (MOT) for Selective Catalytic Reduction (SCR) Systems for NOx Reduction at Coal-Fired Plants

1.0 Introduction

Coal-fired power plant operators or consultants hired by them have often claimed that Selective Catalytic Reduction (SCR) units, which use catalysts for NOx reduction, are ineffective at temperatures below 620 F (or similar), which they claim is a "fundamental limitation" of the SCR technology.

For example, the company operating the Somerset plant, which consists of one unit equipped with SCR, submitted a Reasonably Achievable Control Technology application[1] seeking to carve out the low load and startup conditions from meeting the presumptive RACT limit, on the grounds that the "SCR catalyst temperature is not at sufficient operating temperature to control NO_x emissions...."[2] It is impossible to evaluate this claim because the "sufficient" catalyst operating temperature (which would depend on the choice of catalyst and other factors) is simply noted as 620 F,[3] with no basis or connection to details on the catalyst.

In another example, at the Cayuga plant, consisting of two roughly 150 MW units, one of which (Unit 1) has an existing SCR, the draft Title V permit contains the following conditions:

> "1. The owner or operator shall comply with the following NOx limits for Boiler 1:
> i. At loads equal to and greater than 58 MW (gross) but less than or equal to 85 MW (gross), provided that flue gas temperature at the inlet to the SCR temperature does not exceed 620 degrees F, emissions shall not exceed 0.42 pounds NOx per million Btu.

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[1] NO_x Reasonably Available Control Technology (RACT) Analysis for the Somerset Generating Station in Barker, New York, December 2011.
[2] Somerset RACT Analysis, p. ES-2. In some places the document further confuses this issue by stating that a "...minimum" sustained operating temperature is necessary for SCR operation without specifying it (also at p. ES-2).
[3] Somerset RACT Analysis, p. 12

> ii. At operating loads greater than 85 MW, and whenever the flue gas temperature at the inlet to the SCR temperature exceeds 620 degrees F, emissions shall not exceed 0.12 pounds per million Btu."[4]

A somewhat similar example is from the permit from Apache units 2 or 3, which states that:

> "[B]ased on manufacturers requirements, the SCR system shall be placed in service as soon as practicable after exhaust gas temperature reaches 570 degrees Fahrenheit...."[5]

Although the temperature limit specified in the Apache permit is 570 F as opposed to 620 F, the basis for the 570 F specified in the permit is still not clear.

The focus of this Attachment is to critique conditions such as the above which allow SCR to not operate, unless the gas temperature at the inlet to the SCR exceeds 620 F, 570 F (or something similar). Further, like the example of the Somerset RACT, the technical discussion associated with the draft Title V permits often contain no support or discussion justifying the gas temperature cut off for SCR operation.

For this discussion, we will assume that SCRs are located after the economizer and before the air preheater or any particulate controls, and, as such, are considered to be in the "high dust" configuration. The SCR inlet temperature that is relevant is the economizer exit gas temperature.

It is not surprising that SCR catalysts, like all catalysts designed to promote specific chemical reactions, might not have sufficient activity at low temperatures.[6] In that sense, we do not dispute the general idea that there may be inherent "minimum operating temperatures" (MOT) associated with SCR catalysts.

However, as we will demonstrate below:

(a) there is not a single such MOT that is universal to all SCR catalysts;

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[4] Draft Title V Air Permit, Permit ID: 7-5032-00019/00016, Facility ID: 7503200019, Condition 94.2.
[5] Air Quality Control Permit No. 35043, dated July 9, 2007, p. 50 of 84.
[6] SCR catalysts also have upper temperature limits above which they should not be operated. That is generally not an issue and we therefore do not comment on that any further.

(b) the MOT for all SCR catalysts is not specifically 620 F as noted in the examples of the two NY plants discussed above;

(c) SCR catalysts are not irreversibly damaged should the inlet flue gas temperature entering the SCR fall below the MOT;

and

(d) there are methods available to maintain the SCR inlet temperatures higher than the MOT (whatever temperature that may be for the specific SCR in question) for wide ranges of boiler loads using other techniques such as economizer bypass and additional approaches.

2.0 SCR Catalyst Suppliers

As a general matter, I note that there are numerous original equipment manufacturer vendors that supply SCR catalysts, specifically formulated and designed for NOx reduction from coal-fired units. These original equipment manufacturers of catalysts include, among others, Halder Topsoe,[7] Johnson Matthey-Argillon,[8] Hitachi,[9] Cormetech,[10] etc. SCRs, themselves, are designed and constructed by engineering and construction firms, to which the SCR catalyst vendors provide the catalyst and related equipment. In addition to original equipment manufacturer catalyst vendors, there are also vendors who can refurbish used catalysts in order to regain their activity levels.

Each of these catalyst manufacturers have various catalyst designs or formulations, tailored for specific applications and depending on factors such as coal type, the range of NOx concentrations at the inlet to the SCR, the operating load range for the boiler, the sulfur content of the coal, the desired NOx reduction needed, ammonia slip

[7] http://www.topsoe.com/business_areas/air_pollution_control/processes/nox_removal.aspx
[8] See, for example, http://wenku.baidu.com/view/1b3dce896529647d2728523c.html
[9] See, for example, http://www.marketwatch.com/story/hitachi-power-systems-america-reaches-agreement-to-supply-plate-type-catalyst-for-american-electric-powers-scr-fleet-2013-12-16
[10] http://www.cormetech.com/catalystoverview.htm

limitations, pressure drop limitations, the expected catalyst life, and others.[11] Thus, the terms "SCR catalyst" include a variety of vendors/catalysts/formulations. There is no theoretical reason or basis to expect that all of these different SCR catalysts from various vendors would have a single MOT.

3.0 SCR Catalyst Minimum Operating Temperature (MOT)

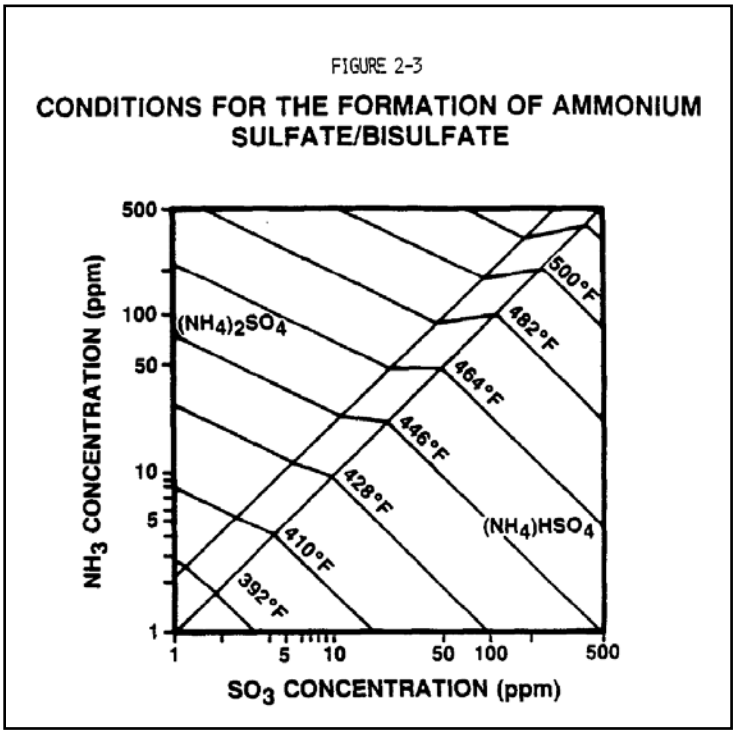
Ammonia is by far the most common reducing agent used in SCRs. As a practical matter, the MOT in SCRs using ammonia is governed by the potential formation of several ammonium salts. The goal is to maintain gas temperatures in the SCR above the level where these salts, if formed, might condense in the catalyst, thereby blocking portions of its pore structure available for NOx reduction reactions.

Ammonia can react with other chemical species present in the exhaust gases from coal combustion to potentially form a number of different salts such as ammonium chloride, NH_4Cl, ammonium bisulfate (ABS), NH_4HSO_4, and ammonium nitrate, $(NH_4)_2NO_3$.[12] Of these, typically, in coal combustion exhaust gases, the MOT is driven by avoiding ABS condensation, which forms when ammonia and sulfuric acid (which, in turn is formed by the reaction of sulfur trioxide and water vapor) might condense as liquid ABS in the catalyst pores. Thus, determining MOT, of necessity, requires some understanding of the conditions that can or might lead to ABS condensation in specific situations.

The chart below[13] shows the conditions for formation of ABS as a function of ammonia concentration and SO3 concentration in the exhaust gases. As expected, the lower the ammonia and SO3 concentrations, the lower the temperature above which ABS formation becomes an issue – i.e., lower the MOT. The operator has control over the given ammonia concentration, including the excess ammonia concentration (i.e., ammonia concentration above and beyond that needed for the NOx reduction reactions) since it is an input material for the SCR, with economic value to the operator.

[11] See id notes 6-9.
[12] See, for example, Thogersen, J.R., et. al., Ammonium Bisulphate Inhibition of SCR Catalysts.
[13] Ratafia-Brown, J., "Advanced NOx Control Assessment," DoE, March 1989.

For a given ammonia concentration, the lower the SO3 concentration, the lower the MOT. It is worth noting that even at very high levels of ammonia and SO3, the potential conditions for ABS formation are well below 620 F.

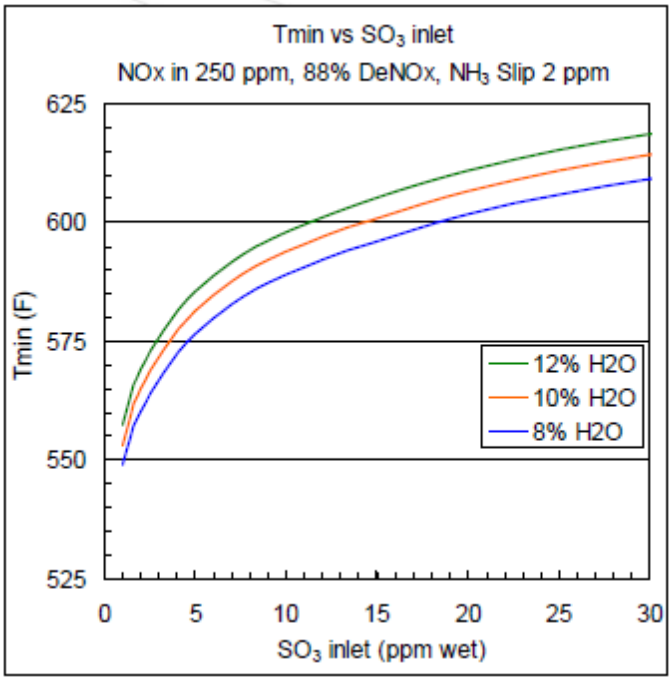


I also note that in actual SCRs, which typically have two or more catalyst layers in the direction of gas flow (the "gas path"), the MOT in the second and subsequent layers is lower since there is less free ammonia available as the gases progressively pass through the SCR.[14]

While the MOT for particular formulations is a closely guarded trade secret by catalyst vendors, there are examples of typical MOT in the open literature.

The graph below is by Argillon, a SCR vendor.[15]

[14] Thogersen, J.R., et. al., Ammonium Bisulphate Inhibition of SCR Catalysts.
[15] From a paper presented at the Reinhold Environmental Ltd. 2008 NOx-Combustion Round Table & Expo, February 4-5, 2008 in Richmond, VA.



The graph shows that at relatively high levels of SO3 concentration, for example 15 ppm, the MOT (on the y-axis) is significantly below 620 F. The dependence of the MOT on water vapor, always present in combustion systems, is also shown.

The next graph below shows a composite envelope of the MOT from various SCR vendors.[16] Like the curve from Argillon, the composite curve below also shows the dramatic impact of SO3 concentration on the MOT. It also shows that the MOT can be significantly below 620 F.

[16] Lockert, C. A., et. al., Dynamic Control of SCR Minimum Operating Temperature, CoalGen 2009.

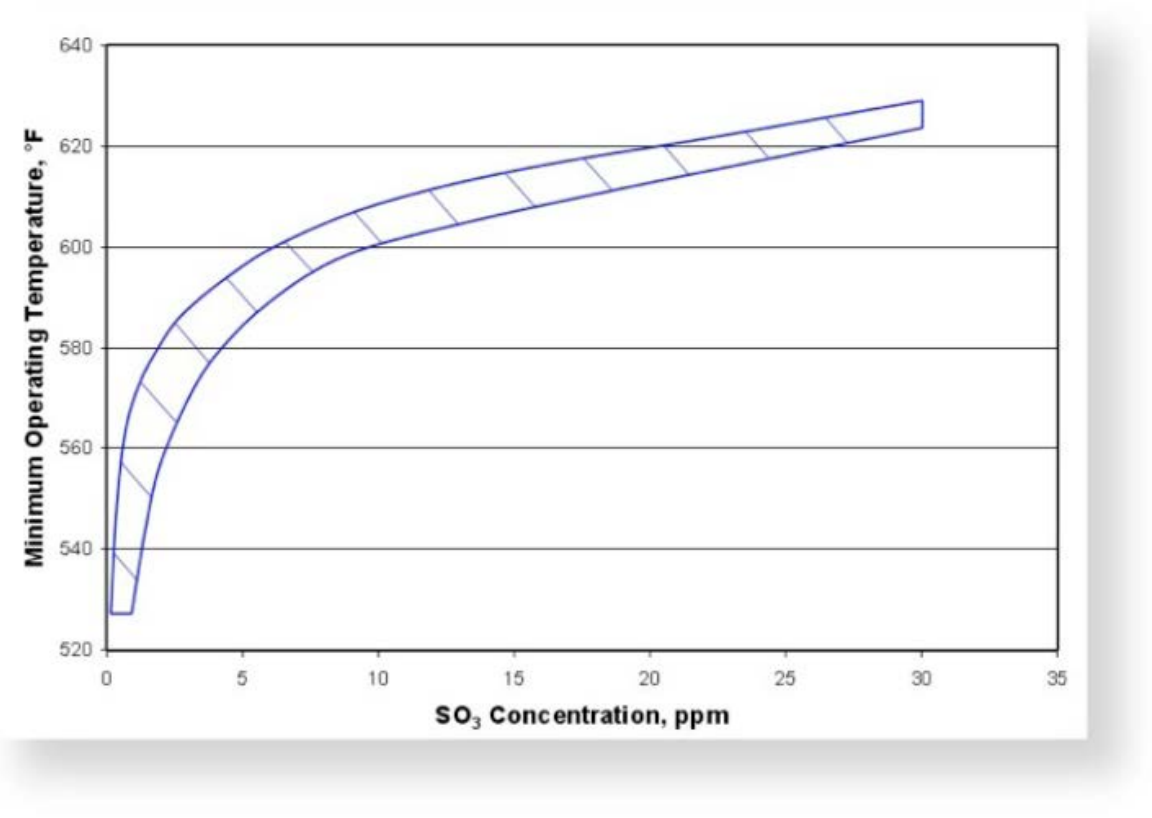


Figure 1 - Composite Catalyst MOT vs SO3 curve

There are other specific examples. An SCR at the Edgewater Unit 5 can operate at temperatures of 550 F.[17] Even this relatively lower temperature, however, should not be misconstrued as a lower temperature limit for SCR catalyst performance as shown in the MOT curves above.

As another example, in a recent analysis of SCR performance for a coal-fired unit in Arizona, EPA notes that "[T]he normal maximum allowable temperature for a baghouse is 400 degrees F, which is at the low end of the temperature range required for

[17] Knier, J., et. al., History and Challenges of a Successful NOx Reduction Project, Power Engineering, March 2014, p. 38.

operation of an SCR system (approx 400-800 degrees F)."[18] Thus, in EPA's analysis, SCR can operate at temperatures as low as 400 F. This is consistent with the ABC condensation temperatures that I have discussed earlier, especially at low ammonia and SO3 concentrations.

Based on the above, the representation of 620 F (or similar) as some sort of a "fundamental" limiting temperature below which SCR catalysts do not work is untrue.

