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# Executive Orders

## EXECUTIVE ORDER BJ 14-01

Executive Department—Limited Hiring Freeze

WHEREAS, pursuant to R.S. 42:375, the Governor may issue executive orders which prohibit or regulate the filling of any new or existing vacancies in positions of employment in the executive branch of State government (hereafter "hiring freeze");

WHEREAS, R.S. 39:84 provides authority to the Governor to regulate and control personnel transactions;

WHEREAS, to limit or control the growth in government positions and to prepare for the budget challenges in the ensuing years, prudent fiscal management practices dictate that the best interests of the citizens of the State of Louisiana will be served by the implementation of a hiring freeze in the executive branch of State government to achieve at least a State general fund dollar savings of \$7,000,000;

WHEREAS, higher education, direct patient care and direct public safety positions, including certain positions in the Office of Juvenile Justice and new law enforcement cadet classes in Wildlife and Fisheries and Louisiana State Police all play vital roles in the education, direct care, and safety of the citizens of our State, all of which require that certain positions in these departments be exempted from this Order;

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

SECTION 1: No vacancy in an existing or new position of employment within the executive branch of State government that exists on or occurs after the effective date of this order shall be filled which would in any manner cause the number of filled positions to exceed the ceiling as provided in Section B of this section within the department, budget unit, agency, and/or office, within the executive branch of State government. This includes Authorized Positions, Authorized Other Charges Positions, Other Compensation Positions (Non-T.O. FTEs), job appointments (Non-T.O. FTEs), and restricted appointments (Non-T.O. FTEs) (hereafter collectively referred to as "positions").

A. The following departments, agencies, and/or budget units of the executive branch of the State of Louisiana (hereafter "Unit" and/or "Units"), as described in and/or funded by appropriations through Acts 14 and 44 of the 2013 Regular Session of the Louisiana Legislature as well as the Acts that will originate as the General Appropriations Bill and Ancillary Expenses Bill of the 2014 Session of the Louisiana Legislature (hereafter "Acts"), shall be subject to the hiring freeze as provided in this Executive Order:

## Executive Branch

Schedule 01—Executive Department  
Schedule 03—Veterans Affairs  
Schedule 05—Economic Development  
Schedule 06—Culture, Recreation and Tourism  
Schedule 07—Transportation and Development  
Schedule 08—Corrections Services  
Schedule 08—Public Safety Services  
Schedule 08—Youth Services  
Schedule 09—Health and Hospitals  
Schedule 10—Children and Family Services  
Schedule 11—Natural Resources  
Schedule 12—Revenue  
Schedule 13—Environmental Quality  
Schedule 14—Louisiana Workforce Commission  
Schedule 16—Wildlife and Fisheries  
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21-800—Office of Group Benefits  
21-804—Office of Risk Management  
21-805—Administrative Services  
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21-807—Federal Property Assistance  
21-808—Office of Telecommunications Management  
21-811—Prison Enterprises  
21-829—Office of Aircraft Services

B. The Commissioner of Administration is hereby authorized to and shall establish, on a continuing basis, the number of filled positions for each such department, agency, and/or budget unit specified in Paragraph A of this Section together with the expenditure of funds appropriated for such positions.

**EXECUTIVE ORDER BJ 14-02**

**Carry-Forward Bond Allocation 2013**

C. After the effective date of this Order, employee transfers, promotions, reallocations, and the creation of any new positions of employment within the executive branch of State government shall not in any manner cause the number of filled positions to exceed the ceiling as provided in Section B of this section within the department, budget unit, agency, and/or office, within the executive branch of State government unless otherwise adjusted by the Commissioner of Administration.

SECTION 2: To implement the freeze provided in Section 1, the Commissioner of Administration shall set a date upon which the head of each Unit listed in Section 1 of this Order shall submit to the Commissioner of Administration a mid-year budget adjustment plan, on the BA-7 form and questionnaire, which reflects the Unit's proposed allocation of the position freeze ordered in Section 1 of this Order, and a rationale or explanation of the mid-year budget adjustment plan.

A. The allocation of the position freeze shall be implemented by the Unit only upon the Commissioner's prior written approval of the Unit's mid-year budget adjustment plan.

B. Once approved, a mid-year budget adjustment plan may not be changed without the Commissioner's prior written approval.

SECTION 3: The Commissioner of Administration may develop guidelines pertaining to requests for adjustments from all or part of the prohibition set for in Section 1 of this Order, and if necessary, develop definitions for the terms and/or the descriptions used in this Order.

SECTION 4: All departments, budget units, agencies, offices, entities, and officers of the State of Louisiana are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 5: The Governor, in accordance with R.S. 42:375(D) may order the Commissioner of Administration to withhold allotments in the appropriate category of expenditures from which the salary or compensation of any employee employed in violation of this executive order is paid in an amount equal to such compensation.

SECTION 6: The Order is effective January 15, 2014 and shall remain in effect through June 30, 2015 unless earlier amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 15th day of January, 2014.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1402#083

WHEREAS, pursuant to the Tax Reform Act of 1986 and Act 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act"), Executive Order No. BJ 2008-47 was issued to establish a method for allocating bonds subject to private activity bond volume limits, including

(1) the method of allocating bonds subject to the private activity bond volume limits for the calendar year 2008 and subsequent calendar years;

(2) the procedure for obtaining an allocation of bonds under the ceiling; and

(3) a system of central record keeping for such allocations;

WHEREAS, Section 4(H) of No. BJ 2008-47 provides that if the ceiling for a calendar year exceeds the aggregate amount of bonds subject to the private activity bond volume limit issued during the year by all issuers, by executive order, the Governor may allocate the excess amount to issuers or an issuer for use as a carry-forward for one or more carry-forward projects permitted under the Act;

WHEREAS, the sum of four hundred thirty-seven million one hundred seventy-nine thousand eight hundred thirty-five dollars (\$437,179,835) represents the amount of the ceiling determined by the staff of the Louisiana State Bond Commission ("SBC") for private activity bond volume limits for the year 2013 ("2013 Ceiling");

WHEREAS, Executive Order No. BJ 2013 - 9, issued on June 6, 2013, allocated twenty-five million dollars (\$25,000,000) from the 2013 ceiling to the Louisiana Public Facilities Authority to be used by Louisiana Pellets, Inc. for the acquisition, construction, improvement, and expansion of certain solid waste disposal facilities consisting of an approximately, 393,000 square-foot facility on approximately 334 acres of land to be used for a wood pellets production plant, the primary purpose of which is the processing of wood waste to manufacture biomass wood pellets located in the Parish of LaSalle, State of Louisiana, within the boundaries of the State of Louisiana and \$25,000,000 was returned unused to the ceiling.

WHEREAS, Executive Order No. BJ 2013 - 11, issued on July 23, 2013, allocated five million dollars (\$5,000,000) from the 2013 ceiling to the Louisiana Public Facilities Authority to be used by Sheppard Park II, LP for the acquisition and renovation of an existing 80-unit elderly affordable housing property located in Minden, Louisiana, of which 40% of the total units will be reserved for occupancy by housing-eligible tenants at or below 60% area median income, within the boundaries of the State of Louisiana and \$5,000,000 was returned unused to the ceiling.

WHEREAS, Executive Order No. BJ 2013 - 19, issued on December 5, 2013, allocated three hundred million dollars (\$300,000,000) from the 2013 ceiling to the Louisiana Community Development Authority to be used by BioNitrogen Louisiana Holdings, LLC to develop and

construct multiple urea manufacturing facilities to be located at or near the Pointe Coupee Port operations along the Mississippi River in Pointe Coupee Parish, which its Facilities will transform residual agricultural solid waste and other biomass materials into bulk urea product located in Pointe Coupee Parish, within the boundaries of the State of Louisiana and \$300,000,000 was returned unused to the ceiling.

WHEREAS, Executive Order No. BJ 2013 – 20, issued on December 13, 2013, allocated twenty million dollars (\$20,000,000) from the 2013 ceiling to the Calcasieu Parish Public Trust Authority to be used by the Mortgage Credit Certificate Program for the acquisition of certain mortgage notes secured by the mortgages on owner occupied residential, real, or immovable property owned by low and moderate income persons in the Imperial Calcasieu Parish area (Parishes of Calcasieu, Cameron, Allen, Beauregard and Jefferson Davis, Louisiana) originated by participating mortgage lenders, make deposits into certain funds as may be required for security in marketing the bonds; pay capitalized interest on the Bonds; pay the costs of issuance associated with the Bonds to be located in the Parishes of Calcasieu, Cameron, Beauregard, Allen, and Jefferson Davis, State of Louisiana, within the boundaries of the Issuer; and \$20,000,000 was returned unused to the ceiling.

WHEREAS, fifty-five million six hundred seventy-nine thousand eight hundred thirty-five (\$55,679,835) of the 2013 Ceiling was not allocated during the 2013 calendar year; and three hundred fifty million dollars (\$350,000,000) of the 2013 Ceiling was returned; and

WHEREAS, The SBC has determined that four hundred five million six hundred seventy-nine thousand eight hundred thirty-five dollars (\$405,679,835) of the excess 2013 Ceiling is eligible as carry-forward of which twenty million dollars (\$20,000,000) has been allocated, leaving three hundred eighty-five million six hundred seventy-nine thousand eight hundred thirty five dollars (\$385,679,835) and the Governor desires to allocate this amount as carry-forward for projects which are permitted and eligible under the Act;

WHEREAS, Executive Order No. BJ 2013 – 21, issued on December 30, 2013, allocated twenty million dollars (\$20,000,000) from the 2013 carry-forward to the Calcasieu Parish Public Trust Authority to be used by the Mortgage Credit Certificate Program for the acquisition of certain mortgage notes secured by the mortgages on owner occupied residential, real, or immovable property owned by low and moderate income persons in the Imperial Calcasieu

Parish area (Parishes of Calcasieu, Cameron, Allen, Beauregard and Jefferson Davis, Louisiana) originated by participating mortgage lenders, make deposits into certain funds as may be required for security in marketing the bonds; pay capitalized interest on the Bonds; pay the costs of issuance associated with the Bonds to be located in the Parishes of Calcasieu, Cameron, Beauregard, Allen, and Jefferson Davis, State of Louisiana, within the boundaries of the Issuer;

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

SECTION 1: Pursuant to and in accordance with the provisions of Section 146(f) of the Internal Revenue Code of 1986, as amended, and in accordance with the request for carry-forward filed by the designated issuer, the excess private activity bond volume limit under the 2013 Ceiling is hereby allocated to the following issuer(s), for the following carry-forward project(s), and in the following amount(s):

Issuer	Carry-Forward Project	Carry-Forward Amount
Louisiana Community Development Authority	BioNitrogen Louisiana Holdings, LLC Multi-Family Housing Revenue Bonds	\$300,000,000
Louisiana Housing Corporation		\$85,679,835

SECTION 2: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 3: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 7th day of February, 2014.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1402#084

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Children and Family Services Economic Stability Section

#### Student Financial Assistance Grants (LAC 67:III.5599)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), the Department of Children and Family Services (DCFS) proposes to adopt LAC 67:III, Subpart 15 Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55 TANF Initiatives, Section 5599 Louisiana Student Financial Assistance Grants. Adoption is pursuant to the authority granted to the department by the TANF block grant. This declaration is necessary to extend the original Emergency Rule since it is effective for a maximum of 120 days and will expire before the Final Rule takes effect. This Emergency Rule extension is effective on February 28, 2014 and will remain in effect until the Final Rule becomes effective.

The adoption of §5599 is necessary to govern the collection of eligible tuition expenditures for low income students that may be counted as Maintenance of Effort (MOE) for the TANF grant.

The department considers emergency action necessary to facilitate the expenditure of TANF funds. The authorization to promulgate emergency rules to facilitate the expenditure of TANF funds is contained in Act 14 of the 2013 Regular Session of the Louisiana Legislature.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Economic Stability

#### Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

#### Chapter 55. TANF Initiatives

#### §5599. Louisiana Student Financial Assistance Grants

A. The department through an agreement with the Louisiana Office of Student Financial Assistance (LOSFA) shall collect information on tuition assistance expenditures provided to eligible low income students who are pursuing postsecondary education for the purpose of claiming eligible expenditures that may count as Maintenance of Effort (MOE) effective TANF State Plan FY 2011 for the Temporary Assistance for Needy Families (TANF) grant. The eligible tuition assistance expenditures that may be claimed as MOE are from the following programs.

1. *Louisiana Go Grants*—a need based student financial aid grant that supports nontraditional and low income students in their pursuit of postsecondary education. To receive the Go Grants, a student must be receiving a federal Pell grant and have remaining financial need, as determined in accordance with a formula established by the Louisiana Board of Regents. The formula for determining financial need is subject to change on a yearly basis in order to ensure that the greatest number of students will benefit

from the funds appropriated for the program by the Louisiana Legislature.

2. *Taylor Opportunity Program for Students (TOPS)*—a state scholarship program for Louisiana residents who attend Louisiana postsecondary institutions.

B. These services meet TANF goal three, to prevent and reduce the incidence of out-of-wedlock pregnancies, by providing financial aid to eligible students who are pursuing postsecondary education. The services provide the students with the tools necessary to reduce risky behaviors and increase positive decision making.

C. Financial eligibility for these services attributable to TANF/Maintenance of Effort (MOE) funds is limited as follows:

1. Certification for TANF MOE for Go Grant expenditures will be those students who receive Pell Grants and have a remaining financial need and are defined as dependent by the U.S. Department of Education. The amount used for TANF maintenance of effort is not duplicated in determining match or maintenance of effort for any other program.

2. TANF eligibility for students receiving TOPS will be determined by receipt of a Go Grants. Certification for TANF MOE for TOPS expenditures will be for those students who simultaneously receive TOPS and Go Grants and are defined as dependent by the U.S. Department of Education.

D. Services are considered non-assistance by the department.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; P.L. 104-193, and R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 40:

Suzy Sonnier  
Secretary

1402#042

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Board of Pharmacy

#### Compounding for Prescriber Use (LAC 46:LIII.2535)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953.B, to amend certain portions of its rules permitting pharmacists to compound medications intended for administration by practitioners without the necessity of a patient-specific prescription.

The board has taken note of the recent tragedies associated with fungal meningitis traced to a compounding pharmacy in Massachusetts. Further, the board has learned there are other similar types of pharmacies operating across the country that are licensed to do business in Louisiana. Some of these pharmacies specialize in the large-scale preparation of drug

products as opposed to compounding medications pursuant to patient-specific prescriptions.

The preparation of drug products intended for use in the general population in the United States is governed by federal laws and rules administered by the federal Food and Drug Administration (FDA). Drug manufacturers are credentialed and regulated by that federal agency, and their manufacturing activities are required to comply with a set of quality and safety standards generally known as current Good Manufacturing Practices (cGMP). There are provisions within the federal laws and rules that permit state licensed pharmacies to prepare drug products in response to patient specific prescriptions. Louisiana-licensed pharmacies engaged in the compounding of drug preparations in response to such prescriptions are required to comply with the set of quality and safety standards published in the United States Pharmacopeia (USP). By comparison, the USP standards are less stringent than the cGMP standards.

The board's current rule permitting pharmacies to compound products for prescriber use without a patient-specific prescription contain no limits on products prepared by pharmacies intended for that general use. As evidenced by the tragedies referenced earlier, there are risks associated with pharmacies engaged in manufacturing activities while adhering to compounding standards. In an effort to mitigate that risk for Louisiana residents, the board proposes to limit a pharmacy's product preparation intended for general use (including prescriber use) to 10 percent of its total dispensing and distribution activity. With respect to a pharmacy's total dispensing and distribution activity for Louisiana residents, the board proposes a minimum of 90 percent be accomplished in response to patient-specific prescriptions and no more than ten percent for prescriber use in response to purchase orders.

The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare. The original declaration of emergency was effective January 31, 2013 and was re-published on May 29 and September 29. Although the board has initiated the promulgation process necessary to finalize the proposed Rule, it is necessary to re-issue the Emergency Rule to provide the necessary time to complete the promulgation process. Therefore, the board has re-issued the Declaration of Emergency, effective February 6, 2014. The Emergency Rule shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever shall first occur.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LIII. Pharmacists**

#### **Chapter 25. Prescriptions, Drugs, and Devices**

#### **Subchapter C. Compounding of Drugs**

#### **§2535. General Standards**

A - C. ...

D. Compounding for Prescriber's Use. Pharmacists may prepare practitioner administered compounds for a prescriber's use with the following requirements:

1 - 3. ...

4. A pharmacy may prepare such products not to exceed ten percent of the total number of drug dosage units

dispensed and distributed by the pharmacy on an annual basis.

E. ...

F. Compounding Commercial Products Not Available. A pharmacy may prepare a copy of a commercial product when that product is not available as evidenced by either of the following:

1. Products appearing on a website maintained by the federal Food and Drug Administration (FDA) and/or the American Society of Health-System Pharmacists (ASHP).

2. Products temporarily unavailable from distributors, as documented by invoice or other communication from the distributor.

#### **G. Labeling of Compounded Products**

1. For patient-specific compounded products, the labeling requirements of R.S. 37:1225, or its successor, as well as this Chapter, shall apply.

2. All practitioner administered compounds shall be packaged in a suitable container with a label containing, at a minimum, the following information:

- a. pharmacy's name, address, and telephone number;
- b. practitioner's name;
- c. name of preparation;
- d. strength and concentration;
- e. lot number;
- f. beyond use date;
- g. special storage requirements, if applicable;
- h. assigned identification number; and
- i. pharmacist's name or initials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 23:1316 (October 1997), amended LR 29:2105 (October 2003), effective January 1, 2004, amended LR 40:

Malcolm J. Broussard  
Executive Director

1402#039

### **DECLARATION OF EMERGENCY**

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

Abortion Facilities  
Licensing Standards  
(LAC 48:I.Chapter 44)

The Department of Health and Hospitals, Bureau of Health Services Financing hereby rescinds the November 20, 2013 Emergency Rule which repealed and replaced the provisions governing the licensing standards for abortion facilities in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2175.1 et seq. The Emergency Rule was promulgated in the November 20, 2013 edition of the *Louisiana Register*. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.



The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to repeal and replace the licensing standards for outpatient abortion facilities in order to revise and clarify these provisions, and to comply with the provisions of Acts 259 and 260 (*Louisiana Register*, Volume 39, Number 11). Upon further consideration, the department has now determined that it is necessary to rescind the November 20, 2013 Emergency Rule governing outpatient abortion facilities in its entirety. The department will also abandon the associated Notice of Intent which was published in the December 20, 2013 edition of the *Louisiana Register*:

Effective February 6, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing hereby rescinds the Emergency Rule governing the licensing standards for abortion facilities that appeared in the November 20, 2013 edition of the *Louisiana Register* on pages 2982-3002.

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

Kathy H. Kliebert  
Secretary

1402#009

## DECLARATION OF EMERGENCY

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

#### Applied Behavioral Analysis-Based Therapy Services (LAC 50:XV.Chapters 1-7)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:XV.Chapters 1-7 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions of the children's choice waiver in order to provide for the allocation of waiver opportunities to Medicaid-eligible children identified in the *Melanie Chisholm, et al vs. Kathy Kliebert* class action litigation (hereafter referred to as Chisholm class members) who have a diagnosis of pervasive developmental disorder or autism spectrum disorder, and are in need of applied behavioral analysis-based (ABA) therapy services. (*Louisiana Register*, Volume 39, Number 10). This action was taken as a temporary measure to ensure Chisholm class members would have access to ABA therapy services as soon as possible.