Further, from the discussion above, it should be obvious that SO3 concentration plays a significant role in ABS formation, and therefore the establishment of the MOT. Understanding SO3 formation in the boiler (i.e., before the flue gases reach the SCR) is important since it will provide additional options to potentially reducing SO3 concentrations, and therefore MOT.

In simple terms, SO3 is formed in the boiler via the oxidation of SO2, which, in turn, is produced via the oxidation of sulfur in the coal itself. While some of the sulfur in the coal exits via the bottom ash (typically between 5-15% of the inlet sulfur in the coal), the majority of the coal sulfur compounds oxidize to SO2 in the overall oxidizing environment in the boiler. A portion of this SO2 can then oxidize to SO3 via iron catalytic reactions.[19]

The graph below shows the important factors that affect SO3 formation.[20]

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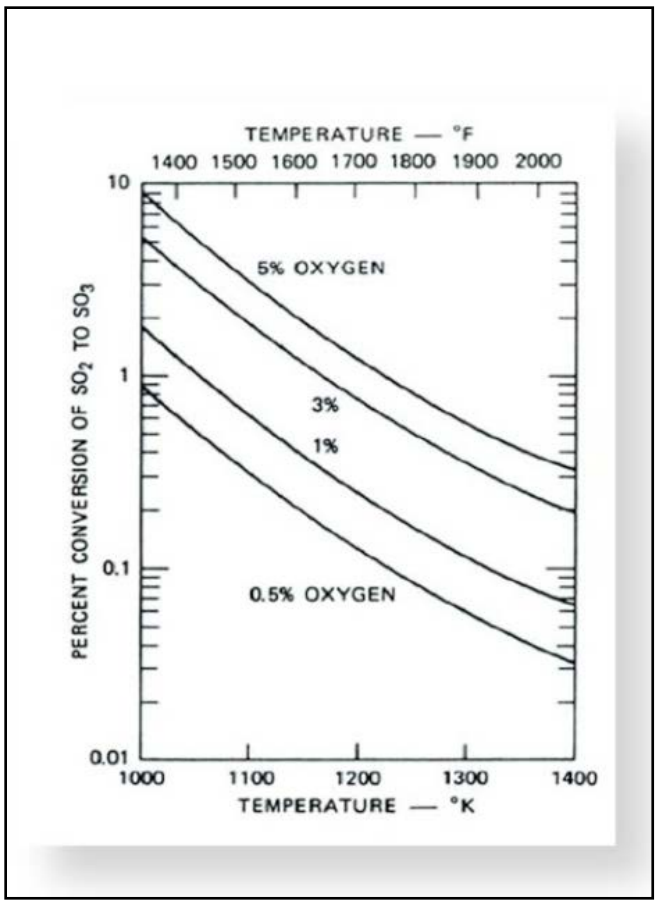
[18] Technical Support Document for the Proposed Phase 3 Action on the Federal Implementation Plan for the Regional Haze Program in the State of Arizona, EPA Docket No. EPA-R09-OAR-2013-0588, available at www.regulations.gov

[19] Lockert, C. A., et. al., Dynamic Control of SCR Minimum Operating Temperature, CoalGen 2009.

[20] *Id.*



As Lockert et. al., note, "What is clear is that: the higher the level of excess O2, the higher the formation rate of SO3; the lower the temperature at which the SO2 meets the iron catalyst, the higher the formation rate of SO3"[21]

Based on the above, and based on typical gas temperature profiles in the boiler back pass, the bulk of the conversion of SO2 to SO3 typically occurs in the region between the reheat pendants and the economizer inlet.

Breen, a consulting company additionally notes that "[S]ince the goal of the plant is to burn the most economical opportunity coal available, it is not possible to control either the iron content in the fuel or the alkalinity of the resultant fly ash. However there are three specific actions that plant operations can take:

[21] *Id* at p. 3.

1. Strive to maintain the lowest possible excess oxygen level that can reasonably be delivered by the secondary air control process. To achieve this it is more important than ever to:

2. Understand and balance fuel distribution through the pipe from each mill. This will allow a more balanced fuel profile to the boiler and allow a more balanced fuel/air ratio. This, in turn, will allow the plant to operate at lower O2 levels without the negative side effects.

3. If a high iron content fuel is being burned, pay close attention to ash deposits in the region from the primary reheat to the economizer inlet. Keep this area as clean as possible to reduce the catalytic impacts of iron oxides."[22]

Lockert et. al., also notes that, since as boiler loads change excess oxygen levels can change, and as loads change the temperature profile, particularly in the critical SO2 to SO3 conversion region, can also change, "…the conversion rate of SO2 to SO3 ahead of the SCR is rarely a constant number and application of a fixed MOT curve based on a fixed level of SO3 input is generally over conservative. What is required is a real-time measurement of the actual SO3 entering the SCR and subsequent closed loop control of the ammonia injection curve based on the dynamic number."[23]

Instruments to do just that are now available to power plant operators.[24]

4.0 Operating SCR Below MOT

One of the major considerations with regards to MOT (as not limiting SCR performance) is that even if a SCR is occasionally operated at temperatures below the MOT, as long as these durations are relatively short (say, 12 hours or less, as would be the case for startup, shutdown, low-load unit cycling during the nighttime, etc.), followed by unit

[22] Breen Energy Solutions, Comprehensive Acid Gas Management, March 2012.
[23] Lockert, C. A., et. al., Dynamic Control of SCR Minimum Operating Temperature, CoalGen 2009.
[24] See, for example, ammonia analyzers as discussed in http://www.teledyne-ai.com/products/app_ammonia_slip_monitoring.asp; see also technical paper at https://www.industry.usa.siemens.com/automation/us/en/process-instrumentation-and-analytics/process-analytics/pa-case-studies/Documents/P019DeanFinal.pdf. See information on SO3 measurements at https://www.sick.com/media/pdf/0/30/830/IM0058830.PDF; See additional information on SO3 measurements at https://tools.thermofisher.com/content/sfs/brochures/D20831~.pdf

operation at normal loads with economizer exit gas temperature above the MOT, then any condensed ABS will simply and reversibly vaporize, leaving catalyst pore structures and activity unchanged.

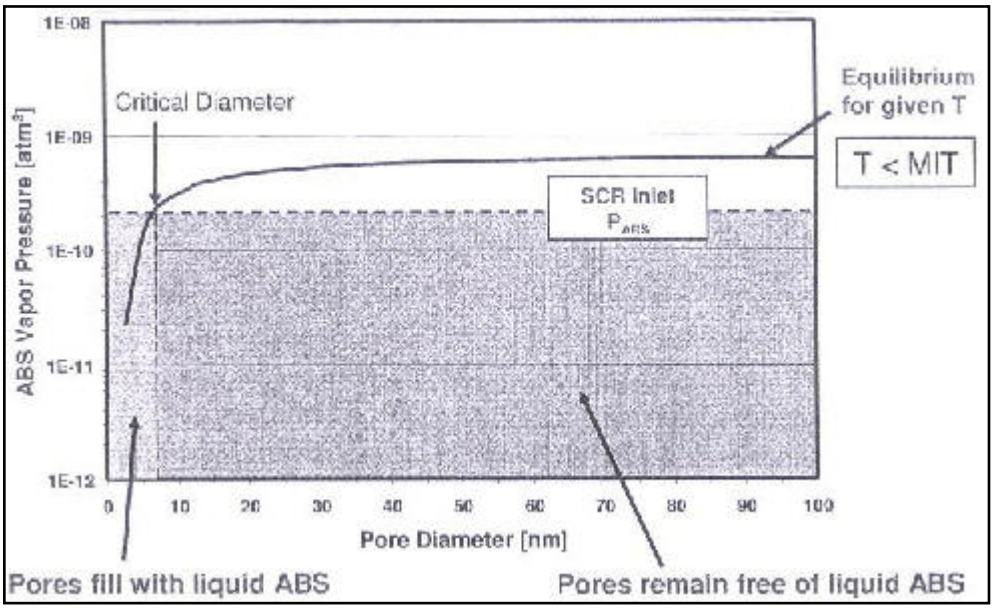
This is well established and has long been known. We provide several examples.

First, we quote extensively below from a major SCR catalyst vendor, Cormetech, with regards to this issue from a discussion in 2007.[25]

> **Cormetech Catalyst Can Be Used at Lower Temperatures for Limited Periods**
>
> Cormetech's design strategy for setting minimum operating temperature guidelines for SCR operation involves two distinct approaches: the Basic Approach, in which ammonium bisulfate (ABS) deposition on the catalyst is avoided, and the Enhanced Approach, which allows a controlled amount of ABS deposition and catalyst deactivation, before the ABS is driven off by heating above a recovery temperature. The Enhanced Approach provides significant opportunity to expand the SCR operating range below the temperature at which ABS first condenses in the catalyst, while maintaining the required NO_x removal efficiency. Benefits to the utility include higher overall NO_x removal, improved flexibility for load cycling and maintenance, and the potential for eliminating the need for an economizer bypass or alternate methods of temperature control for the SCR system in new designs and retrofits.
>
> The Enhanced Approach requires a substantial understanding of the unit's operation (at full and part loads) and the catalyst's response, including temperature (average and spatial distribution), gas composition: SO_3, H_2O, NH_3 (DeNOx, inlet NO_x, NH_3 slip), gas flow rate, the expected ranges for these parameters (expected fuels), boiler transient information (temperature/flow versus time) and the routinely achievable temperature for recovery. Each plant must also consider the desired operating strategy (i.e., target load, temperature, hours, performance targets and frequency) that best enhances operability.
>
> Figure 4 below presents a case where the temperature is now below the Minimum Injection Temperature (MIT) for NH_3 for the SCR. ABS will form in pores smaller than critical diameter, while larger pores remain free of ABS and capable of performing the $DeNO_x$ reaction. (Note: Cormetech SCR

[25] FGD and DeNOx Newsletter, January 2007, available at http://www.mcilvainecompany.com/brochures/newsletters/fgdnl345OLD/Cormetech%20Catalyst%20Can%20Be%20Used%20at%20Lower%20Temperatures%20for%20Limited%20Periods.htm

Catalyst™ has a tri-modal pore distribution with micro, meso, and macro power; the micro pores are most susceptible to capillary condensation effects).



Implementation of this strategy at TVA plants with Cormetech SCR catalyst provided significant cost savings due to lower permissible operating temperatures (net savings of about $2.4 million for the 2005 ozone season), without adverse effect on the catalyst, air preheater (APH) or stack opacity. See Figure 5. In addition to the cost savings, an additional 974 tons of NO_x were reduced. Both benefits were accomplished with an implementation cost of $200,000. In addition, the new operating guidelines avoided the need to install an economizer by-pass on these units.

Second, the Electric Power Research Institute, a utility industry research organization has been investigating exactly this issue since 2010 or thereabouts. We provide excerpts from their work below.

"Operators can also take advantage of the fact that the ABS formation reaction is reversible. When the flue gas temperature moves back above the minimum operating temperature at full load conditions, the liquid ABS will evaporate from the catalyst pores. Some catalyst suppliers have worked with operators to develop procedures for operating below the minimum operating temperature. The procedures generally involve dropping below the minimum operating temperature for a limited amount of time, allowing a controlled amount of ABS deposition and catalyst deactivation, and then recovering the catalyst activity by increasing load and reheating the catalyst above a specified recovery temperature where the ABS will evaporate. Using procedures defined by the catalyst

> vendor, results show that high NO_x removal rates can be maintained during extended low load operation; and catalyst activity can be completely recovered (without a significant time lag) when flue gas temperatures are increased back to full load conditions. These low load cycles do not appear to accelerate catalyst deactivation."[26]

In a follow-up to the study above, EPRI noted the following:

> "Researchers investigated SCR catalyst deactivation due to temperature and ABS deposition using both new and used homogeneous honeycomb, plate, and corrugated catalysts. Effects on the first and second catalyst layers were studied by collecting gaseous samples at the inlet and outlet of each SCR layer. Honeycomb catalyst samples were analyzed for pore size and distribution. The experimental data were used to develop performance predictions for several low-load scenarios.
>
> The experimental data showed the new honeycomb, corrugated, and plate type catalysts have different ABS deactivation characteristics in the first and second layers. For the new catalyst, an SCR process model showed that overnight (8–12 hours) operation at low load below the ABS dew point does not appear to jeopardize SCR performance."[27]

That operators are actually using these approaches is also well known. For example, TVA, a large operator of numerous coal-fired power plants, many using high sulfur coals (i.e., with relatively high SO3 concentrations in the exhaust gases) stated recently that

> "TVA used the EPRI load cycling technology guides to develop and implement a strategic approach to increase the turndown capability of its fossil-fueled fleet. After reviewing the EPRI O&M guidelines for SCR systems, TVA engineering determined that the units with SCR equipment could operate at lower inlet temperatures than the existing operational procedure limits. The new lower operating temperatures were designed to still allow appropriate recovery times to evaporate ABS at higher operating temperatures, and to avoid permanent deposition and catalyst damage."[28]

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[26] Summary of Selective Catalytic Reduction System Operational Issues at Low Load, Product ID 1021208, November 12, 2010 (taken from abstract).

[27] EPRI, Investigation of Catalyst Deactivation from Operation Below the Minimum Operating Temperature, Product ID:1023928, September 11, 2012 (taken from abstract).

[28] *See* EPRI Success Story, TVA Uses Information on Cycling Operation to Improve Unit Turndown Capability, February 2013, available at http://www.tva.com/environment/technology/pdf/improve_unit_turndown_capability.pdf.

5.0 Measures That Can Maintain Gas Temperatures Greater Than MOT at Low Loads

In addition to the discussion above which clearly shows that SCRs can run without adverse impact even if the economizer exit gas temperature is below the MOT for short durations (as long as they are then run at temperatures above the MOT subsequently – which is consistent with the normal mode of how coal units operate), in this section we will note that there are several approaches that can be used to effectively operate the boiler/SCR system at temperatures above its MOT even at low loads.

The conventional approach to maintaining economizer exit gas temperature (EEGT) above the MOT is to allow for a gas path that can bypass the economizer. Depending on the degree of bypass, which is controlled via a damper, a portion of the flue gases bypasses the economizer thereby retaining its heat or enthalpy while the majority of the flue gases pass over the economizer, as designed. They are then combined at the exit to the economizer before proceeding to the SCR inlet. In this manner, the hotter by-passed gases combine with the cooler non by-passed gases, thereby keeping the overall temperature above the MOT. The obvious drawback to this approach is the loss of unit efficiency due to the heat that could not be extracted by the economizer from the by-passed gases. However, this is not the only possible approach.

The 2010 EPRI document provides several additional possible options.

> "To avoid problems during low load operation, conventional design practice calls for a flue gas or water-side economizer bypass to elevate the flue gas temperature at low load to a level high enough to allow reagent injection. However, many units are not equipped with economizer bypass capabilities. In these cases, operators have a number of options to comply with the minimum operating temperature (emphasis added):

- Evaluate actual SCR inlet operating conditions (NH_3 and SO_3 concentrations, temperature distribution) and compare to the SCR design conditions
- Modify current operational practices (fuel sulfur content, NO_x reduction levels at low load)
- Improve the SCR inlet temperature distribution by installing a static mixer

- Reduce SO_3 levels upstream of the SCR by injecting a sodium sulfite solution, or a dry sorbent such as trona or hydrated lime…"[29]

In particular, the last option is very viable to diminish the SO3 concentrations at the inlet to the SCR. As discussed previously, ABS formation depends strongly on the SO3 concentration and lowering the SO3 concentration can provide a direct pathway to a lower MOT.

In addition, boiler vendors such as Babcock and Wilcox have also developed specific and proprietary approaches to allow for unit operations at low loads while allowing for SCR operation.