To ensure continued, long-lasting access to ABA-based therapy services for Chisholm class members and other

children under the age of 21, the department has now determined that it is necessary to adopt provisions to establish coverage and reimbursement for ABA-based therapy services under the Medicaid state plan.

This action is being taken to avoid imminent peril to the public health and welfare of children who are in immediate need of ABA-based therapy services, and to comply with the judge's order that these services be provided to Chisholm class members. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$9,523,396 for state fiscal year 2013-2014.

Effective February 1, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions to establish coverage and reimbursement for applied behavioral analysis-based therapy services under the Medicaid state plan.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XV. Services for Special Populations

##### Subpart 1. Applied Behavioral Analysis-Based Therapy Services

#### Chapter 1. General Provisions

##### §101. Program Description and Purpose

A. Applied behavior analysis-based (ABA) therapy is the design, implementation, and evaluation of environmental modification using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the direct observation, measurement, and functional analysis of the relations between environment and behavior. ABA-based therapies teach skills through the use of behavioral observation and reinforcement or prompting to teach each step of targeted behavior. ABA-based therapies are based on reliable evidence and are not experimental.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

##### §103. Recipient Criteria

A. In order to qualify for ABA-based therapy services, a Medicaid recipient must meet the following criteria. The recipient must:

1. be from birth up to 21 years of age;
2. exhibit the presence of excesses and/or deficits of behaviors that significantly interfere with home or community activities (examples include, but are not limited to aggression, self-injury, elopement, etc.);
3. be medically stable and does not require 24-hour medical/nursing monitoring or procedures provided in a hospital or intermediate care facility for persons with intellectual disabilities (ICF/ID);
4. be diagnosed by a qualified health care professional with a condition for which ABA-based therapy services are recognized as therapeutically appropriate, including autism spectrum disorder;
5. have a comprehensive diagnostic evaluation by a qualified health care professional; and
6. have a prescription for ABA-based therapy services ordered by a qualified health care professional.

B. All of the criteria in §103.A must be met to receive services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

### **Chapter 3. Services**

#### **§301. Covered Services and Limitations**

A. Medicaid covered ABA-based therapy services must be:

1. medically necessary;
2. prior authorized by the Medicaid Program or its designee; and
3. delivered in accordance with the recipient's treatment plan.

B. Services must be provided directly or billed by behavior analysts licensed by the Louisiana Behavior Analyst Board.

C. Medical necessity for ABA-based therapy services shall be determined according to the provisions of the *Louisiana Administrative Code* (LAC), Title 50, Part I, Chapter 11 (*Louisiana Register*, Volume 37, Number 1).

D. ABA-based therapy services may be prior authorized for a time period not to exceed 180 days. Services provided without prior authorization shall not be considered for reimbursement, except in the case of retroactive Medicaid eligibility.

#### **E. Service Limitations**

1. Services shall be based upon the individual needs of the child, and must give consideration to the child's age, school attendance requirements, and other daily activities as documented in the treatment plan.

2. Services must be delivered in a natural setting (e.g., home and community-based settings, including clinics).

3. Any services delivered by direct line staff must be under the supervision of a lead behavior therapist who is a Louisiana licensed behavior analyst.

F. Not Medically Necessary/Non-Covered Services. The following services do not meet medical necessity criteria, nor qualify as Medicaid covered ABA-based therapy services:

1. therapy services rendered when measureable functional improvement is not expected or progress has plateaued;

2. services that are primarily educational in nature;

3. services that are duplicative services under an individualized family service plan (IFSP) or an individualized educational program (IEP), as required under the federal Individuals with Disabilities Education Act (IDEA);

4. treatment whose purpose is vocationally- or recreationally-based;

5. custodial care;

a. for purposes of these provisions, custodial care:

i. shall be defined as care that is provided primarily to assist in the activities of daily living (ADLs), such as bathing, dressing, eating, and maintaining personal hygiene and safety;

ii. is provided primarily for maintaining the recipient's or anyone else's safety; and

iii. could be provided by persons without professional skills or training; and

6. services, supplies, or procedures performed in a non-conventional setting including, but not limited:

a. resorts;

b. spas;

c. therapeutic programs; and

d. camps.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

#### **§303. Treatment Plan**

A. ABA-based therapy services shall be rendered in accordance with the individual's treatment plan. The treatment plan shall:

1. be person-centered and based upon individualized goals;

2. be developed by a licensed behavior analyst;

3. delineate both the frequency of baseline behaviors and the treatment development plan to address the behaviors;

4. identify long, intermediate, and short-term goals and objectives that are behaviorally defined;

5. identify the criteria that will be used to measure achievement of behavior objectives;

6. clearly identify the schedule of services planned and the individual providers responsible for delivering the services;

7. include care coordination involving the parents or caregiver(s), school, state disability programs, and others as applicable;

8. include parent/caregiver training, support, and participation;

9. have objectives that are specific, measureable, based upon clinical observations, include outcome measurement assessment, and tailored to the individual; and

10. ensure that interventions are consistent with ABA techniques.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

### **Chapter 5. Provider Participation**

#### **§501. General Provisions**

A. Licensed behavior analysts that render ABA-based therapy services shall meet the following provider qualifications:

1. be licensed by the Louisiana Behavior Analyst Board;

2. be covered by professional liability insurance to limits of \$1,000,000 per occurrence, \$1,000,000 aggregate;

3. have no sanctions or disciplinary actions on their Board Certified Behavior Analyst (BCBA®) or Board Certified Behavior Analyst-Doctoral (BCBA-D) certification and/or state licensure;

4. not have Medicare/Medicaid sanctions, or be excluded from participation in federally funded programs (i.e., Office of Inspector General's list of excluded individuals/entities (OIG-LEIE), system for award management (SAM) listing and state Medicaid sanctions listings); and

5. have a completed criminal background check to include federal criminal, state criminal, parish criminal and sex offender reports for the state and parish in which the behavior analyst is currently working and residing.

a. Criminal background checks must be performed at the time of hire and at least five years thereafter.

b. Background checks must be current, within a year prior to the initial Medicaid enrollment application. Background checks must be performed at least every five years thereafter.

B. Certified assistant behavior analyst that render ABA-based therapy services shall meet the following provider qualifications:

1. must be certified by the Louisiana Behavior Analyst Board;

2. must work under the supervision of a licensed behavior analyst;

a. the supervisory relationship must be documented in writing;

3. must have no sanctions or disciplinary actions, if state-certified or board-certified by the BACB®;

4. may not have Medicaid or Medicare sanctions or be excluded from participation in federally funded programs (OIG-LEIE listing, SAM listing and state Medicaid sanctions listings); and

5. have a completed criminal background check to include federal criminal, state criminal, parish criminal and sex offender reports for the state and parish in which the certified assistant behavior analyst is currently working and residing.

a. Evidence of this background check must be provided by the employer.

b. Criminal background checks must be performed at the time of hire and an update performed at least every five years thereafter.

C. Registered line technicians that render ABA-based therapy services shall meet the following provider qualifications:

1. must be registered by the Louisiana Behavior Analyst Board;

2. must work under the supervision of a licensed behavior analyst;

a. the supervisory relationship must be documented in writing;

3. may not have Medicaid or Medicare sanctions or be excluded from participation in federally funded programs (OIG-LEIE listing, SAM listing and state Medicaid sanctions listings); and

4. have a completed criminal background check to include federal criminal, state criminal, parish criminal and sex offender reports for the state and parish in which the certified assistant behavior analyst is currently working and residing.

a. Evidence of this background check must be provided by the employer.

b. Criminal background checks must be performed at the time of hire and an update performed at least every five years thereafter.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

## **Chapter 7. Reimbursements**

### **§701. General Provisions**

A. The Medicaid Program shall provide reimbursement for ABA-based therapy services to enrolled behavior analysts who are currently licensed and in good standing with the Louisiana Behavior Analyst Board.

B. Reimbursement for ABA services shall not be made to, or on behalf of services rendered by, a parent, a legal guardian or legally responsible person.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

### **§703. Reimbursement Methodology**

A. Reimbursement for ABA-based therapy services shall be based upon a percentage of the commercial rates for ABA-based therapy services in the state of Louisiana. The rates are based upon 15 minute units of service, with the exception of mental health services plan which shall be reimbursed at an hourly fee rate.

B. Reimbursement shall only be made for services authorized by the Medicaid Program or its designee.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

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

Kathy H. Kliebert  
Secretary

1402#001

## **DECLARATION OF EMERGENCY**

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

#### **Disproportionate Share Hospital Payments Public-Private Partnerships (LAC 50:V.Chapter 29)**

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.Chapter 29 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions governing disproportionate share hospital (DSH) payments for non-state owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-private partnership initiative. This Emergency Rule is being promulgated to

continue the provisions of the November 1, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective February 27, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions to establish DSH payments to non-state owned hospitals participating in public-private partnerships.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part V. Hospital Services**

**Subpart 3. Disproportionate Share Hospital Payments  
Chapter 29. Public-Private Partnerships**

**§2901. General Provisions**

A. Qualifying Criteria. Effective for dates of service on or after November 1, 2012 a hospital may qualify for this category by being:

1. a non-state privately owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

2. a non-state publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

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

Kathy H. Kliebert  
Secretary

1402#052

**DECLARATION OF EMERGENCY**

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

Disproportionate Share Hospital Payments  
Public-Private Partnerships  
North and Central Louisiana Areas  
(LAC 50:V.2903)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.2903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions governing disproportionate share hospital (DSH) payments for non-state owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-private partnership initiative.

The department promulgated an Emergency Rule which amended the provisions governing DSH payments for hospitals participating in public-private partnerships to establish payments for hospitals located in the following areas: 1) Houma; 2) Lafayette; 3) Lake Charles; and 4) New Orleans (*Louisiana Register*, Volume 39, Number 7). The department promulgated an Emergency Rule which amended the provisions of the June 27, 2013 Emergency Rule to correct the percentage for DSH payments to hospitals located in the Lafayette area (*Louisiana Register*, Volume 39, Number 7). The department promulgated an Emergency Rule which amended the provisions governing DSH payments for hospitals participating in public-private partnerships to establish payments for hospitals located in the following areas: 1) Shreveport; 2) Monroe; and 3) Bogalusa (*Louisiana Register*, Volume 39, Number 10). This Emergency Rule is being promulgated to assure compliance with the technical requirements of R.S. 49:953, and to continue the provisions of the October 1, 2013 Emergency Rule governing the DSH Program to establish payments for hospitals located in the following areas: 1) Shreveport; 2) Monroe; and 3) Bogalusa.

This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services. It is estimated that implementation of this Emergency Rule will have no fiscal

impact for state fiscal year 2013-2014 as the fiscal projections were included in the October 1, 2013 Emergency Rule governing the DSH payments to these hospitals.

Effective February 13, 2014 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the DSH Program to establish payments to additional hospitals participating in public-private partnerships.

#### **Title 50**

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

#### **Part V. Hospital Services**

#### **Subpart 3. Disproportionate Share Hospital Payments Chapter 29. Public-Private Partnerships**

#### **§2903. Payment Methodology**

A. - D.4. Reserved.

E. Shreveport Area Cooperative Endeavor Agreement

1. Effective for dates of service on or after October 1, 2013, a state-owned or operated hospital in Shreveport that has transferred its management and operations to a non-state owned hospital participating in a public-private partnership shall be eligible for payment of 100 percent of its uncompensated care costs.

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

3. The first payment of each fiscal year will be made by October 25 and will be 85 percent of the annual estimate. The remainder of the payment will be made by June 30 of each year.

F. Monroe Area Cooperative Endeavor Agreement

1. Effective for dates of service on or after October 1, 2013, a state-owned or operated hospital in Monroe that has transferred its management and operations to a non-state owned hospital participating in a public-private partnership shall be eligible for payment of 100 percent of its uncompensated care costs.

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

3. The first payment of each fiscal year will be made by October 25 and will be 85 percent of the annual estimate. The remainder of the payment will be made by June 30 of each year.

G. Bogalusa Area Cooperative Endeavor Agreement

1. Effective for dates of service on or after January 1, 2014, a state-owned or operated hospital in Bogalusa that has transferred its management and operations to a non-state owned hospital participating in a public-private partnership shall be eligible for payment of 100 percent of its uncompensated care costs.

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

3. The first payment will be made by January 15, 2014 and will be 80 percent of one-half of the annual estimate. The first payment of each subsequent fiscal year will be made by October 15 and will be 80 percent of the annual estimate. The remainder of the payment will be made by June 30 of each year.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

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

Kathy H. Kliebert  
Secretary

1402#011

### **DECLARATION OF EMERGENCY**

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

Disproportionate Share Hospital Payments  
Public-Private Partnerships  
South Louisiana Area  
(LAC 50:V.2903)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.2903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions governing disproportionate share hospital (DSH) payments for non-state owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-private partnership initiative.

The department promulgated an Emergency Rule which amended the provisions governing DSH payments for hospitals participating in public-private partnerships to establish payments for hospitals located in the following areas: 1) Houma; 2) Lafayette; 3) Lake Charles; and 4) New Orleans (*Louisiana Register*, Volume 39, Number 7).

The department promulgated an Emergency Rule which amended the provisions of the June 27, 2013 Emergency Rule to correct the percentage for DSH payments to hospitals located in the Lafayette area (*Louisiana Register*, Volume 39, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 6, 2013 Emergency Rule. This action is being taken to promote the

health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective March 5, 2014 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the DSH Program which established payments to additional hospitals participating in public-private partnerships.

#### **Title 50**

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

#### **Part V. Hospital Services**

#### **Subpart 3. Disproportionate Share Hospital Payments**

#### **Chapter 29. Public-Private Partnerships**

#### **§2903. Payment Methodology**

##### **A. Houma Area Cooperative Endeavor Agreement**

1. Effective for dates of service on or after June 27, 2013, a state-owned or operated hospital in Houma that has transferred its management and operations to a non-state owned hospital participating in a public-private partnership shall be eligible for payment of 100 percent of its uncompensated care costs.

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

3. The first payment of each fiscal year will be made by October 15 and will be 85 percent of the annual estimate. The remainder of the payment will be made by June 30 of each year.

##### **B. Lafayette Area Cooperative Endeavor Agreement**

1. Effective for dates of service on or after June 27, 2013, a state-owned or operated hospital in Lafayette that has transferred its management and operations to a non-state owned hospital participating in a public-private partnership shall be eligible for payment of 100 percent of its uncompensated care costs.

2. Qualifying hospitals shall submit costs and patient specific data in a format specified by the department.

3. Cost and lengths of stay will be reviewed for reasonableness before payments are made.

4. The first payment of each fiscal year will be made October 15 and will be 80 percent of the annual estimate. The remainder of the payment will be made by June 30 of each year.

##### **C. Lake Charles Area Cooperative Endeavor Agreement**

1. Effective for dates of service on or after June 27, 2013, a non-state owned or operated hospital that assumes the management and operation of services at a facility in Lake Charles where such services were previously provided by a state-owned and operated facility shall be eligible for payment of 100 percent of uncompensated care costs.

2. Qualifying hospitals shall submit costs and patient specific data in a format specified by the department.

3. Cost and lengths of stay will be reviewed for reasonableness before payments are made.

4. The first payment of each fiscal year will be made by October 15 and will be 85 percent of the annual estimate. The remainder of the payment will be made by June 30 of each year.

##### **D. New Orleans Area Cooperative Endeavor Agreement**

1. Effective for dates of service on or after June 27, 2013, a state-owned or operated hospital in New Orleans that has transferred its management and operations to a non-

state owned hospital participating in a public-private partnership shall be eligible for payment of 100 percent of its uncompensated care costs.

2. Qualifying hospitals shall submit costs and patient specific data in a format specified by the department.

3. Cost and lengths of stay will be reviewed for reasonableness before payments are made.

4. The first payment of each fiscal year will be made by October 15 and will be 85 percent of the annual estimate. The remainder of the payment will be made by June 30 of each year.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

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

Kathy H. Kliebert  
Secretary

1402#053

### **DECLARATION OF EMERGENCY**

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

Home and Community-Based Services Providers  
Licensing Standards (LAC 48:I.5001, 5003, and 5055)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.5001-5003 and §5055 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2120.2. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the licensing standards governing home and community-based services (HCBS) providers in order to exempt individual direct service workers from the HCBS providers licensing requirements when they contract directly with the Statewide Management Organization in the Louisiana Behavioral Health Partnership to provide respite services (*Louisiana Register*, Volume 38, Number 6).

The department now proposes to amend the provisions governing the licensing standards for HCBS providers to revise the definitions and the staffing qualifications. This action is being taken to promote the health and welfare of Medicaid recipients. It is anticipated that implementation of

this Emergency Rule will have no fiscal impact to the Medicaid Program in state fiscal year 2013-2014.

Effective February 20, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the licensing standards for HCBS providers.

#### **Title 48**

#### **PUBLIC HEALTH—GENERAL**

#### **Part 1. General Administration**

#### **Subpart 3. Licensing and Certification**

#### **Chapter 50. Home and Community-Based Services**

#### **Providers Licensing Standards**

#### **Subchapter A. General Provisions**

#### **§5001. Introduction**

A. - C. ...

D. The following entities shall be exempt from the licensure requirements for HCBS providers:

1. any person, agency, institution, society, corporation, or group that solely:

a. ...

b. provides sitter services; and/or

c. - D.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:63 (January 2012), amended LR 38:1410 (June 2012), LR: 40

#### **§5003. Definitions**

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*Sitter Services*-services provided by a person who:

1. spends time with an individual;
2. accompanies such individual on trips and outings;
3. prepares and delivers meals to such individual; or
4. provides housekeeping services; and
5. shall not provide hands-on personal care attendant services with respect to activities of daily living (ADLs) to the individual.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:64 (January 2012), LR: 40

#### **Subchapter F. Provider Responsibilities**

#### **§5055. Core Staffing Requirements**

A. - A.2. ...

B. Administrator Qualifications

1. The administrator shall be a resident of the state of Louisiana and shall have a high school diploma or equivalent, and shall meet the following requirements:

a. have a bachelor's degree, plus a minimum of four years of verifiable experience working in a field providing services to the elderly and/or persons with developmental disabilities; or

b. have a minimum of six years of verifiable experience working in a health or social service related business, plus a minimum of four additional years of verifiable experience working in a field providing services to the elderly and/or persons with developmental disabilities.

B.2. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:79 (January 2012), LR: 40

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

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

Kathy H. Kliebert  
Secretary

1402#050

#### **DECLARATION OF EMERGENCY**

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

Home Health Program  
Rehabilitation Services  
Reimbursement Rate Increase  
(LAC 50:XIII.Chapter 9)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals the provisions of the June 20, 1997, May 20, 2001, and the May 20, 2004 Rules governing rehabilitation services and adopts LAC 50:XIII.Chapter 9 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides Medicaid reimbursement for rehabilitation services covered in the Home Health Program. In compliance with a court order from the *Melanie Chisholm, et al vs. Kathy Kliebert* class action litigation, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend the provisions governing rehabilitation services covered under the Home Health Program in order to increase the reimbursement rates for physical and occupational therapy services for recipients under the age of 21, and to discontinue the automatic enhanced rate adjustment for these services. This Emergency Rule also repeals the June 20, 1997, May 20, 2001, and the May 20, 2004 Rules governing rehabilitation services covered in the Home Health Program, and revises and repromulgates the provisions in a codified format for inclusion in the *Louisiana Administrative Code*.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to therapy services in the Home Health Program. It is estimated that implementation of this Emergency Rule will

increase expenditures in the Medicaid Program by approximately \$2,535 for state fiscal year 2013-2014.