> "[T]he solutions currently available to resolve the EEGT issue do not provide the turndown required by most power plants for loads of 40% and below….Babcock & Wilcox Power Generation Group, Inc. (B&W PGG) has patented the V-Temp system to control the flue gas temperature leaving the boiler and entering the SCR, within the SCR's desired operating load range. This system controls the distribution and flow of the economizer fluid so that the EEGT can be increased at reduced loads. The V-Temp system maintains an application-specific minimum EEGT at reduced loads, permitting the SCR to remain in service and to control NOx emissions, while minimizing the risk of ammonium bisulfate formation in the downstream flue, at the SCR inlet, or in the SCR catalyst…..This paper will include results from successful installations of the V-Temp system on both supercritical and subcritical boilers. Optimization of this system is currently being developed **to allow for operation of the boiler down to 25% load with the SCR in service while maintaining unit efficiency at full load**." (emphasis added)[30]

6.0 Summary

This discussion shows that the MOT for SCRs depends on several variables, in particular the inlet SO3 concentration, along with that of ammonia, which excess levels can be better controlled dynamically using online ammonia analyzers to provide lower MOT, and thus SCR operations over wider loads. In particular, there is no basis for the MOT to be 620 F or similar as claimed by the examples discussed earlier (i.e., the Cayuga and

[29] Summary of Selective Catalytic Reduction System Operational Issues at Low Load, Product ID 1021208, November 12, 2010 (taken from abstract).

[30] Albrecht, M.J., et. al., "The V-Temp Economizer System and Method for SCR Temperature Control, Babcock & Wilcox Power Generation Group, BR-1861, presented at: Power-Gen International, December 13-15, 2011, Las Vegas, Nevada, U.S.A.

Somerset plants). The discussion also shows that operating the SCR temporarily below the MOT will not cause irreversible adverse impacts to the SCR and that there are several approaches that can be used to maintain economizer exit gas temperature above the MOT even during low load operations at a unit, including during startup and shutdown.

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EXPERIENCE SUMMARY

Dr. Sahu has over twenty five years of experience in the fields of environmental, mechanical, and chemical engineering including: program and project management services; design and specification of pollution control equipment for a wide range of emissions sources including stationary and mobile sources; soils and groundwater remediation including landfills as remedy; combustion engineering evaluations; energy studies; multimedia environmental regulatory compliance (involving statutes and regulations such as the Federal CAA and its Amendments, Clean Water Act, TSCA, RCRA, CERCLA, SARA, OSHA, NEPA as well as various related state statutes); transportation air quality impact analysis; multimedia compliance audits; multimedia permitting (including air quality NSR/PSD permitting, Title V permitting, NPDES permitting for industrial and storm water discharges, RCRA permitting, etc.), multimedia/multi-pathway human health risk assessments for toxics; air dispersion modeling; and regulatory strategy development and support including negotiation of consent agreements and orders.

He has over twenty three years of project management experience and has successfully managed and executed numerous projects in this time period. This includes basic and applied research projects, design projects, regulatory compliance projects, permitting projects, energy studies, risk assessment projects, and projects involving the communication of environmental data and information to the public.

He has provided consulting services to numerous private sector, public sector and public interest group clients. His major clients over the past twenty five years include various trade associations as well as individual companies such as steel mills, petroleum refineries, cement manufacturers, aerospace companies, power generation facilities, lawn and garden equipment manufacturers, spa manufacturers, chemical distribution facilities, and various entities in the public sector including EPA, the US Dept. of Justice, several states, various agencies such as the California DTSC, various municipalities, etc.). Dr. Sahu has performed projects in all 50 states, numerous local jurisdictions and internationally.

Specific to mobile source as well as non-road engine, equipment, and emissions testing, based on his education (Mechanical Engineer, with B.Tech, M.S. and Ph.D) and over two decades of consulting experience for a wide range of clients including trade associates (consisting of equipment manufacturers of lawn and garden, marine, snow, as well as major US and global on-road vehicle manufacturers), Dr. Sahu is very familiar with engine, fuel systems, and air pollution control technologies: for HC+NOx and CO for spark-ignited; and for NOx and PM for compression ignition (i.e., diesel) engines. Second, he is very familiar with relevant EPA (and CARB) testing and regulatory aspects pertaining to non-road and mobile engines and vehicles, including relevant Federal regulations pertaining to diesel emissions testing and test procedures and standards in non-road as well as on-road applications including heavy duty highway engines (40 CFR Part 1065 and relevant portions of 40 CFR Part 86, Subparts A and N), marine diesel engines (40 CFR Part 1065 and 40 CFR Part 94) and locomotives (40 CFR Part 1065 and 40 CFR Part 92 as well as other non-road engines (40 CFR Part 89). His familiarity extends to various testing and standards regulations in spark-ignited non-road engines including recreational vehicles, marine engines, lawn and garden engines, as well as construction equipment engines (40 CFR Part 1065) and to vehicle testing requirements and test procedures in 40 CFR Part 80, 40 CFR Part 86, 40 CFR Part 87, 40 CFR Part 90, 40 CFR Part 1033, 40 CFR Part 1039, 40 CFR 1042, 40 CR Part 1045, 40 CFR Part 1051, 40 CFR Part

1060, 40 CFR Part 1065 and 40 CFR Part 1066. Lastly he is familiar with a wide variety of Federal, California, European, and Japanese dynamometer driving schedules.

In addition to consulting, Dr. Sahu has taught numerous courses in several Southern California universities including UCLA (air pollution), UC Riverside (air pollution, process hazard analysis), and Loyola Marymount University (air pollution, risk assessment, hazardous waste management) for the past seventeen years. In this time period he has also taught at Caltech, his alma mater (various engineering courses), at the University of Southern California (air pollution controls) and at California State University, Fullerton (transportation and air quality).

Dr. Sahu has and continues to provide expert witness services in a number of environmental areas discussed above in both state and Federal courts as well as before administrative bodies (please see Annex A).

EXPERIENCE RECORD

2000-present **Independent Consultant.** Providing a variety of private sector (industrial companies, land development companies, law firms, etc.) public sector (such as the US Department of Justice) and public interest group clients with project management, air quality consulting, waste remediation and management consulting, as well as regulatory and engineering support consulting services.

1995-2000 Parsons ES, **Associate, Senior Project Manager and Department Manager for** Air Quality/Geosciences/Hazardous Waste Groups, Pasadena. Responsible for the management of a group of approximately 24 air quality and environmental professionals, 15 geoscience, and 10 hazardous waste professionals providing full-service consulting, project management, regulatory compliance and A/E design assistance in all areas.

Parsons ES, **Manager for Air Source Testing Services**. Responsible for the management of 8 individuals in the area of air source testing and air regulatory permitting projects located in Bakersfield, California.

1992-1995 Engineering-Science, Inc. **Principal Engineer and Senior Project Manager** in the air quality department. Responsibilities included multimedia regulatory compliance and permitting (including hazardous and nuclear materials), air pollution engineering (emissions from stationary and mobile sources, control of criteria and air toxics, dispersion modeling, risk assessment, visibility analysis, odor analysis), supervisory functions and project management.

1990-1992 Engineering-Science, Inc. **Principal Engineer and Project Manager** in the air quality department. Responsibilities included permitting, tracking regulatory issues, technical analysis, and supervisory functions on numerous air, water, and hazardous waste projects. Responsibilities also include client and agency interfacing, project cost and schedule control, and reporting to internal and external upper management regarding project status.

1989-1990 Kinetics Technology International, Corp. **Development Engineer.** Involved in thermal engineering R&D and project work related to low-NOx ceramic radiant burners, fired heater NOx reduction, SCR design, and fired heater retrofitting.

1988-1989 Heat Transfer Research, Inc. **Research Engineer**. Involved in the design of fired heaters, heat exchangers, air coolers, and other non-fired equipment. Also did research in the area of heat exchanger tube vibrations.

EDUCATION

1984-1988 Ph.D., Mechanical Engineering, California Institute of Technology (Caltech), Pasadena, CA.

1984 M. S., Mechanical Engineering, Caltech, Pasadena, CA.

1978-1983 B. Tech (Honors), Mechanical Engineering, Indian Institute of Technology (IIT) Kharagpur, India

TEACHING EXPERIENCE

Caltech

"Thermodynamics," Teaching Assistant, California Institute of Technology, 1983, 1987.

"Air Pollution Control," Teaching Assistant, California Institute of Technology, 1985.

"Caltech Secondary and High School Saturday Program," - taught various mathematics (algebra through calculus) and science (physics and chemistry) courses to high school students, 1983-1989.

"Heat Transfer," - taught this course in the Fall and Winter terms of 1994-1995 in the Division of Engineering and Applied Science.

“Thermodynamics and Heat Transfer,” Fall and Winter Terms of 1996-1997.

U.C. Riverside, Extension

"Toxic and Hazardous Air Contaminants," University of California Extension Program, Riverside, California. Various years since 1992.

"Prevention and Management of Accidental Air Emissions," University of California Extension Program, Riverside, California. Various years since 1992.

"Air Pollution Control Systems and Strategies," University of California Extension Program, Riverside, California, Summer 1992-93, Summer 1993-1994.

"Air Pollution Calculations," University of California Extension Program, Riverside, California, Fall 1993-94, Winter 1993-94, Fall 1994-95.

"Process Safety Management," University of California Extension Program, Riverside, California. Various years since 1992-2010.

"Process Safety Management," University of California Extension Program, Riverside, California, at SCAQMD, Spring 1993-94.

"Advanced Hazard Analysis - A Special Course for LEPCs," University of California Extension Program, Riverside, California, taught at San Diego, California, Spring 1993-1994.

“Advanced Hazardous Waste Management” University of California Extension Program, Riverside, California. 2005.

Loyola Marymount University

"Fundamentals of Air Pollution - Regulations, Controls and Engineering," Loyola Marymount University, Dept. of Civil Engineering. Various years since 1993.

"Air Pollution Control," Loyola Marymount University, Dept. of Civil Engineering, Fall 1994.

“Environmental Risk Assessment,” Loyola Marymount University, Dept. of Civil Engineering. Various years since 1998.

“Hazardous Waste Remediation” Loyola Marymount University, Dept. of Civil Engineering. Various years since 2006.

University of Southern California

"Air Pollution Controls," University of Southern California, Dept. of Civil Engineering, Fall 1993, Fall 1994.

"Air Pollution Fundamentals," University of Southern California, Dept. of Civil Engineering, Winter 1994.

University of California, Los Angeles

"Air Pollution Fundamentals," University of California, Los Angeles, Dept. of Civil and Environmental Engineering, Spring 1994, Spring 1999, Spring 2000, Spring 2003, Spring 2006, Spring 2007, Spring 2008, Spring 2009.

International Programs

"Environmental Planning and Management," 5 week program for visiting Chinese delegation, 1994.

"Environmental Planning and Management," 1 day program for visiting Russian delegation, 1995.

"Air Pollution Planning and Management," IEP, UCR, Spring 1996.

"Environmental Issues and Air Pollution," IEP, UCR, October 1996.

PROFESSIONAL AFFILIATIONS AND HONORS

President of India Gold Medal, IIT Kharagpur, India, 1983.

Member of the Alternatives Assessment Committee of the Grand Canyon Visibility Transport Commission, established by the Clean Air Act Amendments of 1990, 1992-present.

American Society of Mechanical Engineers: Los Angeles Section Executive Committee, Heat Transfer Division, and Fuels and Combustion Technology Division, 1987-present.

Air and Waste Management Association, West Coast Section, 1989-present.

PROFESSIONAL CERTIFICATIONS

EIT, California (#XE088305), 1993.

REA I, California (#07438), 2000.

Certified Permitting Professional, South Coast AQMD (#C8320), since 1993.

QEP, Institute of Professional Environmental Practice, since 2000.

CEM, State of Nevada (#EM-1699). Expiration 10/07/2017.

PUBLICATIONS (PARTIAL LIST)

"Physical Properties and Oxidation Rates of Chars from Bituminous Coals," with Y.A. Levendis, R.C. Flagan and G.R. Gavalas, *Fuel*, **67**, 275-283 (1988).

"Char Combustion: Measurement and Analysis of Particle Temperature Histories," with R.C. Flagan, G.R. Gavalas and P.S. Northrop, *Comb. Sci. Tech.* **60**, 215-230 (1988).

"On the Combustion of Bituminous Coal Chars," PhD Thesis, California Institute of Technology (1988).

"Optical Pyrometry: A Powerful Tool for Coal Combustion Diagnostics," *J. Coal Quality*, **8**, 17-22 (1989).

"Post-Ignition Transients in the Combustion of Single Char Particles," with Y.A. Levendis, R.C. Flagan and G.R. Gavalas, *Fuel*, **68**, 849-855 (1989).

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"Cross Linking in Pore Structures and Its Effect on Reactivity," with G.R. Gavalas in preparation.

"Natural Frequencies and Mode Shapes of Straight Tubes," Proprietary Report for Heat Transfer Research Institute, Alhambra, CA (1990).

"Optimal Tube Layouts for Kamui SL-Series Exchangers," with K. Ishihara, Proprietary Report for Kamui Company Limited, Tokyo, Japan (1990).

"HTRI Process Heater Conceptual Design," Proprietary Report for Heat Transfer Research Institute, Alhambra, CA (1990).

"Asymptotic Theory of Transonic Wind Tunnel Wall Interference," with N.D. Malmuth and others, Arnold Engineering Development Center, Air Force Systems Command, USAF (1990).

"Gas Radiation in a Fired Heater Convection Section," Proprietary Report for Heat Transfer Research Institute, College Station, TX (1990).

"Heat Transfer and Pressure Drop in NTIW Heat Exchangers," Proprietary Report for Heat Transfer Research Institute, College Station, TX (1991).

"NOx Control and Thermal Design," Thermal Engineering Tech Briefs, (1994).

“From Purchase of Landmark Environmental Insurance to Remediation: Case Study in Henderson, Nevada,” with Robin E. Bain and Jill Quillin, presented at the AQMA Annual Meeting, Florida, 2001.

“The Jones Act Contribution to Global Warming, Acid Rain and Toxic Air Contaminants,” with Charles W. Botsford, presented at the AQMA Annual Meeting, Florida, 2001.

PRESENTATIONS (PARTIAL LIST)

"Pore Structure and Combustion Kinetics - Interpretation of Single Particle Temperature-Time Histories," with P.S. Northrop, R.C. Flagan and G.R. Gavalas, presented at the AIChE Annual Meeting, New York (1987).

"Measurement of Temperature-Time Histories of Burning Single Coal Char Particles," with R.C. Flagan, presented at the American Flame Research Committee Fall International Symposium, Pittsburgh, (1988).

"Physical Characterization of a Cenospheric Coal Char Burned at High Temperatures," with R.C. Flagan and G.R. Gavalas, presented at the Fall Meeting of the Western States Section of the Combustion Institute, Laguna Beach, California (1988).

"Control of Nitrogen Oxide Emissions in Gas Fired Heaters - The Retrofit Experience," with G. P. Croce and R. Patel, presented at the International Conference on Environmental Control of Combustion Processes (Jointly sponsored by the American Flame Research Committee and the Japan Flame Research Committee), Honolulu, Hawaii (1991).

"Air Toxics - Past, Present and the Future," presented at the Joint AIChE/AAEE Breakfast Meeting at the AIChE 1991 Annual Meeting, Los Angeles, California, November 17-22 (1991).

"Air Toxics Emissions and Risk Impacts from Automobiles Using Reformulated Gasolines," presented at the Third Annual Current Issues in Air Toxics Conference, Sacramento, California, November 9-10 (1992).

"Air Toxics from Mobile Sources," presented at the Environmental Health Sciences (ESE) Seminar Series, UCLA, Los Angeles, California, November 12, (1992).

"Kilns, Ovens, and Dryers - Present and Future," presented at the Gas Company Air Quality Permit Assistance Seminar, Industry Hills Sheraton, California, November 20, (1992).

"The Design and Implementation of Vehicle Scrapping Programs," presented at the 86th Annual Meeting of the Air and Waste Management Association, Denver, Colorado, June 12, 1993.

"Air Quality Planning and Control in Beijing, China," presented at the 87th Annual Meeting of the Air and Waste Management Association, Cincinnati, Ohio, June 19-24, 1994.

Annex A

Expert Litigation Support

1. Occasions where Dr. Sahu has provided Written or Oral testimony before Congress:

(a) In July 2012, provided expert written and oral testimony to the House Subcommittee on Energy and the Environment, Committee on Science, Space, and Technology at a Hearing entitled "Hitting the Ethanol Blend Wall – Examining the Science on E15."

2. Matters for which Dr. Sahu has provided affidavits and expert reports include:

(b) Affidavit for Rocky Mountain Steel Mills, Inc. located in Pueblo Colorado – dealing with the technical uncertainties associated with night-time opacity measurements in general and at this steel mini-mill.

(c) Expert reports and depositions (2/28/2002 and 3/1/2002; 12/2/2003 and 12/3/2003; 5/24/2004) on behalf of the United States in connection with the Ohio Edison NSR Cases. *United States, et al. v. Ohio Edison Co., et al.*, C2-99-1181 (Southern District of Ohio).

(d) Expert reports and depositions (5/23/2002 and 5/24/2002) on behalf of the United States in connection with the Illinois Power NSR Case. *United States v. Illinois Power Co., et al.*, 99-833-MJR (Southern District of Illinois).

(e) Expert reports and depositions (11/25/2002 and 11/26/2002) on behalf of the United States in connection with the Duke Power NSR Case. *United States, et al. v. Duke Energy Corp.*, 1:00-CV-1262 (Middle District of North Carolina).

(f) Expert reports and depositions (10/6/2004 and 10/7/2004; 7/10/2006) on behalf of the United States in connection with the American Electric Power NSR Cases. *United States, et al. v. American Electric Power Service Corp., et al.*, C2-99-1182, C2-99-1250 (Southern District of Ohio).

(g) Affidavit (March 2005) on behalf of the Minnesota Center for Environmental Advocacy and others in the matter of the Application of Heron Lake BioEnergy LLC to construct and operate an ethanol production facility – submitted to the Minnesota Pollution Control Agency.

(h) Expert Report and Deposition (10/31/2005 and 11/1/2005) on behalf of the United States in connection with the East Kentucky Power Cooperative NSR Case. *United States v. East Kentucky Power Cooperative, Inc.*, 5:04-cv-00034-KSF (Eastern District of Kentucky).

(i) Affidavits and deposition on behalf of Basic Management Inc. (BMI) Companies in connection with the BMI vs. USA remediation cost recovery Case.

(j) Expert Report on behalf of Penn Future and others in the Cambria Coke plant permit challenge in Pennsylvania.

(k) Expert Report on behalf of the Appalachian Center for the Economy and the Environment and others in the Western Greenbrier permit challenge in West Virginia.

(l) Expert Report, deposition (via telephone on January 26, 2007) on behalf of various Montana petitioners (Citizens Awareness Network (CAN), Women's Voices for the Earth (WVE) and the Clark Fork Coalition (CFC)) in the Thompson River Cogeneration LLC Permit No. 3175-04 challenge.

(m) Expert Report and deposition (2/2/07) on behalf of the Texas Clean Air Cities Coalition at the Texas State Office of Administrative Hearings (SOAH) in the matter of the permit challenges to TXU Project Apollo's eight new proposed PRB-fired PC boilers located at seven TX sites.

(n) Expert Testimony (July 2007) on behalf of the Izaak Walton League of America and others in connection with the acquisition of power by Xcel Energy from the proposed Gascoyne Power Plant – at the State of Minnesota, Office of Administrative Hearings for the Minnesota PUC (MPUC No. E002/CN-06-1518; OAH No. 12-2500-17857-2).

(o) Affidavit (July 2007) Comments on the Big Cajun I Draft Permit on behalf of the Sierra Club – submitted to the Louisiana DEQ.

(p) Expert Report and Deposition (12/13/2007) on behalf of Commonwealth of Pennsylvania – Dept. of Environmental Protection, State of Connecticut, State of New York, and State of New Jersey (Plaintiffs) in connection with the Allegheny Energy NSR Case. *Plaintiffs v. Allegheny Energy Inc., et al.,* 2:05cv0885 (Western District of Pennsylvania).

(q) Expert Reports and Pre-filed Testimony before the Utah Air Quality Board on behalf of Sierra Club in the Sevier Power Plant permit challenge.

(r) Expert Report and Deposition (October 2007) on behalf of MTD Products Inc., in connection with *General Power Products, LLC v MTD Products Inc*., 1:06 CVA 0143 (Southern District of Ohio, Western Division) .

(s) Expert Report and Deposition (June 2008) on behalf of Sierra Club and others in the matter of permit challenges (Title V: 28.0801-29 and PSD: 28.0803-PSD) for the Big Stone II unit, proposed to be located near Milbank, South Dakota.

(t) Expert Reports, Affidavit, and Deposition (August 15, 2008) on behalf of Earthjustice in the matter of air permit challenge (CT-4631) for the Basin Electric Dry Fork station, under construction near Gillette, Wyoming before the Environmental Quality Council of the State of Wyoming.

(u) Affidavits (May 2010/June 2010 in the Office of Administrative Hearings))/Declaration and Expert Report (November 2009 in the Office of Administrative Hearings) on behalf of NRDC and the Southern Environmental Law Center in the matter of the air permit challenge for Duke Cliffside Unit 6. Office of Administrative Hearing Matters 08 EHR 0771, 0835 and 0836 and 09 HER 3102, 3174, and 3176 (consolidated).

(v) Declaration (August 2008), Expert Report (January 2009), and Declaration (May 2009) on behalf of Southern Alliance for Clean Energy in the matter of the air permit challenge for Duke Cliffside Unit 6. *Southern Alliance for Clean Energy et al., v.*

Duke Energy Carolinas, LLC, Case No. 1:08-cv-00318-LHT-DLH (Western District of North Carolina, Asheville Division).

(w) Declaration (August 2008) on behalf of the Sierra Club in the matter of Dominion Wise County plant MACT.us

(x) Expert Report (June 2008) on behalf of Sierra Club for the Green Energy Resource Recovery Project, MACT Analysis.

(y) Expert Report (February 2009) on behalf of Sierra Club and the Environmental Integrity Project in the matter of the air permit challenge for NRG Limestone's proposed Unit 3 in Texas.

(z) Expert Report (June 2009) on behalf of MTD Products, Inc., in the matter of *Alice Holmes and Vernon Holmes v. Home Depot USA, Inc., et al.*

(aa) Expert Report (August 2009) on behalf of Sierra Club and the Southern Environmental Law Center in the matter of the air permit challenge for Santee Cooper's proposed Pee Dee plant in South Carolina).

(bb) Statements (May 2008 and September 2009) on behalf of the Minnesota Center for Environmental Advocacy to the Minnesota Pollution Control Agency in the matter of the Minnesota Haze State Implementation Plans.

(cc) Expert Report (August 2009) on behalf of Environmental Defense, in the matter of permit challenges to the proposed Las Brisas coal fired power plant project at the Texas State Office of Administrative Hearings (SOAH).

(dd) Expert Report and Rebuttal Report (September 2009) on behalf of the Sierra Club, in the matter of challenges to the proposed Medicine Bow Fuel and Power IGL plant in Cheyenne, Wyoming.

(ee) Expert Report (December 2009) and Rebuttal reports (May 2010 and June 2010) on behalf of the United States in connection with the Alabama Power Company NSR Case. *United States v. Alabama Power Company*, CV-01-HS-152-S (Northern District of Alabama, Southern Division).

(ff) Pre-filed Testimony (October 2009) on behalf of Environmental Defense and others, in the matter of challenges to the proposed White Stallion Energy Center coal fired power plant project at the Texas State Office of Administrative Hearings (SOAH).

(gg) Pre-filed Testimony (July 2010) and Written Rebuttal Testimony (August 2010) on behalf of the State of New Mexico Environment Department in the matter of Proposed Regulation 20.2.350 NMAC – *Greenhouse Gas Cap and Trade Provisions*, No. EIB 10-04 (R), to the State of New Mexico, Environmental Improvement Board.

(hh) Expert Report (August 2010) and Rebuttal Expert Report (October 2010) on behalf of the United States in connection with the Louisiana Generating NSR Case. *United States v. Louisiana Generating, LLC*, 09-CV100-RET-CN (Middle District of Louisiana) – Liability Phase.

(ii) Declaration (August 2010), Reply Declaration (November 2010), Expert Report (April 2011), Supplemental and Rebuttal Expert Report (July 2011) on behalf of the United States in the matter of DTE Energy Company and Detroit Edison Company

(Monroe Unit 2). *United States of America v. DTE Energy Company and Detroit Edison Company*, Civil Action No. 2:10-cv-13101-BAF-RSW (Eastern District of Michigan).

(jj) Expert Report and Deposition (August 2010) as well as Affidavit (September 2010) on behalf of Kentucky Waterways Alliance, Sierra Club, and Valley Watch in the matter of challenges to the NPDES permit issued for the Trimble County power plant by the Kentucky Energy and Environment Cabinet to Louisville Gas and Electric, File No. DOW-41106-047.

(kk) Expert Report (August 2010), Rebuttal Expert Report (September 2010), Supplemental Expert Report (September 2011), and Declaration (November 2011) on behalf of Wild Earth Guardians in the matter of opacity exceedances and monitor downtime at the Public Service Company of Colorado (Xcel)'s Cherokee power plant. No. 09-cv-1862 (District of Colorado).

(ll) Written Direct Expert Testimony (August 2010) and Affidavit (February 2012) on behalf of Fall-Line Alliance for a Clean Environment and others in the matter of the PSD Air Permit for Plant Washington issued by Georgia DNR at the Office of State Administrative Hearing, State of Georgia (OSAH-BNR-AQ-1031707-98-WALKER).

(mm) Deposition (August 2010) on behalf of Environmental Defense, in the matter of the remanded permit challenge to the proposed Las Brisas coal fired power plant project at the Texas State Office of Administrative Hearings (SOAH).

(nn) Expert Report, Supplemental/Rebuttal Expert Report, and Declarations (October 2010, November 2010, September 2012) on behalf of New Mexico Environment Department (Plaintiff-Intervenor), Grand Canyon Trust and Sierra Club (Plaintiffs) in the matter of *Plaintiffs v. Public Service Company of New Mexico* (PNM), Civil No. 1:02-CV-0552 BB/ATC (ACE) (District of New Mexico).

(oo) Expert Report (October 2010) and Rebuttal Expert Report (November 2010) (BART Determinations for PSCo Hayden and CSU Martin Drake units) to the Colorado Air Quality Commission on behalf of Coalition of Environmental Organizations.

(pp) Expert Report (November 2010) (BART Determinations for TriState Craig Units, CSU Nixon Unit, and PRPA Rawhide Unit) to the Colorado Air Quality Commission on behalf of Coalition of Environmental Organizations.

(qq) Declaration (November 2010) on behalf of the Sierra Club in connection with the Martin Lake Station Units 1, 2, and 3. *Sierra Club v. Energy Future Holdings Corporation and Luminant Generation Company LLC*, Case No. 5:10-cv-00156-DF-CMC (Eastern District of Texas, Texarkana Division).

(rr) Pre-Filed Testimony (January 2011) and Declaration (February 2011) to the Georgia Office of State Administrative Hearings (OSAH) in the matter of Minor Source HAPs status for the proposed Longleaf Energy Associates power plant (OSAH-BNR-AQ-1115157-60-HOWELLS) on behalf of the Friends of the Chattahoochee and the Sierra Club).

(ss) Declaration (February 2011) in the matter of the Draft Title V Permit for RRI Energy MidAtlantic Power Holdings LLC Shawville Generating Station (Pennsylvania), ID No. 17-00001 on behalf of the Sierra Club.

(tt) Expert Report (March 2011), Rebuttal Expert Report (June 2011) on behalf of the United States in *United States of America v. Cemex, Inc.*, Civil Action No. 09-cv-00019-MSK-MEH (District of Colorado).

(uu) Declaration (April 2011) and Expert Report (July 16, 2012) in the matter of the Lower Colorado River Authority (LCRA)'s Fayette (Sam Seymour) Power Plant on behalf of the Texas Campaign for the Environment. *Texas Campaign for the Environment v. Lower Colorado River Authority,* Civil Action No. 4:11-cv-00791 (Southern District of Texas, Houston Division).

(vv) Declaration (June 2011) on behalf of the Plaintiffs MYTAPN in the matter of Microsoft-Yes, Toxic Air Pollution-No (MYTAPN) v. State of Washington, Department of Ecology and Microsoft Corporation Columbia Data Center to the Pollution Control Hearings Board, State of Washington, Matter No. PCHB No. 10-162.

(ww) Expert Report (June 2011) on behalf of the New Hampshire Sierra Club at the State of New Hampshire Public Utilities Commission, Docket No. 10-261 – the 2010 Least Cost Integrated Resource Plan (LCIRP) submitted by the Public Service Company of New Hampshire (re. Merrimack Station Units 1 and 2).

(xx) Declaration (August 2011) in the matter of the Sandy Creek Energy Associates L.P. Sandy Creek Power Plant on behalf of Sierra Club and Public Citizen. *Sierra Club, Inc. and Public Citizen, Inc. v. Sandy Creek Energy Associates, L.P.*, Civil Action No. A-08-CA-648-LY (Western District of Texas, Austin Division).

(yy) Expert Report (October 2011) on behalf of the Defendants in the matter of *John Quiles and Jeanette Quiles et al. v. Bradford-White Corporation, MTD Products, Inc., Kohler Co., et al.*, Case No. 3:10-cv-747 (TJM/DEP) (Northern District of New York).

(zz) Declaration (February 2012) and Second Declaration (February 2012) in the matter of *Washington Environmental Council and Sierra Club Washington State Chapter v. Washington State Department of Ecology and Western States Petroleum Association,* Case No. 11-417-MJP (Western District of Washington).

(aaa) Expert Report (March 2012) and Supplemental Expert Report (November 2013) in the matter of *Environment Texas Citizen Lobby, Inc and Sierra Club v. ExxonMobil Corporation et al.*, Civil Action No. 4:10-cv-4969 (Southern District of Texas, Houston Division).

(bbb) Declaration (March 2012) in the matter of *Center for Biological Diversity, et al. v. United States Environmental Protection Agency,* Case No. 11-1101 (consolidated with 11-1285, 11-1328 and 11-1336) (US Court of Appeals for the District of Columbia Circuit).

(ccc) Declaration (March 2012) in the matter of *Sierra Club v. The Kansas Department of Health and Environment*, Case No. 11-105,493-AS (Holcomb power plant) (Supreme Court of the State of Kansas).

(ddd) Declaration (March 2012) in the matter of the Las Brisas Energy Center *Environmental Defense Fund et al., v. Texas Commission on Environmental Quality*, Cause No. D-1-GN-11-001364 (District Court of Travis County, Texas, 261st Judicial District).

(eee) Expert Report (April 2012), Supplemental and Rebuttal Expert Report (July 2012), and Supplemental Rebuttal Expert Report (August 2012) on behalf of the states of New Jersey and Connecticut in the matter of the Portland Power plant *State of New Jersey and State of Connecticut (Intervenor-Plaintiff) v. RRI Energy Mid-Atlantic Power Holdings et al.*, Civil Action No. 07-CV-5298 (JKG) (Eastern District of Pennsylvania).

(fff) Declaration (April 2012) in the matter of the EPA's EGU MATS Rule, on behalf of the Environmental Integrity Project.

(ggg) Expert Report (August 2012) on behalf of the United States in connection with the Louisiana Generating NSR Case. *United States v. Louisiana Generating, LLC*, 09-CV100-RET-CN (Middle District of Louisiana) – Harm Phase.

(hhh) Declaration (September 2012) in the Matter of the Application of *Energy Answers Incinerator, Inc.* for a Certificate of Public Convenience and Necessity to Construct a 120 MW Generating Facility in Baltimore City, Maryland, before the Public Service Commission of Maryland, Case No. 9199.

(iii) Expert Report (October 2012) on behalf of the Appellants (Robert Concilus and Leah Humes) in the matter of Robert Concilus and Leah Humes v. Commonwealth of Pennsylvania Department of Environmental Protection and Crawford Renewable Energy, before the Commonwealth of Pennsylvania Environmental Hearing Board, Docket No. 2011-167-R.

(jjj) Expert Report (October 2012), Supplemental Expert Report (January 2013), and Affidavit (June 2013) in the matter of various Environmental Petitioners v. North Carolina DENR/DAQ and Carolinas Cement Company, before the Office of Administrative Hearings, State of North Carolina.