Effective February 13, 2014, the department amends the provisions governing the Home Health Program in order to increase the reimbursement rates for physical and occupational therapy services provided to recipients under the age of 21, and to discontinue the automatic enhanced rate adjustment for these services.

#### **Title 50**

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

#### **Part XIII. Home Health**

##### **Subpart 1. Home Health Services**

#### **Chapter 9. Rehabilitation Services**

##### **§901. General Provisions**

A. The Medicaid Program provides coverage for rehabilitation services rendered in the Home Health Program. Home Health rehabilitation services include:

1. physical therapy;
2. occupational therapy; and
3. speech/language therapy.

B. All home health rehabilitation services must be medically necessary and prior authorized.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

##### **§903. Reserved.**

##### **§905. Reimbursement Methodology**

A. The Medicaid Program provides reimbursement for physical therapy, occupational therapy and speech/language therapy covered under the Home Health Program.

B. Effective for dates of service on or after February 13, 2014, reimbursement for physical and occupational therapy services shall be 85 percent of the 2013 Medicare published rate. There shall be no automatic enhanced rate adjustment for physical and occupational therapy services.

C. Speech/language therapy services shall continue to be reimbursed at the flat fee in place as of February 13, 2014 and in accordance with the Medicaid published fee schedule for speech/language therapy services provided in the Home Health Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

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

Kathy H. Kliebert  
Secretary

1402#010

## **DECLARATION OF EMERGENCY**

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

Inpatient Hospital Services  
Major Teaching Hospitals  
Qualifying Criteria  
(LAC 50:V.1301-1309)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.1301-1309 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 347 of the 2009 Regular Session of the Louisiana Legislature revised the qualifying criteria for major teaching hospitals. In compliance with Act 347, the department amended the provisions governing the qualifying criteria for major teaching hospitals and repromulgated the provisions of the March 20, 2000 Rule governing teaching hospitals in a codified format for inclusion in the *Louisiana Administrative Code (Louisiana Register, Volume 39, Number 2)*. The department promulgated an Emergency Rule which amended the provisions of the February 20, 2013 Rule governing the qualifying criteria for teaching hospitals in order to correlate with Medicare guidelines, and to clarify deadlines for submissions of qualifying documentation and provisions for conversion to private ownership (*Louisiana Register, Volume 39, Number 6*). This Emergency Rule is being promulgated to continue the provisions of the July 1, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging provider participation in the Medicaid Program to assure sufficient access to hospital services.

Effective February 28, 2014 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing inpatient hospital services rendered by non-rural, non-state hospitals designated as teaching hospitals.

#### **Title 50**

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

#### **Part V. Hospital Services**

##### **Subpart 1. Inpatient Hospital Services**

#### **Chapter 13. Teaching Hospitals**

##### **Subchapter A. General Provisions**

##### **§1301. Major Teaching Hospitals**

A. The Louisiana Medical Assistance Program's recognition of a major teaching hospital is limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the Liaison Committee on Medical Education (LCME). A major teaching hospital shall meet one of the following criteria:



1. be a major participant in at least four approved medical residency programs and maintain at least 15 intern and resident un-weighted full time equivalent positions. For purposes of this rule full time equivalent positions will be calculated as defined in 42 CFR 413.78. At least two of the programs must be in medicine, surgery, obstetrics/gynecology, pediatrics, family practice, emergency medicine or psychiatry; or

2. maintain at least 20 intern and resident un-weighted full time equivalent positions, with an approved medical residency program in family practice located more than 150 miles from the medical school accredited by the LCME. For purposes of this rule full time equivalent positions will be calculated as defined in 42 CFR 413.78.

B. For the purposes of recognition as a major teaching hospital, a facility shall be considered a "major participant" in a graduate medical education program if it meets the following criteria. The facility must participate in residency programs that:

1. require residents to rotate for a required experience;  
a. - c. Repealed.

2. require explicit approval by the appropriate Residency Review Committee (RRC) of the medical school with which the facility is affiliated prior to utilization of the facility; or

a. - c. Repealed.

3. provide residency rotations of more than one sixth of the program length or more than a total of six months at the facility and are listed as part of an accredited program in the Graduate Medical Education Directory of the Accreditation Council for Graduate Medical Education (ACGME).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:324 (February 2013), amended LR 40:

### **§1303. Minor Teaching Hospitals**

A. The Louisiana Medical Assistance Program's recognition of a minor teaching hospital is limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the LCME. A minor teaching hospital shall meet the following criteria:

1. ...

2. maintain at least six intern and resident un-weighted full time equivalent positions. For purposes of this rule full time equivalent positions will be calculated as defined in 42 CFR 413.78.

B. For the purposes of recognition as a minor teaching hospital, a facility is considered to "participate significantly" in a graduate medical education program if it meets the following criteria. The facility must participate in residency programs that:

1. require residents to rotate for a required experience;  
a. - c. Repealed.

2. require explicit approval by the appropriate Residency Review Committee of the medical school with which the facility is affiliated prior to utilization of the facility; or

a. - c.i. Repealed.

3. provide residency rotations of more than one sixth of the program length or more than a total of six months at the facility and are listed as part of an accredited program in

the *Graduate Medical Education Directory* of the Accreditation Council for Graduate Medical Education.

a. If not listed, the sponsoring institution must have notified the ACGME, in writing, that the residents rotate through the facility and spend more than one sixth of the program length or more than a total of six months at the facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:324 (February 2013), amended LR 40:

### **§1305. Approved Medical Residency Program**

A. An approved medical residency program is one that meets one of the following criteria:

1. is approved by one of the national organizations listed in 42 CFR 415.152;

2. may count towards certification of the participant in a specialty or subspecialty listed in the current edition of either of the following publications:

a. The Directory of Graduate Medical Education Programs published by the American Medical Association, and available from American Medical Association, Department of Directories and Publications; or

b. The Annual Report and Reference Handbook published by the American Board of Medical Specialties, and available from American Board of Medical Specialties;

3. is approved by the Accreditation Council for Graduate Medical Education (ACGME) as a fellowship program in geriatric medicine; or

4. is a program that would be accredited except for the accrediting agency's reliance upon an accreditation standard that requires an entity to perform an induced abortion or require, provide, or refer for training in the performance of induced abortions, or make arrangements for such training, regardless of whether the standard provides exceptions or exemptions.

B. - B.2. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:324 (February 2013), amended LR 40:

### **§1307. Graduate Medical Education**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:325 (February 2013), repealed LR 40:

### **§1309. Requirements for Reimbursement**

A. Qualification for teaching hospital status shall be re-established at the beginning of each fiscal year.

B. To be reimbursed as a teaching hospital, a facility shall submit a signed "Certification For Teaching Hospital Recognition" form to the Bureau of Health Services, Supplemental Payments Section at least 30 days prior to the beginning of each state fiscal year or at least 30 days prior to the effective date of the conversion of a state owned and operated teaching hospital to private ownership in accordance with a Public/Private Partnership Cooperative Endeavor Agreement that was instituted to preserve graduate medical education training and access to healthcare services for indigent patients.

1. - 3. Repealed.

C. Each hospital which is reimbursed as a teaching hospital shall submit the following documentation with their Medicaid cost report filing:

1. - 2. ...

D. Copies of all affiliation agreements, contracts, payroll records and time allocations related to graduate medical education must be maintained by the hospital and available for review by the state and federal agencies or their agents upon request.

E. If it is subsequently discovered that a hospital has been reimbursed as a major or minor teaching hospital and did not qualify for that peer group for any reimbursement period, retroactive adjustment shall be made to reflect the correct peer group to which the facility should have been assigned. The resulting overpayment will be recovered through either immediate repayment by the hospital or recoupment from any funds due to the hospital from the department.

F. - G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:325 (February 2013), amended LR 40:

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

Kathy H. Kliebert  
Secretary

1402#054

## DECLARATION OF EMERGENCY

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

Inpatient Hospital Services  
Public-Private Partnerships  
Reimbursement Methodology  
(LAC 50:V.1703)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.1703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to establish supplemental Medicaid payments to non-state owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services. Participating non-state owned hospitals shall enter into a

cooperative endeavor agreement with the department to support this public-provider partnership initiative (*Louisiana Register*, Volume 39, Number 11). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient psychiatric hospital services provided by non-state owned hospitals participating in public-private partnerships (*Louisiana Register*, Volume 39, Number 1). In April 2013, the department promulgated an Emergency Rule to continue the provisions of the January 2, 2013 Emergency Rule (*Louisiana Register*, Volume 39, Number 4).

The department amended the provisions governing the reimbursement methodology for inpatient services provided by non-state owned major teaching hospitals participating in public-private partnerships which assume the provision of services that were previously delivered and terminated or reduced by a state-owned and operated facility to establish an interim per diem reimbursement (*Louisiana Register*, Volume 39, Number 4). In June 2013, the department determined that it was necessary to rescind the January 2, 2013 and the May 3, 2013 Emergency Rules governing Medicaid payments to non-state owned hospitals for inpatient psychiatric hospital services (*Louisiana Register*, Volume 39, Number 6). The department promulgated an Emergency Rule which amended the provisions of the April 15, 2013 Emergency Rule in order to revise the formatting of these provisions as a result of the promulgation of the June 1, 2013 Emergency Rule to assure that these provisions are promulgated in a clear and concise manner in the *Louisiana Administrative Code* (LAC) (*Louisiana Register*, Volume 39, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 20, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective March 19, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid payments for inpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part V. Hospital Services

##### Subpart 1. Inpatient Hospital Services

#### Chapter 17. Public-Private Partnerships

##### §1703. Reimbursement Methodology

A. Reserved.

B. Effective for dates of service on or after April 15, 2013, a major teaching hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to provide acute care hospital services to Medicaid and uninsured patients and which assumes providing services that were previously delivered and terminated or reduced by a state owned and operated facility shall be reimbursed as follows:

1. The inpatient reimbursement shall be reimbursed at 95 percent of allowable Medicaid costs. The interim per diem reimbursement may be adjusted not to exceed the final reimbursement of 95 percent of allowable Medicaid costs.