(kkk) Pre-filed Testimony (October 2012) on behalf of No-Sag in the matter of the North Springfield Sustainable Energy Project before the State of Vermont, Public Service Board.

(lll) Pre-filed Testimony (November 2012) on behalf of Clean Wisconsin in the matter of Application of Wisconsin Public Service Corporation for Authority to Construct and Place in Operation a New Multi-Pollutant Control Technology System (ReACT) for Unit 3 of the Weston Generating Station, before the Public Service Commission of Wisconsin, Docket No. 6690-CE-197.

(mmm) Expert Report (February 2013) on behalf of Petitioners in the matter of Credence Crematory, Cause No. 12-A-J-4538 before the Indiana Office of Environmental Adjudication.

(nnn) Expert Report (April 2013), Rebuttal report (July 2013), and Declarations (October 2013, November 2013) on behalf of the Sierra Club in connection with the Luminant Big Brown Case. *Sierra Club v. Energy Future Holdings Corporation and Luminant Generation Company LLC,* Civil Action No. 6:12-cv-00108-WSS (Western District of Texas, Waco Division).

(ooo) Declaration (April 2013) on behalf of Petitioners in the matter of *Sierra Club, et al., (Petitioners) v Environmental Protection Agency et al. (Resppondents),* Case No., 13-1112, (Court of Appeals, District of Columbia Circuit).

(ppp) Expert Report (May 2013) and Rebuttal Expert Report (July 2013) on behalf of the Sierra Club in connection with the Luminant Martin Lake Case. *Sierra Club v. Energy Future Holdings Corporation and Luminant Generation Company LLC*, Civil Action No. 5:10-cv-0156-MHS-CMC (Eastern District of Texas, Texarkana Division).

(qqq) Declaration (August 2013) on behalf of A. J. Acosta Company, Inc., in the matter of *A. J. Acosta Company, Inc., v. County of San Bernardino,* Case No. CIVSS803651.

(rrr) Comments (October 2013) on behalf of the Washington Environmental Council and the Sierra Club in the matter of the Washington State Oil Refinery RACT (for Greenhouse Gases), submitted to the Washington State Department of Ecology, the Northwest Clean Air Agency, and the Puget Sound Clean Air Agency.

(sss) Statement (November 2013) on behalf of various Environmental Organizations in the matter of the Boswell Energy Center (BEC) Unit 4 Environmental Retrofit Project, to the Minnesota Public Utilities Commission, Docket No. E-015/M-12-920.

(ttt) Expert Report (December 2013) on behalf of the United States in *United States of America v. Ameren Missouri*, Civil Action No. 4:11-cv-00077-RWS (Eastern District of Missouri, Eastern Division).

(uuu) Expert Testimony (December 2013) on behalf of the Sierra Club in the matter of Public Service Company of New Hampshire Merrimack Station Scrubber Project and Cost Recovery, Docket No. DE 11-250, to the State of New Hampshire Public Utilities Commission.

(vvv) Expert Report (January 2014) on behalf of Baja, Inc., in *Baja, Inc., v. Automotive Testing and Development Services, Inc. et. al*, Civil Action No. 8:13-CV-02057-GRA (District of South Carolina, Anderson/Greenwood Division).

(www) Declaration (March 2014) on behalf of the Center for International Environmental Law, Chesapeake Climate Action Network, Friends of the Earth, Pacific Environment, and the Sierra Club (Plaintiffs) in the matter of *Plaintiffs v. the Export-Import Bank (Ex-Im Bank) of the United States*, Civil Action No. 13-1820 RC (District Court for the District of Columbia).

(xxx) Declaration (April 2014) on behalf of Respondent-Intervenors in the matter of *Mexichem Specialty Resins Inc., et al., (Petitioners) v Environmental Protection Agency et al.,* Case No., 12-1260 (and Consolidated Case Nos. 12-1263, 12-1265, 12-1266, and 12-1267), (Court of Appeals, District of Columbia Circuit).

(yyy) Direct Prefiled Testimony (June 2014) on behalf of the Michigan Environmental Council and the Sierra Club in the matter of the Application of DTE Electric Company for Authority to Implement a Power Supply Cost Recovery (PSCR) Plan in its Rate Schedules for 2014 Metered Jurisdictional Sales of Electricity, Case No. U-17319 (Michigan Public Service Commission).

(zzz) Expert Report (June 2014) on behalf of ECM Biofilms in the matter of the US Federal Trade Commission (FTC) v. ECM Biofilms (FTC Docket #9358).

(aaaa) Direct Prefiled Testimony (August 2014) on behalf of the Michigan Environmental Council and the Sierra Club in the matter of the Application of Consumers Energy Company for Authority to Implement a Power Supply Cost Recovery (PSCR) Plan in its Rate Schedules for 2014 Metered Jurisdictional Sales of Electricity, Case No. U-17317 (Michigan Public Service Commission).

(bbbb) Declaration (July 2014) on behalf of Public Health Intervenors in the matter of *EME Homer City Generation v. US EPA* (Case No. 11-1302 and consolidated cases) relating to the lifting of the stay entered by the Court on December 30, 2011 (US Court of Appeals for the District of Columbia).

(cccc) Expert Report (September 2014), Rebuttal Expert Report (December 2014) and Supplemental Expert Report (March 2015) on behalf of Plaintiffs in the matter of *Sierra Club and Montana Environmental Information Center (Plaintiffs) v. PPL Montana LLC, Avista Corporation, Puget Sound Energy, Portland General Electric Company, Northwestern Corporation, and Pacificorp (Defendants)*, Civil Action No. CV 13-32-BLG-DLC-JCL (US District Court for the District of Montana, Billings Division).

(dddd) Expert Report (November 2014) on behalf of Niagara County, the Town of Lewiston, and the Villages of Lewiston and Youngstown in the matter of CWM Chemical Services, LLC New York State Department of Environmental Conservation (NYSDEC) Permit Application Nos.: 9-2934-00022/00225, 9-2934-00022/00231, 9-2934-00022/00232, and 9-2934-00022/00249 (pending).

(eeee) Pre-filed Direct Testimony (March 2015) and Supplemental Testimony (May 2015) on behalf of Friends of the Columbia Gorge in the matter of the Application for a Site Certificate for the Troutdale Energy Center before the Oregon Energy Facility Siting Council.

(ffff) Expert Report (March 2015) and Rebuttal Expert Report (January 2016) on behalf of Plaintiffs in the matter of *Conservation Law Foundation v. Broadrock Gas Services LLC, Rhode Island LFG GENCO LLC, and Rhode Island Resource Recovery Corporation (Defendants)*, Civil Action No. 1:13-cv-00777-M-PAS (US District Court for the District of Rhode Island).

(gggg) Direct Prefiled Testimony (May 2015) on behalf of the Michigan Environmental Council, the Natural Resources Defense Council, and the Sierra Club in the matter of the Application of DTE Electric Company for Authority to Increase its Rates, Amend its Rate Schedules and Rules Governing the Distribution and Supply of Electric Energy and for Miscellaneous Accounting Authority, Case No. U-17767 (Michigan Public Service Commission).

(hhhh) Expert Report (July 2015) and Rebuttal Expert Report (July 2015) on behalf of Plaintiffs in the matter of *Northwest Environmental Defense Center et. al., v. Cascade Kelly Holdings LLC, d/b/a Columbia Pacific Bio-Refinery, and Global Partners LP (Defendants)*, Civil Action No. 3:14-cv-01059-SI (US District Court for the District of Oregon, Portland Division).

(iiii) Declaration (August 2015, Docket No. 1570376) in support of "Opposition of Respondent-Intervenors American Lung Association, et. al., to Tri-State Generation's Emergency Motion;" Declaration (September 2015, Docket No. 1574820) in support of "Joint Motion of the state, Local Government, and Public Health Respondent-Intervenors for Remand Without Vacatur," *White Stallion Energy Center, LLC v. US EPA*, Case No. 12-1100 (US Court of Appeals for the District of Columbia).

(jjjj) Expert Report (December 2015) on behalf of Plaintiffs in the matter of *Natural Resources Defense Council, Inc., Sierra Club, Inc., Environmental Law and Policy Center, and Respiratory Health Association v. Illinois Power Resources LLC, and Illinois Power Resources Generating LLC (Defendants)*, Civil Action No. 1:13 CV 01181 (US District Court for the Central District of Illinois, Peoria Division).

(kkkk) Expert Report (November 2015) on behalf of Appellants in the matter of *Sierra Club, et al. v. Craig W. Butler, Director of Ohio Environmental Protection Agency ey al.*, ERAC Case No. 14-256814.

3. Occasions where Dr. Sahu has provided oral testimony <u>in depositions, at trial or in similar proceedings</u> include the following:

(llll) Deposition on behalf of Rocky Mountain Steel Mills, Inc. located in Pueblo, Colorado – dealing with the manufacture of steel in mini-mills including methods of air pollution control and BACT in steel mini-mills and opacity issues at this steel mini-mill.

(mmmm) Trial Testimony (February 2002) on behalf of Rocky Mountain Steel Mills, Inc. in Denver District Court.

(nnnn) Trial Testimony (February 2003) on behalf of the United States in the Ohio Edison NSR Cases, *United States, et al. v. Ohio Edison Co., et al.*, C2-99-1181 (Southern District of Ohio).

(oooo) Trial Testimony (June 2003) on behalf of the United States in the Illinois Power NSR Case, *United States v. Illinois Power Co., et al.*, 99-833-MJR (Southern District of Illinois).

(pppp) Deposition (10/20/2005) on behalf of the United States in connection with the Cinergy NSR Case. *United States, et* al. *v. Cinergy Corp., et al.*, IP 99-1693-C-M/S (Southern District of Indiana).

(qqqq) Oral Testimony (August 2006) on behalf of the Appalachian Center for the Economy and the Environment re. the Western Greenbrier plant, WV before the West Virginia DEP.

(rrrr) Oral Testimony (May 2007) on behalf of various Montana petitioners (Citizens Awareness Network (CAN), Women's Voices for the Earth (WVE) and the Clark Fork Coalition (CFC)) re. the Thompson River Cogeneration plant before the Montana Board of Environmental Review.

(ssss) Oral Testimony (October 2007) on behalf of the Sierra Club re. the Sevier Power Plant before the Utah Air Quality Board.

(tttt) Oral Testimony (August 2008) on behalf of the Sierra Club and Clean Water re. Big Stone Unit II before the South Dakota Board of Minerals and the Environment.

(uuuu) Oral Testimony (February 2009) on behalf of the Sierra Club and the Southern Environmental Law Center re. Santee Cooper Pee Dee units before the South Carolina Board of Health and Environmental Control.

(vvvv) Oral Testimony (February 2009) on behalf of the Sierra Club and the Environmental Integrity Project re. NRG Limestone Unit 3 before the Texas State Office of Administrative Hearings (SOAH) Administrative Law Judges.

(wwww) Deposition (July 2009) on behalf of MTD Products, Inc., in the matter of *Alice Holmes and Vernon Holmes v. Home Depot USA, Inc., et al*.

(xxxx) Deposition (October 2009) on behalf of Environmental Defense and others, in the matter of challenges to the proposed Coleto Creek coal fired power plant project at the Texas State Office of Administrative Hearings (SOAH).

(yyyy) Deposition (October 2009) on behalf of Environmental Defense, in the matter of permit challenges to the proposed Las Brisas coal fired power plant project at the Texas State Office of Administrative Hearings (SOAH).

(zzzz) Deposition (October 2009) on behalf of the Sierra Club, in the matter of challenges to the proposed Medicine Bow Fuel and Power IGL plant in Cheyenne, Wyoming.

(aaaaa) Deposition (October 2009) on behalf of Environmental Defense and others, in the matter of challenges to the proposed Tenaska coal fired power plant project at the Texas State Office of Administrative Hearings (SOAH). (April 2010).

(bbbbb) Oral Testimony (November 2009) on behalf of the Environmental Defense Fund re. the Las Brisas Energy Center before the Texas State Office of Administrative Hearings (SOAH) Administrative Law Judges.

(ccccc) Deposition (December 2009) on behalf of Environmental Defense and others, in the matter of challenges to the proposed White Stallion Energy Center coal fired power plant project at the Texas State Office of Administrative Hearings (SOAH).

(ddddd) Oral Testimony (February 2010) on behalf of the Environmental Defense Fund re. the White Stallion Energy Center before the Texas State Office of Administrative Hearings (SOAH) Administrative Law Judges.

(eeeee) Deposition (June 2010) on behalf of the United States in connection with the Alabama Power Company NSR Case. *United States v. Alabama Power Company*, CV-01-HS-152-S (Northern District of Alabama, Southern Division).

(fffff) Trial Testimony (September 2010) on behalf of Commonwealth of Pennsylvania – Dept. of Environmental Protection, State of Connecticut, State of New York, State of Maryland, and State of New Jersey (Plaintiffs) in connection with the Allegheny Energy NSR Case in US District Court in the Western District of Pennsylvania. *Plaintiffs v. Allegheny Energy Inc., et al.,* 2:05cv0885 (Western District of Pennsylvania).

(ggggg) Oral Direct and Rebuttal Testimony (September 2010) on behalf of Fall-Line Alliance for a Clean Environment and others in the matter of the PSD Air Permit for Plant Washington issued by Georgia DNR at the Office of State Administrative Hearing, State of Georgia (OSAH-BNR-AQ-1031707-98-WALKER).

(hhhhh) Oral Testimony (September 2010) on behalf of the State of New Mexico Environment Department in the matter of Proposed Regulation 20.2.350 NMAC – *Greenhouse Gas Cap and Trade Provisions*, No. EIB 10-04 (R), to the State of New Mexico, Environmental Improvement Board.

(iiiii) Oral Testimony (October 2010) on behalf of the Environmental Defense Fund re. the Las Brisas Energy Center before the Texas State Office of Administrative Hearings (SOAH) Administrative Law Judges.

(jjjjj) Oral Testimony (November 2010) regarding BART for PSCo Hayden, CSU Martin Drake units before the Colorado Air Quality Commission on behalf of the Coalition of Environmental Organizations.

(kkkkk) Oral Testimony (December 2010) regarding BART for TriState Craig Units, CSU Nixon Unit, and PRPA Rawhide Unit) before the Colorado Air Quality Commission on behalf of the Coalition of Environmental Organizations.

(lllll) Deposition (December 2010) on behalf of the United States in connection with the Louisiana Generating NSR Case. *United States v. Louisiana Generating, LLC*, 09-CV100-RET-CN (Middle District of Louisiana).

(mmmmm) Deposition (February 2011 and January 2012) on behalf of Wild Earth Guardians in the matter of opacity exceedances and monitor downtime at the Public Service Company of Colorado (Xcel)'s Cherokee power plant. No. 09-cv-1862 (D. Colo.).

(nnnnn) Oral Testimony (February 2011) to the Georgia Office of State Administrative Hearings (OSAH) in the matter of Minor Source HAPs status for the proposed Longleaf Energy Associates power plant (OSAH-BNR-AQ-1115157-60-HOWELLS) on behalf of the Friends of the Chattahoochee and the Sierra Club).

(ooooo) Deposition (August 2011) on behalf of the United States in *United States of America v. Cemex, Inc.*, Civil Action No. 09-cv-00019-MSK-MEH (District of Colorado).

(ppppp) Deposition (July 2011) and Oral Testimony at Hearing (February 2012) on behalf of the Plaintiffs MYTAPN in the matter of Microsoft-Yes, Toxic Air Pollution-No (MYTAPN) v. State of Washington, Department of Ecology and Microsoft Corporation Columbia Data Center to the Pollution Control Hearings Board, State of Washington, Matter No. PCHB No. 10-162.

(qqqqq) Oral Testimony at Hearing (March 2012) on behalf of the United States in connection with the Louisiana Generating NSR Case. *United States v. Louisiana Generating, LLC*, 09-CV100-RET-CN (Middle District of Louisiana).

(rrrrr) Oral Testimony at Hearing (April 2012) on behalf of the New Hampshire Sierra Club at the State of New Hampshire Public Utilities Commission, Docket No. 10-261 – the 2010 Least Cost Integrated Resource Plan (LCIRP) submitted by the Public Service Company of New Hampshire (re. Merrimack Station Units 1 and 2).

(sssss) Oral Testimony at Hearing (November 2012) on behalf of Clean Wisconsin in the matter of Application of Wisconsin Public Service Corporation for Authority to Construct and Place in Operation a New Multi-Pollutant Control Technology System (ReACT) for Unit 3 of the Weston Generating Station, before the Public Service Commission of Wisconsin, Docket No. 6690-CE-197.

(ttttt) Deposition (March 2013) in the matter of various Environmental Petitioners v. North Carolina DENR/DAQ and Carolinas Cement Company, before the Office of Administrative Hearings, State of North Carolina.

(uuuuu) Deposition (August 2013) on behalf of the Sierra Club in connection with the Luminant Big Brown Case. *Sierra Club v. Energy Future Holdings Corporation and Luminant Generation Company LLC*, Civil Action No. 6:12-cv-00108-WSS (Western District of Texas, Waco Division).

(vvvvv) Deposition (August 2013) on behalf of the Sierra Club in connection with the Luminant Martin Lake Case. *Sierra Club v. Energy Future Holdings Corporation and Luminant Generation Company LLC*, Civil Action No. 5:10-cv-0156-MHS-CMC (Eastern District of Texas, Texarkana Division).

(wwwww) Deposition (February 2014) on behalf of the United States in *United States of America v. Ameren Missouri*, Civil Action No. 4:11-cv-00077-RWS (Eastern District of Missouri, Eastern Division).

(xxxxx) Trial Testimony (February 2014) in the matter of *Environment Texas Citizen Lobby, Inc and Sierra Club v. ExxonMobil Corporation et al.*, Civil Action No. 4:10-cv-4969 (Southern District of Texas, Houston Division).

(yyyyy) Trial Testimony (February 2014) on behalf of the Sierra Club in connection with the Luminant Big Brown Case. *Sierra Club v. Energy Future Holdings Corporation and Luminant Generation Company LLC*, Civil Action No. 6:12-cv-00108-WSS (Western District of Texas, Waco Division).

(zzzzz) Deposition (June 2014) and Trial (August 2014) on behalf of ECM Biofilms in the matter of the *US Federal Trade Commission (FTC) v. ECM Biofilms* (FTC Docket #9358).

(aaaaaa) Deposition (February 2015) on behalf of Plaintiffs in the matter of *Sierra Club and Montana Environmental Information Center (Plaintiffs) v. PPL Montana LLC, Avista Corporation, Puget Sound Energy, Portland General Electric Company, Northwestern Corporation, and Pacificorp (Defendants)*, Civil Action No. CV 13-32-BLG-DLC-JCL (US District Court for the District of Montana, Billings Division).

(bbbbbb) Oral Testimony at Hearing (April 2015) on behalf of Niagara County, the Town of Lewiston, and the Villages of Lewiston and Youngstown in the matter of CWM Chemical Services, LLC New York State Department of Environmental Conservation (NYSDEC) Permit Application Nos.: 9-2934-00022/00225, 9-2934-00022/00231, 9-2934-00022/00232, and 9-2934-00022/00249 (pending).

(cccccc) Deposition (August 2015) on behalf of Plaintiff in the matter of *Conservation Law Foundation (Plaintiff) v. Broadrock Gas Services LLC, Rhode Island LFG GENCO LLC, and Rhode Island Resource Recovery Corporation (Defendants)*, Civil Action No. 1:13-cv-00777-M-PAS (US District Court for the District of Rhode Island).

(dddddd) Testimony at Hearing (August 2015) on behalf of the Sierra Club in the matter of *Amendments to 35 Illinois Administrative Code Parts 214, 217, and 225* before the Illinois Pollution Control Board, R15-21.

(eeeeee) Deposition (May 2015) on behalf of Plaintiffs in the matter of *Northwest Environmental Defense Center et. al., (Plaintiffs) v. Cascade Kelly Holdings LLC, d/b/a Columbia Pacific Bio-Refinery, and Global Partners LP (Defendants)*, Civil Action No. 3:14-cv-01059-SI (US District Court for the District of Oregon, Portland Division).

(ffffff) Trial Testimony (October 2015) on behalf of Plaintiffs in the matter of *Northwest Environmental Defense Center et. al., (Plaintiffs) v. Cascade Kelly Holdings LLC, d/b/a Columbia Pacific Bio-Refinery, and Global Partners LP (Defendants)*, Civil Action No. 3:14-cv-01059-SI (US District Court for the District of Oregon, Portland Division).

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In The Matter Of:

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PUBLIC HEARING IN RE: LOG# 1607POT1

August 25, 2016

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Page 1

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL SERVICES

PUBLIC HEARING IN RE:

LOG# 1607POT1
PROPOSED STATE IMPLEMENTATION PLAN
(SIP) REVISIONS
* *

A Public Hearing was held by the Louisiana Department of Environmental Quality, Office of Environmental Services, at the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, Louisiana 70802, beginning at 1:38 p.m. on Wednesday, August 25, 2016.

* *

Reported by:
Susan Erkel
Certified Court Reporter
In and for the State of Louisiana

Page 2

A P P E A R A N C E S

HEARING OFFICER:
Charlotte Goudeau, Esq,
Department of Environmental Quality
Office of Environmental Services
602 North Fifth Street
Baton Rouge, Louisiana 70802

* * * * * * * * * *

Page 3

P R O C E E D I N G S

MS. GOUDEAU:

Good afternoon. My name is Charlotte Goudeau, and I am employed by the Louisiana Department of Environmental Quality. I'll be serving as the Hearing Officer this afternoon to receive comments regarding proposed amendments to the Air Regulations. These hearings will be for the revision to the State Implementation Plan (SIP) to incorporate these rules.

The comment period for AQ361 and AQ362 began on April 20, 2016, when the Notices of Intent were published in the "Louisiana Register". The comment period for AQ360, AQ363, and AQ364 began on June 20, 2016 when the Notices of Intent were published in the "Louisiana Register". The comment period will close at 4:30 p.m. today, August 25, 2016 for these rules. It would be helpful to us if all oral comments received today were followed up in writing.

Page 4

This public hearing provides a forum for all interested parties to present comments on the proposed changes. This hearing is not being conducted in a question and answer format. Please remember that the purpose of this public hearing is to allow you, the public, an opportunity to express your thoughts concerning today's proposed amendments.

I'll ask that each person commenting come up and sit at the front table and begin by stating his or her name and affiliation for the record.

The next amendment is designated by the Log Number AQ360. This Rule will repeal LAC 33:III.1507.A and B, which apply to existing sulfuric acid plants (i.e. those constructed or last modified on or before August 17, 1971, and therefore not subject to 40 CFR 60 Subpart H.)

LAC 33:III.1507.A states, in relevant part, that a "four (4) hour (continuous) start-up exemption from the (SO2 and sulfuric acid mist) emission limitations

1 of LAC 33:III.1503.A will be authorized
2 by the administrative authority for
3 facilities not subject to 40 CFR 60.82
4 and 60.83 (of Subpart H)." LAC
5 33:III.1507.B provides a similar
6 exemption "where upsets have caused
7 excessive emissions and on-line
8 operating changes will eliminate a
9 temporary condition." These provisions
10 were approved by EPA into Louisiana's
11 State Implementation Plan (SIP) on July
12 15, 1993 (58 FR 38060).
13 However, on June 12, 2015, EPA
14 promulgated a rule finding that several
15 Louisiana air quality regulations,
16 including LAC 33:III.1507.A and B, are
17 "substantially inadequate to meet Clean
18 Air Act requirements" because they
19 provide "impermissible discretionary
20 exemptions" from "otherwise applicable
21 State Implementation Plan (SIP) emission
22 limitations." Consequently, EPA issued
23 a "SIP call" directing affected states
24 to submit corrective State
25 Implementation Plan (SIP) revisions by

1 November 22, 2016.
2 Based on a review of effective
3 permits, LDEQ has determined that no
4 sulfuric acid plants are eligible for
5 the aforementioned exemptions because
6 each is subject to 40 CFR 60.82 and
7 60.83. Therefore, in response to EPA's
8 State Implementation Plan (SIP) call,
9 LDEQ will repeal LAC 33:III.1507.A and
10 B.
11 Does anyone care to comment on this
12 regulation?
13 (No response.)
14 If not, the hearing on AQ360 is
15 closed.
16
17 (THE HEARING ADJOURNED AT 1:41 P.M.)
18
19
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1 C E R T I F I C A T E
2 This certification is valid only for a
3 script accompanied by my original
4 ature and official seal on this page.
5 I, SUSAN ERKEL, Certified Court
6 rter, in and for the State of Louisiana,
7 he officer before whom this public
8 ing was taken, do hereby certify that
9 foregoing 6 pages were reported by me in
10 voice-writing method, and was prepared
11 transcribed by me or under my personal
12 ction and supervision, and is a true and
13 ect transcript to the best of my ability
14 understanding;
15 That the transcript has been prepared in
16 liance with transcript format guidelines
17 ired by statute or by rules of the
18 d, and that I am informed about the
19 lete arrangement, financial or
20 rwise, with the person or entity making
21 ngements for deposition services;
22 That I have acted in compliance with the
23 ibition on contractual relationships, as
24 ned by Louisiana Code of Civil Procedure
25 cle 1434 and in rules and advisory

1 ions of the board;
2 That I have no actual knowledge of any
3 ibited employment or contractual
4 tionship, direct or indirect, between a
5 t reporting firm and any party litigant
6 his matter nor is there any such
7 tionship between myself and a party
8 gant in this matter; and
9 That I am not related to counsel or to
10 parties herein, nor am I otherwise
11 rested in the outcome of this matter.
12
13
14
15 SUSAN ERKEL
16 CERTIFIED COURT REPORTER
17 LICENSE NO. 24005
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1 R E P O R T E R ' S P A G E
2
3 I, SUSAN ERKEL, Certified Court Reporter in and for
4 State of Louisiana, before whom this sworn testimony
5 taken, do hereby state on the Record:
6 That due to the interaction in the spontaneous
7 ourse of this proceeding, dashes (--) have been used
8 ndicate pauses, changes in thought, and/or talkovers;
9 That same is the proper method for a Court Reporter's
10 scription of proceedings, and that the dashes (--) do
11 indicate that words or phrases have been left out of
12 transcript;
13 That any words and/or names which could not be
14 fied through reference material have been denoted with
15 phrase "(spelled phonetically)."
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20 CERTIFIED COURT REPORTER
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OFFICE OF ENVIRONMENTAL SERVICES

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PUBLIC HEARING IN RE:

LOG# 1607POT1

PROPOSED STATE IMPLEMENTATION PLAN (SIP) REVISIONS

* *

A Public Hearing was held by the Louisiana Department of Environmental Quality, Office of Environmental Services, at the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, Louisiana 70802, beginning at 1:38 p.m. on Wednesday, August 25, 2016.

* *

Reported by:

Susan Erkel

Certified Court Reporter

In and for the State of Louisiana

1 **A P P E A R A N C E S**

2

3 **HEARING OFFICER:**

4 Charlotte Goudeau, Esq,

5 Department of Environmental Quality

6 Office of Environmental Services

7 602 North Fifth Street

8 Baton Rouge, Louisiana 70802

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1 **P R O C E E D I N G S**

2 **MS. GOUDEAU:**

3 Good afternoon. My name is Charlotte
4 Goudeau, and I am employed by the
5 Louisiana Department of Environmental
6 Quality. I'll be serving as the Hearing
7 Officer this afternoon to receive
8 comments regarding proposed amendments
9 to the Air Regulations. These hearings
10 will be for the revision to the State
11 Implementation Plan (SIP) to incorporate
12 these rules.

13 The comment period for AQ361 and
14 AQ362 began on April 20, 2016, when the
15 Notices of Intent were published in the
16 "Louisiana Register". The comment
17 period for AQ360, AQ363, and AQ364 began
18 on June 20, 2016 when the Notices of
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22 2016 for these rules. It would be
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24 received today were followed up in
25 writing.

1 This public hearing provides a forum
2 for all interested parties to present
3 comments on the proposed changes. This
4 hearing is not being conducted in a
5 question and answer format. Please
6 remember that the purpose of this public
7 hearing is to allow you, the public, an
8 opportunity to express your thoughts
9 concerning today's proposed amendments.
10 I'll ask that each person commenting
11 come up and sit at the front table and
12 begin by stating his or her name and
13 affiliation for the record.
14 The next amendment is designated by
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16 repeal LAC 33:III.1507.A and B, which
17 apply to existing sulfuric acid plants
18 (i.e. those constructed or last modified
19 on or before August 17, 1971, and
20 therefore not subject to 40 CFR 60
21 Subpart H.)
22 LAC 33:III.1507.A states, in relevant
23 part, that a "four (4) hour (continuous)
24 start-up exemption from the (SO2 and
25 sulfuric acid mist) emission limitations

of LAC 33:III.1503.A will be authorized by the administrative authority for facilities not subject to 40 CFR 60.82 and 60.83 (of Subpart H)." LAC 33:III.1507.B provides a similar exemption "where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition." These provisions were approved by EPA into Louisiana's State Implementation Plan (SIP) on July 15, 1993 (58 FR 38060).

However, on June 12, 2015, EPA promulgated a rule finding that several Louisiana air quality regulations, including LAC 33:III.1507.A and B, are "substantially inadequate to meet Clean Air Act requirements" because they provide "impermissible discretionary exemptions" from "otherwise applicable State Implementation Plan (SIP) emission limitations." Consequently, EPA issued a "SIP call" directing affected states to submit corrective State Implementation Plan (SIP) revisions by

November 22, 2016.

Based on a review of effective permits, LDEQ has determined that no sulfuric acid plants are eligible for the aforementioned exemptions because each is subject to 40 CFR 60.82 and 60.83. Therefore, in response to EPA's State Implementation Plan (SIP) call, LDEQ will repeal LAC 33:III.1507.A and B.

Does anyone care to comment on this regulation?

(No response.)

If not, the hearing on AQ360 is closed.

(THE HEARING ADJOURNED AT 1:41 P.M.)

1 **C E R T I F I C A T E**

2 This certification is valid only for a
3 transcript accompanied by my original
4 signature and official seal on this page.
5 I, SUSAN ERKEL, Certified Court
6 Reporter, in and for the State of Louisiana,
7 as the officer before whom this public
8 hearing was taken, do hereby certify that
9 the foregoing 6 pages were reported by me in
10 the voice-writing method, and was prepared
11 and transcribed by me or under my personal
12 direction and supervision, and is a true and
13 correct transcript to the best of my ability
14 and understanding;
15 That the transcript has been prepared in
16 compliance with transcript format guidelines
17 required by statute or by rules of the
18 board, and that I am informed about the
19 complete arrangement, financial or
20 otherwise, with the person or entity making
21 arrangements for deposition services;
22 That I have acted in compliance with the
23 prohibition on contractual relationships, as
24 defined by Louisiana Code of Civil Procedure
25 Article 1434 and in rules and advisory

opinions of the board;

That I have no actual knowledge of any prohibited employment or contractual relationship, direct or indirect, between a court reporting firm and any party litigant in this matter nor is there any such relationship between myself and a party litigant in this matter; and

That I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this matter.

Susan Erkel

SUSAN ERKEL
CERTIFIED COURT REPORTER
LICENSE NO. 24005

1 **R E P O R T E R ' S P A G E**

2

3 I, SUSAN ERKEL, Certified Court Reporter in and for
4 the State of Louisiana, before whom this sworn testimony
5 was taken, do hereby state on the Record:
6 That due to the interaction in the spontaneous
7 discourse of this proceeding, dashes (--) have been used
8 to indicate pauses, changes in thought, and/or talkovers;
9 That same is the proper method for a Court Reporter's
10 transcription of proceedings, and that the dashes (--) do
11 not indicate that words or phrases have been left out of
12 this transcript;
13 That any words and/or names which could not be
14 verified through reference material have been denoted with
15 the phrase "(spelled phonetically)."
16
17
18 Susan Erkel
19 SUSAN ERKEL
20 CERTIFIED COURT REPORTER
21 LICENSE NO. 24005
22
23
24
25

In The Matter Of:

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PUBLIC HEARING IN RE: LOG# 1607POT1

August 25, 2016

Associated Reporters, Incorporated

225-216-2036

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STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL SERVICES

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PUBLIC HEARING IN RE:

LOG# 1607POT1

PROPOSED STATE IMPLEMENTATION PLAN (SIP) REVISIONS

* *

A Public Hearing was held by the Louisiana Department of Environmental Quality, Office of Environmental Services, at the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, Louisiana 70802, beginning at 1:30 p.m. on Wednesday, August 25, 2016.