C. - E.3. Reserved.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

Kathy H. Kliebert  
Secretary

1402#057

## DECLARATION OF EMERGENCY

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

Inpatient Hospital Services  
Public-Private Partnerships  
South Louisiana Area  
(LAC 50:V.1703)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.1703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to establish supplemental Medicaid payments to non-state owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services. Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-provider partnership initiative (*Louisiana Register*, Volume 38, Number 11). The department promulgated an Emergency Rule which amended the provisions governing reimbursement for Medicaid payments for inpatient services provided by non-state owned major teaching hospitals participating in public-private partnerships which assume the provision of services that were previously delivered and terminated or reduced by a state owned and operated facility (*Louisiana Register*, Volume 39, Number 4). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient services provided by non-state owned hospitals participating in public-private partnerships to establish payments for hospitals located in the Lafayette and New Orleans areas (*Louisiana Register*, Volume 39, Number 7). This Emergency Rule is being promulgated to continue the provisions of the June 24, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective February 21, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

### Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE

### Part V. Hospital Services

#### Subpart 1. Inpatient Hospital Services

#### Chapter 17. Public-Private Partnerships

#### §1703. Reimbursement Methodology

A. Reserved.

B. Effective for dates of service on or after April 15, 2013, a major teaching hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to provide acute care hospital services to Medicaid and uninsured patients and which assumes providing services that were previously delivered and terminated or reduced by a state owned and operated facility shall be reimbursed as follows:

1. The inpatient reimbursement shall be reimbursed at 95 percent of allowable Medicaid costs. The interim per diem reimbursement may be adjusted not to exceed the final reimbursement of 95 percent of allowable Medicaid costs.

C. Baton Rouge Area Cooperative Endeavor Agreement

1. The Department of Health and Hospitals (DHH) shall enter into a cooperative endeavor agreement (CEA) with a non-state owned and operated hospital to increase its provision of inpatient Medicaid hospital services by providing services that were previously delivered and terminated by the state-owned and operated facility in Baton Rouge.

2. A quarterly supplemental payment shall be made to this qualifying hospital for inpatient services based on dates of service on or after April 15, 2013. Payments shall be made quarterly based on the annual upper payment limit calculation per state fiscal year. Payments shall not exceed the allowable Medicaid charge differential. The Medicaid inpatient charge differential is the Medicaid inpatient charges less the Medicaid inpatient payments (which includes both the base payments and supplemental payments).

3. The qualifying hospital shall provide quarterly reports to DHH that will demonstrate that, upon implementation, the annual Medicaid inpatient quarterly payments do not exceed the annual Medicaid inpatient charges per 42 CFR 447.271. Before the final quarterly payment for each state fiscal year the quarterly reports will be reviewed and verified with Medicaid claims data. The final quarterly payment for each state fiscal year will be reconciled and will be adjusted to assure that the annual payment does not exceed the allowable Medicaid inpatient charge differential.

4. Inpatient services shall be reimbursed at 95 percent of allowable Medicaid costs. The interim per diem reimbursement may be adjusted not to exceed the final reimbursement of 95 percent of allowable Medicaid costs.

D. Lafayette Area Cooperative Endeavor Agreement

1. The Department of Health and Hospitals shall enter into a cooperative endeavor agreement with a non-state owned and operated hospital to increase its provision of

inpatient Medicaid hospital services by assuming the management and operation of services at a facility in Lafayette where such services were previously provided by a state-owned and operated facility.

2. Effective for dates of service on or after June 24, 2013, a quarterly supplemental payment shall be made to this qualifying hospital for inpatient services. Payments shall be made quarterly based on the annual upper payment limit calculation per state fiscal year. Payments shall not exceed the allowable Medicaid charge differential. The Medicaid inpatient charge differential is the Medicaid inpatient charges less the Medicaid inpatient payments (which includes both the base payments and supplemental payments).

3. The qualifying hospital shall provide quarterly reports to DHH that will demonstrate that, upon implementation, the annual Medicaid inpatient quarterly payments do not exceed the annual Medicaid inpatient charges per 42 CFR 447.271. Before the final quarterly payment for each state fiscal year the quarterly reports will be reviewed and verified with Medicaid claims data. The final quarterly payment for each state fiscal year will be reconciled and will be adjusted to assure that the annual payment does not exceed the allowable Medicaid inpatient charge differential.

E. New Orleans Area Cooperative Endeavor Agreement

1. The Department of Health and Hospitals shall enter into a cooperative endeavor agreement with a non-state owned and operated hospital to increase its provision of inpatient Medicaid hospital services by assuming the management and operation of services at a facility in New Orleans where such services were previously provided by a state-owned and operated facility.

2. Effective for dates of service on or after June 24, 2013, a quarterly supplemental payment shall be made to this qualifying hospital for inpatient services. Payments shall be made quarterly based on the annual upper payment limit calculation per state fiscal year. Payments shall not exceed the allowable Medicaid charge differential. The Medicaid inpatient charge differential is the Medicaid inpatient charges less the Medicaid inpatient payments (which includes both the base payments and supplemental payments).

3. The qualifying hospital shall provide quarterly reports to DHH that will demonstrate that, upon implementation, the annual Medicaid inpatient quarterly payments do not exceed the annual Medicaid inpatient charges per 42 CFR 447.271. Before the final quarterly payment for each state fiscal year the quarterly reports will be reviewed and verified with Medicaid claims data. The final quarterly payment for each state fiscal year will be reconciled and will be adjusted to assure that the annual payment does not exceed the allowable Medicaid inpatient charge differential.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

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

Kathy H. Kliebert  
Secretary

1402#055

## DECLARATION OF EMERGENCY

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

Inpatient Hospital Services  
Public-Private Partnerships  
Supplemental Payments  
(LAC 50:V.Chapter 17)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.Chapter 17 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to establish supplemental Medicaid payments to non-state owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-provider partnership initiative. This Emergency Rule is being promulgated to continue the provisions of the November 1, 2012 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective February 28, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions to establish supplemental Medicaid payments for inpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part V. Hospital Services

#### Subpart 1. Inpatient Hospital Services

#### Chapter 17. Public-Private Partnerships

#### §1701. Qualifying Hospitals

A. Non-State Privately Owned Hospitals. Effective for dates of service on or after November 1, 2012, the department shall provide supplemental Medicaid payments for inpatient hospital services rendered by non-state privately owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state privately owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

B. Non-State Publicly Owned Hospitals. Effective for dates of service on or after November 1, 2012, the department shall make supplemental Medicaid payments for inpatient hospital services rendered by non-state publicly owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

C. Non-State Free-Standing Psychiatric Hospitals. Effective for dates of service on or after November 1, 2012, the department shall make supplemental Medicaid payments for inpatient psychiatric hospital services rendered by non-state privately or publicly owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state privately or publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of inpatient Medicaid and uninsured psychiatric hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

### **§1703. Reimbursement Methodology**

A. Payments to qualifying hospitals shall be made on a quarterly basis in accordance with 42 CFR 447.272.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this

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

Kathy H. Kliebert  
Secretary

1402#056

## **DECLARATION OF EMERGENCY**

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

Medicaid Eligibility  
Provisional Medicaid Program  
(LAC 50:III.2305)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:III.2305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Section 1902(a)(10) of Title XIX of the Social Security Act and Section 435.210 of Title 42 of the Code of Federal Regulations (CFR) provides states with the option to cover individuals under their Medicaid State Plan who are aged or have a disability, and who meet the income and resource requirements for Supplemental Security Income (SSI) cash assistance. These individuals must be referred to the Social Security Administration (SSA) for assistance as there currently is no eligibility category under the Medicaid Program to provide them with Medicaid benefits. Their Medicaid eligibility is contingent upon a favorable decision for SSI cash assistance.

Pursuant to Section 1902(a)(10) of Title XIX of the Social Security Act and 42 CFR 435.210, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions to include this optional coverage group under the Medicaid State Plan by implementing the Provisional Medicaid Program. This Medicaid program will provide interim Medicaid-only benefits to eligible individuals until such time that a decision has been rendered on their SSI cash assistance application pending with the Social Security Administration.

This action is being taken to avoid imminent peril to the health and safety of certain individuals who would have to wait for a Social Security Administration decision to receive Medicaid benefits in order to obtain necessary medical care. It is estimated that the implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$14,638,949 for state fiscal year 2013-2014.

Effective February 9, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing hereby adopts provisions to implement the Provisional Medicaid Program.

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

**§2305. Provisional Medicaid Program**

A. The Provisional Medicaid Program provides interim Medicaid-only coverage to individuals who:

1. are aged or have a disability;
2. meet income and resource requirements for Supplemental Security Income (SSI) cash assistance; and
3. have applied for benefits through the Social Security Administration (SSA) and are awaiting a decision on the pending application.

a. Applicants shall have 90 days from the date of Medicaid application to provide proof to the department of a pending application with SSA. If proof of a pending application with SSA is not received timely, after notification by the department has been issued, interim Medicaid benefits shall be terminated.

b. Individuals who would be ineligible for SSI cash assistance due to factors other than excess income and resources or meeting the disability criteria of the program are exempt from the requirement to have a pending application for benefits with the Social Security Administration (SSA).

B. The Provisional Medicaid Program provides coverage to individuals with income equal to or less than the Federal Benefit Rate (FBR), and resources that are equal to or less than the resource limits of the SSI cash assistance program.

C. A certification period for the Provisional Medicaid Program shall not exceed 6 months, and shall end upon the final decision being rendered on the recipient's pending application for benefits through the SSA, whether the outcome is receipt of benefits or denial of benefits due to excess income and resources or not meeting SSA's disability or age criteria.

D. Retroactive coverage up to 3 months prior to the receipt of the Medicaid application shall be available to recipients in the Provisional Medicaid Program.