* *

Reported by:

Susan Erkel

Certified Court Reporter

In and for the State of Louisiana

1 **A P P E A R A N C E S**

2

3 **HEARING OFFICER:**

4 Charlotte Goudeau, Esq,

5 Department of Environmental Quality

6 Office of Environmental Services

7 602 North Fifth Street

8 Baton Rouge, Louisiana 70802

9

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1 **P R O C E E D I N G S**

2 **MS. GOUDEAU:**

3 Good afternoon. My name is Charlotte
4 Goudeau, and I am employed by the
5 Louisiana Department of Environmental
6 Quality. I'll be serving as the Hearing
7 Officer this afternoon to receive
8 comments regarding proposed amendments
9 to the Air Regulations. These hearings
10 will be for the revision to the State
11 Implementation Plan (SIP) to incorporate
12 these rules.

13 The comment period for AQ361 and
14 AQ362 began on April 20, 2016, when the
15 Notices of Intent were published in the
16 "Louisiana Register". The comment
17 period for AQ360, AQ363, and AQ364 began
18 on June 20, 2016 when the Notices of
19 Intent were published in the "Louisiana
20 Register". The comment period will
21 close at 4:30 p.m. today, August 25,
22 2016 for these rules. It would be
23 helpful to us if all oral comments
24 received today were followed up in
25 writing.

1 This public hearing provides a forum
2 for all interested parties to present
3 comments on the proposed changes. This
4 hearing is not being conducted in a
5 question and answer format. Please
6 remember that the purpose of this public
7 hearing is to allow you, the public, an
8 opportunity to express your thoughts
9 concerning today's proposed amendments.
10 I'll ask that each person commenting
11 come up and sit at the front table and
12 begin by stating his or her name and
13 affiliation for the record.
14 The first amendment is designated by
15 the Log Number AQ361. This Rule will
16 repeal LAC 33:III.1107.A. LAC
17 33:III.1105 (Smoke from flaring shall
18 not exceed 20 percent opacity) provides,
19 in relevant part, that the "emission of
20 smoke from a flare of other similar
21 device used for burning in connection
22 with pressure valve releases for control
23 over upset shall be controlled so that
24 the shade or appearance of the emission
25 does not exceed 20 percent opacity, for

1 a combined total of six (6) hours in any
2 ten (10) consecutive days."
3 LAC 33:III.1107.A allows LDEQ to
4 grant an exemption from the provisions
5 of LAC 33:III.1105 "during start-up and
6 shutdown periods if the flaring was not
7 the result of failure to maintain or
8 repair equipment." This exemption was
9 approved by EPA into Louisiana's State
10 Implementation Plan (SIP) on July 5,
11 2011 (76 FR 38977).
12 However, on June 12, 2015, EPA
13 promulgated a rule finding that several
14 Louisiana air quality regulations,
15 including LAC 33:III.1507.A and B, are
16 "substantially inadequate to meet Clean
17 Air Act requirements" because they
18 provide "impermissible discretionary
19 exemptions" from "otherwise applicable
20 State Implementation Plan (SIP) emission
21 limitations." Consequently, EPA issued
22 a "SIP call" directing affected states
23 to submit corrective State
24 Implementation Plan (SIP) revisions by
25 November 22, 1016.

In response to EPA's State Implementation Plan (SIP) call, LDEQ will repeal LAC 33:III.1107.A for two primary reasons. One, there is incongruity between the provisions of LAC 33:III.1105 and LAC 33:III.1107.A. 1105 applies to flaring in connection with process upsets, whereas 1107.A addresses startup and shutdown periods (not malfunctions or upsets). Two, other standards for flares that are commonly applicable, such as 40 CFR 63.11(b)(4), require the control device to "be designated for and operated with no visible emissions, except for periods not to exceed a total of five (5) minutes during any two (2) consecutive hours."

Does anyone care to comment on this regulation?

(No response.)

If not, the hearing on AQ361 is closed.

(THE HEARING ADJOURNED AT 1:36 P.M.)

1 **C E R T I F I C A T E**

2 This certification is valid only for a
3 transcript accompanied by my original
4 signature and official seal on this page.
5 I, SUSAN ERKEL, Certified Court
6 Reporter, in and for the State of Louisiana,
7 as the officer before whom this public
8 hearing was taken, do hereby certify that
9 the foregoing 6 pages were reported by me in
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13 correct transcript to the best of my ability
14 and understanding;
15 That the transcript has been prepared in
16 compliance with transcript format guidelines
17 required by statute or by rules of the
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23 prohibition on contractual relationships, as
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25 Article 1434 and in rules and advisory

opinions of the board;

That I have no actual knowledge of any prohibited employment or contractual relationship, direct or indirect, between a court reporting firm and any party litigant in this matter nor is there any such relationship between myself and a party litigant in this matter; and

That I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this matter.

Susan Erkel

SUSAN ERKEL
CERTIFIED COURT REPORTER
LICENSE NO. 24005

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2

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4 the State of Louisiana, before whom this sworn testimony
5 was taken, do hereby state on the Record:
6 That due to the interaction in the spontaneous
7 discourse of this proceeding, dashes (--) have been used
8 to indicate pauses, changes in thought, and/or talkovers;
9 That same is the proper method for a Court Reporter's
10 transcription of proceedings, and that the dashes (--) do
11 not indicate that words or phrases have been left out of
12 this transcript;
13 That any words and/or names which could not be
14 verified through reference material have been denoted with
15 the phrase "(spelled phonetically)."
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18 Susan Erkel
19 SUSAN ERKEL
20 CERTIFIED COURT REPORTER
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In The Matter Of:

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PUBLIC HEARING IN RE: LOG# 1607POT1

August 25, 2016

Associated Reporters, Incorporated

225-216-2036

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In The Matter Of:

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PUBLIC HEARING IN RE: LOG# 1607POT1

August 25, 2016

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STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL SERVICES

PUBLIC HEARING IN RE:

LOG# 1607POT1
PROPOSED STATE IMPLEMENTATION PLAN
(SIP) REVISIONS
* *

A Public Hearing was held by the Louisiana Department of Environmental Quality, Office of Environmental Services, at the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, Louisiana 70802, beginning at 1:30 p.m. on Wednesday, August 25, 2016.

* *

Reported by:
Susan Erkel
Certified Court Reporter
In and for the State of Louisiana

A P P E A R A N C E S

HEARING OFFICER:
Charlotte Goudeau, Esq,
Department of Environmental Quality
Office of Environmental Services
602 North Fifth Street
Baton Rouge, Louisiana 70802

* * * * * * * * * *

P R O C E E D I N G S

MS. GOUDEAU:

Good afternoon. My name is Charlotte Goudeau, and I am employed by the Louisiana Department of Environmental Quality. I'll be serving as the Hearing Officer this afternoon to receive comments regarding proposed amendments to the Air Regulations. These hearings will be for the revision to the State Implementation Plan (SIP) to incorporate these rules.

The comment period for AQ361 and AQ362 began on April 20, 2016, when the Notices of Intent were published in the "Louisiana Register". The comment period for AQ360, AQ363, and AQ364 began on June 20, 2016 when the Notices of Intent were published in the "Louisiana Register". The comment period will close at 4:30 p.m. today, August 25, 2016 for these rules. It would be helpful to us if all oral comments received today were followed up in writing.

This public hearing provides a forum for all interested parties to present comments on the proposed changes. This hearing is not being conducted in a question and answer format. Please remember that the purpose of this public hearing is to allow you, the public, an opportunity to express your thoughts concerning today's proposed amendments.

I'll ask that each person commenting come up and sit at the front table and begin by stating his or her name and affiliation for the record.

The first amendment is designated by the Log Number AQ361. This Rule will repeal LAC 33:III.1107.A. LAC 33:III.1105 (Smoke from flaring shall not exceed 20 percent opacity) provides, in relevant part, that the "emission of smoke from a flare of other similar device used for burning in connection with pressure valve releases for control over upset shall be controlled so that the shade or appearance of the emission does not exceed 20 percent opacity, for

a combined total of six (6) hours in any ten (10) consecutive days."

LAC 33:III.1107.A allows LDEQ to grant an exemption from the provisions of LAC 33:III.1105 "during start-up and shutdown periods if the flaring was not the result of failure to maintain or repair equipment." This exemption was approved by EPA into Louisiana's State Implementation Plan (SIP) on July 5, 2011 (76 FR 38977).

However, on June 12, 2015, EPA promulgated a rule finding that several Louisiana air quality regulations, including LAC 33:III.1507.A and B, are "substantially inadequate to meet Clean Air Act requirements" because they provide "impermissible discretionary exemptions" from "otherwise applicable State Implementation Plan (SIP) emission limitations." Consequently, EPA issued a "SIP call" directing affected states to submit corrective State Implementation Plan (SIP) revisions by November 22, 1016.

In response to EPA's State Implementation Plan (SIP) call, LDEQ will repeal LAC 33:III.1107.A for two primary reasons. One, there is incongruity between the provisions of LAC 33:III.1105 and LAC 33:III.1107.A. 1105 applies to flaring in connection with process upsets, whereas 1107.A addresses startup and shutdown periods (not malfunctions or upsets). Two, other standards for flares that are commonly applicable, such as 40 CFR 63.11(b)(4), require the control device to "be designated for and operated with no visible emissions, except for periods not to exceed a total of five (5) minutes during any two (2) consecutive hours."

Does anyone care to comment on this regulation?

(No response.)

If not, the hearing on AQ361 is closed.

(THE HEARING ADJOURNED AT 1:36 P.M.)

C E R T I F I C A T E

This certification is valid only for a script accompanied by my original ature and official seal on this page.

I, SUSAN ERKEL, Certified Court rter, in and for the State of Louisiana, he officer before whom this public ing was taken, do hereby certify that foregoing 6 pages were reported by me in voice-writing method, and was prepared transcribed by me or under my personal ction and supervision, and is a true and ect transcript to the best of my ability understanding;

That the transcript has been prepared in liance with transcript format guidelines ired by statute or by rules of the d, and that I am informed about the lete arrangement, financial or rwise, with the person or entity making ngements for deposition services;

That I have acted in compliance with the ibition on contractual relationships, as ned by Louisiana Code of Civil Procedure cle 1434 and in rules and advisory

ions of the board;

That I have no actual knowledge of any ibited employment or contractual tionship, direct or indirect, between a t reporting firm and any party litigant his matter nor is there any such tionship between myself and a party gant in this matter; and

That I am not related to counsel or to parties herein, nor am I otherwise rested in the outcome of this matter.

SUSAN ERKEL
CERTIFIED COURT REPORTER
LICENSE NO. 24005

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3 I, SUSAN ERKEL, Certified Court Reporter in and for
4 State of Louisiana, before whom this sworn testimony
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6 That due to the interaction in the spontaneous
7 ourse of this proceeding, dashes (--) have been used
8 ndicate pauses, changes in thought, and/or talkovers;
9 That same is the proper method for a Court Reporter's
10 scription of proceedings, and that the dashes (--) do
11 indicate that words or phrases have been left out of
12 transcript;
13 That any words and/or names which could not be
14 fied through reference material have been denoted with
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A

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STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL SERVICES

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PUBLIC HEARING IN RE:

LOG# 1607POT1

PROPOSED STATE IMPLEMENTATION PLAN (SIP) REVISIONS

* *

A Public Hearing was held by the Louisiana Department of Environmental Quality, Office of Environmental Services, at the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, Louisiana 70802, beginning at 1:34 p.m. on Wednesday, August 25, 2016.

* *

Reported by:

Susan Erkel

Certified Court Reporter

In and for the State of Louisiana

1 **A P P E A R A N C E S**

2

3 **HEARING OFFICER:**

4 Charlotte Goudeau, Esq,

5 Department of Environmental Quality

6 Office of Environmental Services

7 602 North Fifth Street

8 Baton Rouge, Louisiana 70802

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1 **P R O C E E D I N G S**

2 **MS. GOUDEAU:**

3 Good afternoon. My name is Charlotte
4 Goudeau, and I am employed by the
5 Louisiana Department of Environmental
6 Quality. I'll be serving as the Hearing
7 Officer this afternoon to receive
8 comments regarding proposed amendments
9 to the Air Regulations. These hearings
10 will be for the revision to the State
11 Implementation Plan (SIP) to incorporate
12 these rules.

13 The comment period for AQ361 and
14 AQ362 began on April 20, 2016, when the
15 Notices of Intent were published in the
16 "Louisiana Register". The comment
17 period for AQ360, AQ363, and AQ364 began
18 on June 20, 2016 when the Notices of
19 Intent were published in the "Louisiana
20 Register". The comment period will
21 close at 4:30 p.m. today, August 25,
22 2016 for these rules. It would be
23 helpful to us if all oral comments
24 received today were followed up in
25 writing.

1 This public hearing provides a forum
2 for all interested parties to present
3 comments on the proposed changes. This
4 hearing is not being conducted in a
5 question and answer format. Please
6 remember that the purpose of this public
7 hearing is to allow you, the public, an
8 opportunity to express your thoughts
9 concerning today's proposed amendments.
10 I'll ask that each person commenting
11 come up and sit at the front table and
12 begin by stating his or her name and
13 affiliation for the record.
14 The next amendment is designated by
15 the Log Number AQ362. This Rule will
16 repeal LAC 33:III.2153.B.1.i. LAC
17 33:III.2153 (Limiting VOC Emissions from
18 Industrial Wastewater) requires
19 "affected VOC wastewater streams" to be
20 controlled. More specifically, LAC
21 33:III.2153.B.1.d.i requires vents on
22 covers and certain junction box covers
23 to be "equipped with either a control
24 device or a vapor recovery system that
25 maintains a minimum control efficiency

of 90 percent VOC removal or a VOC concentration of less than or equal to 50 parts per million by volume."

LAC 33:III.2153.B.1.i provides that the aforementioned control device or recovery device is "not required to meet the 90 percent removal efficiency or 50 ppmv concentration during periods of malfunction or maintenance on the devices for periods not exceed 336 hours per year." This exemption was approved by EPA into Louisiana's State Implementation Plan (SIP) on July 5, 2016. (76 FR 38977).

However, on June 12, 2015, EPA promulgated a rule finding that several Louisiana air quality regulations, including LAC 33:III.2153.B.1.i, are "substantially inadequate to meet Clean Air Act requirements" because they provide "automatic exemptions for excess emissions from "otherwise applicable State Implementation Plan (SIP) emission limitations." Consequently, EPA issued a "SIP call" directing affected states

to submit corrective State Implementation Plan (SIP) revisions by November 22, 2016.

An LDEQ query of effective air permits returned no documents identifying LAC 33:III.2153.B.i as an applicable requirement. Moreover, LDEQ reached out to the regulated community, inquiring if any affected source relied upon this exemption as a means to comply with LAC 33:III.2153. No affirmative responses were received. Therefore, in response to EPA's State Implementation Plan (SIP) call, LDEQ will repeal LAC 33:III.2153.B.1.i.

Does anyone care to comment on this regulation?

(No response.)

If not, the hearing on AQ362 is closed.

(THE HEARING ADJOURNED AT 1:38 P.M.)

1 **C E R T I F I C A T E**

2 This certification is valid only for a
3 transcript accompanied by my original
4 signature and official seal on this page.
5 I, SUSAN ERKEL, Certified Court
6 Reporter, in and for the State of Louisiana,
7 as the officer before whom this public
8 hearing was taken, do hereby certify that
9 the foregoing 6 pages were reported by me in
10 the voice-writing method, and was prepared
11 and transcribed by me or under my personal
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13 correct transcript to the best of my ability
14 and understanding;
15 That the transcript has been prepared in
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Susan Erkel

SUSAN ERKEL
CERTIFIED COURT REPORTER
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2

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In The Matter Of:

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PUBLIC HEARING IN RE: LOG# 1607POT1

August 25, 2016

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STATE OF LOUISIANA

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PUBLIC HEARING IN RE: LOG# 1607POT1

August 25, 2016

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STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL SERVICES

PUBLIC HEARING IN RE:

LOG# 1607POT1
PROPOSED STATE IMPLEMENTATION PLAN
(SIP) REVISIONS
* *

A Public Hearing was held by the Louisiana Department of Environmental Quality, Office of Environmental Services, at the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, Louisiana 70802, beginning at 1:34 p.m. on Wednesday, August 25, 2016.

* *

Reported by:
Susan Erkel
Certified Court Reporter
In and for the State of Louisiana

A P P E A R A N C E S

HEARING OFFICER:
Charlotte Goudeau, Esq,
Department of Environmental Quality
Office of Environmental Services
602 North Fifth Street
Baton Rouge, Louisiana 70802

* * * * * * * * * *

P R O C E E D I N G S

MS. GOUDEAU:

Good afternoon. My name is Charlotte Goudeau, and I am employed by the Louisiana Department of Environmental Quality. I'll be serving as the Hearing Officer this afternoon to receive comments regarding proposed amendments to the Air Regulations. These hearings will be for the revision to the State Implementation Plan (SIP) to incorporate these rules.

The comment period for AQ361 and AQ362 began on April 20, 2016, when the Notices of Intent were published in the "Louisiana Register". The comment period for AQ360, AQ363, and AQ364 began on June 20, 2016 when the Notices of Intent were published in the "Louisiana Register". The comment period will close at 4:30 p.m. today, August 25, 2016 for these rules. It would be helpful to us if all oral comments received today were followed up in writing.

This public hearing provides a forum for all interested parties to present comments on the proposed changes. This hearing is not being conducted in a question and answer format. Please remember that the purpose of this public hearing is to allow you, the public, an opportunity to express your thoughts concerning today's proposed amendments.

I'll ask that each person commenting come up and sit at the front table and begin by stating his or her name and affiliation for the record.

The next amendment is designated by the Log Number AQ362. This Rule will repeal LAC 33:III.2153.B.1.i. LAC 33:III.2153 (Limiting VOC Emissions from Industrial Wastewater) requires "affected VOC wastewater streams" to be controlled. More specifically, LAC 33:III.2153.B.1.d.i requires vents on covers and certain junction box covers to be "equipped with either a control device or a vapor recovery system that maintains a minimum control efficiency

of 90 percent VOC removal or a VOC concentration of less than or equal to 50 parts per million by volume."

LAC 33:III.2153.B.1.i provides that the aforementioned control device or recovery device is "not required to meet the 90 percent removal efficiency or 50 ppmv concentration during periods of malfunction or maintenance on the devices for periods not exceed 336 hours per year." This exemption was approved by EPA into Louisiana's State Implementation Plan (SIP) on July 5, 2016. (76 FR 38977).

However, on June 12, 2015, EPA promulgated a rule finding that several Louisiana air quality regulations, including LAC 33:III.2153.B.1.i, are "substantially inadequate to meet Clean Air Act requirements" because they provide "automatic exemptions for excess emissions from "otherwise applicable State Implementation Plan (SIP) emission limitations." Consequently, EPA issued a "SIP call" directing affected states

to submit corrective State Implementation Plan (SIP) revisions by November 22, 2016.

An LDEQ query of effective air permits returned no documents identifying LAC 33:III.2153.B.i as an applicable requirement. Moreover, LDEQ reached out to the regulated community, inquiring if any affected source relied upon this exemption as a means to comply with LAC 33:III.2153. No affirmative responses were received. Therefore, in response to EPA's State Implementation Plan (SIP) call, LDEQ will repeal LAC 33:III.2153.B.1.i.

Does anyone care to comment on this regulation?

(No response.)

If not, the hearing on AQ362 is closed.

(THE HEARING ADJOURNED AT 1:38 P.M.)

C E R T I F I C A T E

This certification is valid only for a script accompanied by my original ature and official seal on this page.

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That the transcript has been prepared in liance with transcript format guidelines ired by statute or by rules of the d, and that I am informed about the lete arrangement, financial or rwise, with the person or entity making ngements for deposition services;

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That I have no actual knowledge of any ibited employment or contractual tionship, direct or indirect, between a t reporting firm and any party litigant his matter nor is there any such tionship between myself and a party gant in this matter; and

That I am not related to counsel or to parties herein, nor am I otherwise rested in the outcome of this matter.

SUSAN ERKEL
CERTIFIED COURT REPORTER
LICENSE NO. 24005

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2
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4 State of Louisiana, before whom this sworn testimony
5 taken, do hereby state on the Record:
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7 ourse of this proceeding, dashes (--) have been used
8 ndicate pauses, changes in thought, and/or talkovers;
9 That same is the proper method for a Court Reporter's
10 scription of proceedings, and that the dashes (--) do
11 indicate that words or phrases have been left out of
12 transcript;
13 That any words and/or names which could not be
14 fied through reference material have been denoted with
15 phrase "(spelled phonetically)."
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ORIGINAL

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL SERVICES

PUBLIC HEARING IN RE:

RECEIVED
SEP 07 2016
LA. DEPT. OF ENV. QUALITY
LEGAL DIVISION

LOG# 1607POT1

PROPOSED STATE IMPLEMENTATION PLAN

(SIP) REVISIONS

* *

A Public Hearing was held by the Louisiana Department of Environmental Quality, Office of Environmental Services, at the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, Louisiana 70802, beginning at 1:38 p.m. on Wednesday, August 25, 2016.

* *

Reported by:

Susan Erkel

Certified Court Reporter

In and for the State of Louisiana

1 **A P P E A R A N C E S**

2

3 **HEARING OFFICER:**

4 Charlotte Goudeau, Esq,

5 Department of Environmental Quality

6 Office of Environmental Services

7 602 North Fifth Street

8 Baton Rouge, Louisiana 70802

9

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1 **P R O C E E D I N G S**

2 **MS. GOUDEAU:**

3 Good afternoon. My name is Charlotte
4 Goudeau, and I am employed by the
5 Louisiana Department of Environmental
6 Quality. I'll be serving as the Hearing
7 Officer this afternoon to receive
8 comments regarding proposed amendments
9 to the Air Regulations. These hearings
10 will be for the revision to the State
11 Implementation Plan (SIP) to incorporate
12 these rules.

13 The comment period for AQ361 and
14 AQ362 began on April 20, 2016, when the
15 Notices of Intent were published in the
16 "Louisiana Register". The comment
17 period for AQ360, AQ363, and AQ364 began
18 on June 20, 2016 when the Notices of
19 Intent were published in the "Louisiana
20 Register". The comment period will
21 close at 4:30 p.m. today, August 25,
22 2016 for these rules. It would be
23 helpful to us if all oral comments
24 received today were followed up in
25 writing.

This public hearing provides a forum for all interested parties to present comments on the proposed changes. This hearing is not being conducted in a question and answer format. Please remember that the purpose of this public hearing is to allow you, the public, an opportunity to express your thoughts concerning today's proposed amendments.

I'll ask that each person commenting come up and sit at the front table and begin by stating his or her name and affiliation for the record.

The next amendment is designated by the Log Number AQ363. This Rule will repeal LAC 33:III.2307.C., which applies to nitric acid plants that are not subject to 40 CFR 60, Subpart G (Standards of Performance for Nitric Acid Plants).

LAC 33:III.2307.C.1.a states, in relevant part, that a "four (4) hour start-up exemption from NOX emission regulations may be authorized by the administrative authority for plants not

1 subject to 40 CFR 60, Subpart G. LAC
2 33:III.2307.C.2.a provides a similar
3 exemption "where upsets have caused
4 excessive emissions and on-line
5 operating changes will eliminate a
6 temporary condition." These provisions
7 were approved by EPA into Louisiana's
8 State Implementation Plan (SIP) on July
9 15, 2011 (76 FR 38977).
10 However, on June 12, 2015, EPA
11 promulgated a rule finding that several
12 Louisiana air quality regulations,
13 including LAC 33:III.2307.C, are
14 "substantially inadequate to meet Clean
15 Air Act requirements" because they
16 provide "impermissible discretionary
17 exemptions" from "otherwise applicable
18 State Implementation Plan (SIP) emission
19 limitations." Consequently, EPA issued
20 a "SIP call" directing affected states
21 to submit corrective State
22 Implementation Plan (SIP) revisions by
23 November 22, 2016.
24 Based on a review of effective
25 permits, LDEQ identified only one nitric

1 acid plant that is not subject to 40 CFR
2 60, Subpart G, that being Nitric Acid
3 Train 4 (NNA4-1, EQT 0007), located at
4 PCS Nitrogen Fertilizer's (PCS's)
5 Geismar Agricultural Nitrogen and
6 Phosphate Plant (Agency Interest No.
7 3732). Nitric Acid Train 4 is currently
8 operating under Permit No. 2240-V8,
9 issued February 6, 2015.
10 A consent decree between EPA, LDEQ,
11 and PCS (Civil Action No. 14-707-BAJ-
12 SCR), entered February 26, 2014,
13 requires PCS to install NOX control
14 equipment (i.e., selective catalytic
15 reduction, or SCR) on Nitric Acid Train
16 4 as a supplemental environmental
17 project. Based on conversations with
18 representatives of PCS, LDEQ understands
19 that the SCR control device will be
20 installed in summer of 2016 and, after
21 that time, the exemptions provided by
22 LAC 33:III.2307.C will no longer be
23 needed. Therefore, in response to EPA's
24 State Implementation Plan (SIP) call,
25 LDEQ will repeal LAC 33:III.2307.C.

1 Does anyone care to comment on this
2 regulation?
3 (No response.)
4 If not, the hearing on AQ363 is
5 closed.
6
7 (THE HEARING ADJOURNED AT 1:45 P.M.)
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1 **C E R T I F I C A T E**

2 This certification is valid only for a
3 transcript accompanied by my original
4 signature and official seal on this page.
5 I, SUSAN ERKEL, Certified Court
6 Reporter, in and for the State of Louisiana,
7 as the officer before whom this public
8 hearing was taken, do hereby certify that
9 the foregoing 7 pages were reported by me in
10 the voice-writing method, and was prepared
11 and transcribed by me or under my personal
12 direction and supervision, and is a true and
13 correct transcript to the best of my ability
14 and understanding;
15 That the transcript has been prepared in
16 compliance with transcript format guidelines
17 required by statute or by rules of the
18 board, and that I am informed about the
19 complete arrangement, financial or
20 otherwise, with the person or entity making
21 arrangements for deposition services;
22 That I have acted in compliance with the
23 prohibition on contractual relationships, as
24 defined by Louisiana Code of Civil Procedure
25 Article 1434 and in rules and advisory

opinions of the board;

That I have no actual knowledge of any prohibited employment or contractual relationship, direct or indirect, between a court reporting firm and any party litigant in this matter nor is there any such relationship between myself and a party litigant in this matter; and

That I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this matter.

Susan Erkel

SUSAN ERKEL
CERTIFIED COURT REPORTER
LICENSE NO. 24005

1 **R E P O R T E R ' S P A G E**

2

3 I, SUSAN ERKEL, Certified Court Reporter in and for
4 the State of Louisiana, before whom this sworn testimony
5 was taken, do hereby state on the Record:
6 That due to the interaction in the spontaneous
7 discourse of this proceeding, dashes (--) have been used
8 to indicate pauses, changes in thought, and/or talkovers;
9 That same is the proper method for a Court Reporter's
10 transcription of proceedings, and that the dashes (--) do
11 not indicate that words or phrases have been left out of
12 this transcript;
13 That any words and/or names which could not be
14 verified through reference material have been denoted with
15 the phrase "(spelled phonetically)."
16
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18 Susan Erkel
19 SUSAN ERKEL
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In The Matter Of:

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PUBLIC HEARING IN RE: LOG# 1607POT1

August 25, 2016

Associated Reporters, Incorporated

225-216-2036

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In The Matter Of:

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PUBLIC HEARING IN RE: LOG# 1607POT1

August 25, 2016

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Page 1

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL SERVICES

PUBLIC HEARING IN RE:

LOG# 1607POT1
PROPOSED STATE IMPLEMENTATION PLAN
(SIP) REVISIONS
* *

A Public Hearing was held by the Louisiana Department of Environmental Quality, Office of Environmental Services, at the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, Louisiana 70802, beginning at 1:38 p.m. on Wednesday, August 25, 2016.

* *

Reported by:
Susan Erkel
Certified Court Reporter
In and for the State of Louisiana

Page 2

A P P E A R A N C E S

HEARING OFFICER:
Charlotte Goudeau, Esq,
Department of Environmental Quality
Office of Environmental Services
602 North Fifth Street
Baton Rouge, Louisiana 70802

* * * * * * * * * *

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P R O C E E D I N G S

MS. GOUDEAU:

Good afternoon. My name is Charlotte Goudeau, and I am employed by the Louisiana Department of Environmental Quality. I'll be serving as the Hearing Officer this afternoon to receive comments regarding proposed amendments to the Air Regulations. These hearings will be for the revision to the State Implementation Plan (SIP) to incorporate these rules.

The comment period for AQ361 and AQ362 began on April 20, 2016, when the Notices of Intent were published in the "Louisiana Register". The comment period for AQ360, AQ363, and AQ364 began on June 20, 2016 when the Notices of Intent were published in the "Louisiana Register". The comment period will close at 4:30 p.m. today, August 25, 2016 for these rules. It would be helpful to us if all oral comments received today were followed up in writing.

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This public hearing provides a forum for all interested parties to present comments on the proposed changes. This hearing is not being conducted in a question and answer format. Please remember that the purpose of this public hearing is to allow you, the public, an opportunity to express your thoughts concerning today's proposed amendments.

I'll ask that each person commenting come up and sit at the front table and begin by stating his or her name and affiliation for the record.

The next amendment is designated by the Log Number AQ363. This Rule will repeal LAC 33:III.2307.C., which applies to nitric acid plants that are not subject to 40 CFR 60, Subpart G (Standards of Performance for Nitric Acid Plants).

LAC 33:III.2307.C.1.a states, in relevant part, that a "four (4) hour start-up exemption from NOX emission regulations may be authorized by the administrative authority for plants not

subject to 40 CFR 60, Subpart G. LAC 33:III.2307.C.2.a provides a similar exemption "where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition." These provisions were approved by EPA into Louisiana's State Implementation Plan (SIP) on July 15, 2011 (76 FR 38977).

However, on June 12, 2015, EPA promulgated a rule finding that several Louisiana air quality regulations, including LAC 33:III.2307.C, are "substantially inadequate to meet Clean Air Act requirements" because they provide "impermissible discretionary exemptions" from "otherwise applicable State Implementation Plan (SIP) emission limitations." Consequently, EPA issued a "SIP call" directing affected states to submit corrective State Implementation Plan (SIP) revisions by November 22, 2016.

Based on a review of effective permits, LDEQ identified only one nitric

acid plant that is not subject to 40 CFR 60, Subpart G, that being Nitric Acid Train 4 (NNA4-1, EQT 0007), located at PCS Nitrogen Fertilizer's (PCS's) Geismar Agricultural Nitrogen and Phosphate Plant (Agency Interest No. 3732). Nitric Acid Train 4 is currently operating under Permit No. 2240-V8, issued February 6, 2015.

A consent decree between EPA, LDEQ, and PCS (Civil Action No. 14-707-BAJ-SCR), entered February 26, 2014, requires PCS to install NOX control equipment (i.e., selective catalytic reduction, or SCR) on Nitric Acid Train 4 as a supplemental environmental project. Based on conversations with representatives of PCS, LDEQ understands that the SCR control device will be installed in summer of 2016 and, after that time, the exemptions provided by LAC 33:III.2307.C will no longer be needed. Therefore, in response to EPA's State Implementation Plan (SIP) call, LDEQ will repeal LAC 33:III.2307.C.

Does anyone care to comment on this regulation?

(No response.)

If not, the hearing on AQ363 is closed.

(THE HEARING ADJOURNED AT 1:45 P.M.)

C E R T I F I C A T E

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