1. Any retroactive coverage period shall not be prior to the implementation date of the Provisional Medicaid Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

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

Kathy H. Kliebert  
Secretary

**DECLARATION OF EMERGENCY**

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

Medical Transportation Program  
Emergency Ambulance Services  
Supplemental Payments  
(LAC 50:XXVII.327 and 355)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXVII.327 and §355 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides reimbursement for emergency ambulance transportation services. The department promulgated an Emergency Rule which established supplemental payments for governmental ambulance providers who render emergency medical transportation services to low income and needy patients in the state of Louisiana (*Louisiana Register*, Volume 37, Number 6). The department promulgated an Emergency Rule which amended the provisions of the July 1, 2011 Emergency Rule to allow supplemental payments for all ambulance providers who render emergency medical transportation services to low income and needy patients (*Louisiana Register*, Volume 37, Number 7). The July 20, 2011 Emergency Rule was amended to allow supplemental payments to providers of air ambulance transportation services (*Louisiana Register*, Volume 37, Number 8). The department promulgated an Emergency Rule which rescinded and replaced the July 1, 2011, the July 20, 2011, and the August 20, 2011 Emergency Rules in order to promulgate clear and concise provisions governing supplemental payments for emergency ambulance services (*Louisiana Register*, Volume 37, Number 9). The department promulgated an Emergency Rule which amended the September 20, 2011 Emergency Rule to clarify the provisions governing supplemental payments for emergency ambulance services (*Louisiana Register*, Volume 37, Number 12). The department promulgated an Emergency Rule which amended the December 20, 2011 Emergency Rule to further clarify the provisions governing supplemental payments for emergency ambulance services (*Louisiana Register*, Volume 38, Number 3). After consulting with the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services to secure approval of the corresponding State Plan Amendment, the department promulgated an Emergency Rule which amended the March 20, 2012 Emergency Rule to further clarify the provisions governing supplemental payments for emergency medical transportation services in order to ensure that the administrative Rule is consistent with the approved Medicaid State Plan (*Louisiana Register*, Volume 39, Number 4). This Emergency Rule is being promulgated to

continue the provisions of the March 20, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to emergency ambulance services.

Effective March 18, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing supplemental payments for emergency medical transportation services rendered by ambulance providers.

#### **Title 50**

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

#### **Part XXVII. Medical Transportation Program**

#### **Chapter 3. Emergency Medical Transportation**

#### **Subchapter B. Ground Transportation**

#### **§327. Supplemental Payments for Ambulance Providers**

A. Effective for dates of service on or after September 20, 2011, quarterly supplemental payments shall be issued to qualifying ambulance providers for emergency medical transportation services rendered during the quarter.

B. Qualifying Criteria. Ambulance service providers must meet the following requirements in order to qualify to receive supplemental payments. The ambulance service provider must be:

1. licensed by the state of Louisiana;
2. enrolled as a Louisiana Medicaid provider; and
3. a provider of emergency medical transportation or air ambulance services pursuant to 42 CFR 440.170 and a provider of the corresponding Medical and Remedial Care and Services in the approved Medicaid State Plan.

4. Repealed.

C. Payment Methodology. The supplemental payment to each qualifying ambulance service provider will not exceed the sum of the difference between the Medicaid payments otherwise made to these qualifying providers for emergency medical transportation and air ambulance services and the average amount that would have been paid at the equivalent community rate.

D. The supplemental payment will be determined in a manner to bring payments for these services up to the community rate level. The community rate is defined as the average amount payable by commercial insurers for the same services.

E. Supplemental Payment Calculation. The following methodology shall be used to establish the quarterly supplemental payment for ambulance providers:

1. The department shall identify Medicaid ambulance service providers that were qualified to receive supplemental Medicaid reimbursement for emergency medical transportation services and air ambulance services during the quarter.

2. For each Medicaid ambulance service provider identified to receive supplemental payments, the department shall identify the emergency medical transportation and air ambulance services for which the Medicaid ambulance service providers were eligible to be reimbursed.

3. For each Medicaid ambulance service provider described in E.1, the department shall calculate the reimbursement paid to the Medicaid ambulance service providers for the emergency medical transportation and air ambulance services identified under E.2.

4. For each Medicaid ambulance service provider described in E.1, the department shall calculate the Medicaid ambulance service provider's equivalent community rate for each of the Medicaid ambulance service provider's services identified under E.2.

5. For each Medicaid ambulance service provider described in E.1, the department shall subtract an amount equal to the reimbursement calculation for each of the emergency medical transportation and air ambulance services under E.3 from an amount equal to the amount calculated for each of the emergency medical transportation and air ambulance services under E.4.

6. For each Medicaid ambulance service provider described in E.1, the department shall calculate the sum of each of the amounts calculated for emergency medical transportation and air ambulance services under E.5.

7. For each Medicaid ambulance service provider described in E.1, the department shall calculate each emergency ambulance service provider's upper payment limit by totaling the provider's total Medicaid payment differential from E.6.

8. The department will reimburse providers based on the following criteria:

a. For ambulance service providers identified in E.1 located in large urban areas and owned by governmental entities, reimbursement will be up to 100 percent of the provider's average commercial rate calculated in E.7.

b. For all other ambulance service providers identified in E.1, reimbursement will be up to 80 percent of the provider's average commercial rate calculated in E.7.

9. - 17. Repealed.

F. Calculation of Average Commercial Rate. The supplemental payment will be determined in a manner to bring payments for these services up to the average commercial rate level.

1. For purposes of these provisions, the average community rate level is defined as the average amount payable by the commercial payers for the same services.

2. The state will align the paid Medicaid claims with the Medicare fees for each HCPCS or CPT code for the ambulance provider and calculate the Medicare payment for those claims. The state will then calculate an overall Medicare to commercial conversion factor for each ambulance provider by dividing the total amount of the average commercial payments for the claims by the total Medicare payments for the claims. The commercial to Medicare ratio for each provider will be re-determined at least every three years.

G. The supplemental payment will be made effective for emergency medical transportation provided on or after September 20, 2011. This payment is based on the average amount that would have been paid at the equivalent community rate. After the initial calculation for fiscal year 2011-2012, the department will rebase the equivalent community rate using adjudicated claims data for services from the most recently completed fiscal year. This calculation may be made annually, but shall be made no less than every three years.

H. The total amount to be paid by the state to qualified Medicaid ambulance service providers for supplemental Medicaid payments shall not exceed the total of the

Medicaid payment differentials calculated under §327.E.6 for all qualified Medicaid ambulance service providers.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

### **Subchapter C. Air Transportation**

#### **§355. Supplemental Payments for Ambulance**

##### **Providers**

A. Effective for dates of service on or after September 20, 2011, quarterly supplemental payments shall be issued to qualifying ambulance providers for emergency medical air transportation services rendered during the quarter.

B. Qualifying Criteria. Ambulance service providers must meet the following requirements in order to qualify to receive supplemental payments. The ambulance service provider must be:

1. licensed by the state of Louisiana;
2. enrolled as a Louisiana Medicaid provider; and
3. a provider of emergency medical transportation or air ambulance services pursuant to 42 CFR 440.170 and a provider of the corresponding Medical and Remedial Care and Services in the approved Medicaid State Plan.

4. Repealed.

C. Payment Methodology. The supplemental payment to each qualifying ambulance service provider will not exceed the sum of the difference between the Medicaid payments otherwise made to these qualifying providers for emergency medical transportation and air ambulance services and the average amount that would have been paid at the equivalent community rate.

D. The supplemental payment will be determined in a manner to bring payments for these services up to the community rate level. The community rate is defined as the average amount payable by commercial insurers for the same services.

E. Supplemental Payment Calculation. The following methodology shall be used to establish the quarterly supplemental payment for ambulance providers:

1. The department shall identify Medicaid ambulance service providers that were qualified to receive supplemental Medicaid reimbursement for emergency medical transportation services and air ambulance services during the quarter.

2. For each Medicaid ambulance service provider identified to receive supplemental payments, the department shall identify the emergency medical transportation and air ambulance services for which the Medicaid ambulance service providers were eligible to be reimbursed.

3. For each Medicaid ambulance service provider described in E.1, the department shall calculate the reimbursement paid to the Medicaid ambulance service providers for the emergency medical transportation and air ambulance services identified under E.2.

4. For each Medicaid ambulance service provider described in E.1, the department shall calculate the Medicaid ambulance service provider's equivalent community rate for each of the Medicaid ambulance service provider's services identified under E.2.

5. For each Medicaid ambulance service provider described in E.1, the department shall subtract an amount equal to the reimbursement calculation for each of the emergency medical transportation and air ambulance

services under E.3 from an amount equal to the amount calculated for each of the emergency medical transportation and air ambulance services under E.4.

6. For each Medicaid ambulance service provider described in E.1, the department shall calculate the sum of each of the amounts calculated for emergency medical transportation and air ambulance services under E.5.

7. For each Medicaid ambulance service provider described in E.1, the Department shall calculate each emergency ambulance service provider's upper payment limit by totaling the provider's total Medicaid payment differential from B.6.

8. The department will reimburse providers based on the following criteria:

a. For ambulance service providers identified in E.1. located in large urban areas and owned by governmental entities, reimbursement will be up to 100 percent of the provider's average commercial rate calculated in E.7. b.

For all other ambulance service providers identified in E.1., reimbursement will be up to 80percent of the provider's average commercial rate calculated in E.7.

9. - 17. Repealed.

F. Calculation of Average Commercial Rate. The supplemental payment will be determined in a manner to bring payments for these services up to the average commercial rate level.

1. For purposes of these provisions, the average commercial rate level is defined as the average amount payable by the commercial payers for the same services.

2. The state will align the paid Medicaid claims with the Medicare fees for each HCPCS or CPT code for the ambulance provider and calculate the Medicare payment for those claims. The state will then calculate an overall Medicare to commercial conversion factor for each ambulance provider by dividing the total amount of the average commercial payments for the claims by the total Medicare payments for the claims. The commercial to Medicare ratio for each provider will be re-determined at least every three years.

G. The supplemental payment will be made effective for air ambulance services provided on or after September 20, 2011. This payment is based on the average amount that would have been paid at the equivalent community rate. After the initial calculation for fiscal year 2011-2012, the department will rebase the equivalent community rate using adjudicated claims data for services from the most recently completed fiscal year. This calculation may be made annually, but shall not be made less often than every three years.

H. The total amount to be paid by the state to qualified Medicaid ambulance service providers for supplemental Medicaid payments shall not exceed the total of the Medicaid payment differentials calculated under §327.E.6 for all qualified Medicaid ambulance service providers.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this



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

Kathy H. Kliebert  
Secretary

1402#058

## DECLARATION OF EMERGENCY

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

Nursing Facilities  
Leave of Absence Days  
Reimbursement Reduction  
(LAC 50:II.20021)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:II.20021 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing reimbursement to nursing facilities to reduce the reimbursement paid to nursing facilities for leave of absence days (*Louisiana Register*, Volume 35, Number 9). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities to further reduce the reimbursement rates for leave of absence days (*Louisiana Register*, Volume 39, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective February 28, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities to reduce the reimbursement rates for leave of absence days.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part II. Nursing Facilities

#### Subpart 5. Reimbursement

#### Chapter 200. Reimbursement Methodology

#### §20021. Leave of Absence Days

[Formerly LAC:VII.1321]

A. - E. ...

F. Effective for dates of service on or after July 1, 2013, the reimbursement paid for leave of absence days shall be 10 percent of the applicable per diem rate in addition to the provider fee amount.

1. The provider fee amount shall be excluded from the calculations when determining the leave of absence days payment amount.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1899 (September 2009), amended LR 40:

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

Kathy H. Kliebert  
Secretary

1402#059

## DECLARATION OF EMERGENCY

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

Nursing Facilities  
Per Diem Rate Reduction  
(LAC 50:II.20005)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:II.20005 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities to reduce the per diem rates paid to non-state nursing facilities in order to remove the rebased amount and sunset the state fiscal year (SFY) 2012-13 nursing facility rate rebasing (*Louisiana Register*, Volume 39, Number 5).

For SFY 2013-14, state general funds are required to continue nursing facility rates at the rebased level. Because of the fiscal crisis facing the state, the state general funds will not be available to sustain the increased rates. Consequently, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities to further reduce the reimbursement rates for non-state nursing facilities (*Louisiana Register*, Volume 39, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective February 28, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities to reduce the reimbursement rates for non-state nursing facilities.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part II. Nursing Facilities**  
**Subpart 5. Reimbursement**  
**Chapter 200. Reimbursement Methodology**  
**§20005. Rate Determination [Formerly LAC**  
**50:VII.1305]**

A. - I. ...

J. - N. Reserved.

O. ...

P. Effective for dates of service on or after July 1, 2013, the per diem rate paid to non-state nursing facilities, excluding the provider fee, shall be reduced by \$18.90 of the rate in effect on June 30, 2013 until such time that the rate is rebased.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:325 (February 2010), repromulgated LR 36:520 (March 2010), amended LR 36:1556 (July 2010), LR 36:1782 (August 2010), LR 36:2566 (November 2010), LR 37:092 (March 2011), LR 37:1174 (April 2011), LR 37:2631 (September 2011), LR 38:1241 (May 2012), LR 39:1286 (May 2013), LR 40:

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

Kathy H. Kliebert  
Secretary

1402#060

**DECLARATION OF EMERGENCY**

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

Nursing Facilities  
Reimbursement Methodology  
Low Income and Needy Care Collaboration  
(LAC 50:II.20025)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:II.20025 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption if the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities to adopt provisions to establish a supplemental Medicaid payment for nursing facilities who enter into an agreement with a state or local

governmental entity for the purpose of providing health care services to low income and needy patients (*Louisiana Register*, Volume 37, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 1, 2011 Emergency Rule. This action is being taken to secure new federal funding and to promote the public health and welfare of Medicaid recipients by ensuring sufficient provider participation.

Effective February 25, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities to establish a supplemental Medicaid payment to nursing facilities who participate in the Low Income and Needy Care Collaboration.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part II. Nursing Facilities**  
**Subpart 5. Reimbursement**  
**Chapter 200. Reimbursement Methodology**  
**§20025. Low Income and Needy Care Collaboration**

A. Effective for dates of service on or after November 1, 2011, quarterly supplemental payments shall be issued to qualifying nursing facilities for services rendered during the quarter. Maximum aggregate payments to all qualifying nursing facilities shall not exceed the available upper payment limit per state fiscal year.

B. Qualifying Criteria. In order to qualify for the supplemental payment, the nursing facility must be affiliated with a state or local governmental entity through a Low Income and Needy Care Nursing Facility Collaboration Agreement.

1. A nursing facility is defined as a currently licensed and certified nursing facility which is owned or operated by a private entity or non-state governmental entity.

2. A Low Income and Needy Care Nursing Facility Collaboration Agreement is defined as an agreement between a nursing facility and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

C. Each qualifying nursing facility shall receive quarterly supplemental payments for nursing facility services. Quarterly payment distribution shall be limited to one-fourth of the aggregated difference between each qualifying nursing facility's Medicare rate and Medicaid payments the nursing facility receives for covered services provided to Medicaid recipients during a 12 consecutive month period. Medicare rates in effect for the dates of service included in the supplemental payment period will be used to establish the upper payment limit. Medicaid payments will be used for the same time period.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this

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

Kathy H. Kliebert  
Secretary

1402#061

## DECLARATION OF EMERGENCY

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

Nursing Facilities  
Reimbursement Methodology  
Private Room Conversions  
(LAC 50:II.20010)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:II.20010 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption if the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities to allow for additional payments for private room conversions when a Medicaid participating nursing facility converts one or more semi-private rooms to private rooms for occupancy by Medicaid recipients (*Louisiana Register*, Volume 33, Number 8). Act 150 of the 2010 Regular Session of the Louisiana Legislature directed the department to increase the fair rental value minimum occupancy percentage from 70 percent to 85 percent. The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities to ensure that the provisions governing private room conversions are consistent with the increase in the fair rental value minimum occupancy percentage which was adopted on July 1, 2011 (*Louisiana Register*, Volume 37, Number 10). This Emergency Rule is being promulgated to continue the provisions of the November 1, 2011 Emergency Rule. This action is being taken in order to avoid a budget deficit in the medical assistance programs.

Effective February 25, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

##### Part II. Nursing Facilities

##### Subpart 5. Reimbursement

#### Chapter 200. Reimbursement Methodology

#### §20010. Additional Payments and Square Footage

##### Adjustments for Private Room Conversion [Formerly LAC 50:VII.1310]

A. - D.2.c. ...

3. Resident days used in the fair rental value per diem calculation will be the greater of the annualized actual resident days from the base year cost report or 85 percent of

the revised annual bed days available after the change in licensed beds.

D.4. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1646 (August 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

Kathy H. Kliebert  
Interim Secretary

1402#062

## DECLARATION OF EMERGENCY

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

Outpatient Hospital Services  
Public-Private Partnerships  
Supplemental Payments  
(LAC 50:V.Chapter 67)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.Chapter 67 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing outpatient hospital services to establish supplemental Medicaid payments to non-state owned hospitals in order to encourage them to take over the operation and management of state-owned hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-private partnership initiative. The department promulgated an Emergency Rule which amended the provisions of the November 1, 2012 Emergency Rule to revise the reimbursement methodology in order to correct the federal citation (*Louisiana Register*, Volume 39, Number 3). This Emergency Rule continues the provision of the March 2, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective February 28, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing supplemental Medicaid payments for outpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part V. Hospital Services**

**Subpart 5. Outpatient Hospital Services**

**Chapter 67. Public-Private Partnerships**

**§6701. Qualifying Hospitals**

A. Non-State Privately Owned Hospitals. Effective for dates of service on or after November 1, 2012, the department shall provide supplemental Medicaid payments for outpatient hospital services rendered by non-state privately owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state privately owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of outpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

B. Non-State Publicly Owned Hospitals. Effective for dates of service on or after November 1, 2012, the department shall make supplemental Medicaid payments for outpatient hospital services rendered by non-state publicly owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of outpatient Medicaid and uninsured hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

C. Non-State Free-Standing Psychiatric Hospitals. Effective for dates of service on or after November 1, 2012, the department shall make supplemental Medicaid payments for outpatient psychiatric hospital services rendered by non-state privately or publicly owned hospitals that meet the following conditions.

1. Qualifying Criteria. The hospital must be a non-state privately or publicly owned and operated hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to increase its provision of outpatient Medicaid and uninsured psychiatric hospital services by:

a. assuming the management and operation of services at a facility where such services were previously provided by a state owned and operated facility; or

b. providing services that were previously delivered and terminated or reduced by a state owned and operated facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

**§6703. Reimbursement Methodology**

A. Payments to qualifying hospitals shall be made on a quarterly basis in accordance with 42 CFR 447.321.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

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

Kathy H. Kliebert  
Secretary

1402#063

**DECLARATION OF EMERGENCY**

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

Pharmacy Benefits Management Program  
Methods of Payment  
(LAC 50:XXIX.105 and Chapter 9)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXIX.105 and Chapter 9 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides coverage and reimbursement for prescription drugs to Medicaid eligible recipients enrolled in the Medicaid Program. Act 10 of the 2009 Regular Session of the Louisiana Legislature provided that the department may redefine the reimbursement methodology for multiple source drugs in establishing the state maximum allowable cost (MAC) in order to control expenditures to the level of appropriations for the Medicaid Program. In accordance with the provisions of Act 10, the department promulgated an Emergency Rule to redefine the Louisiana maximum allowable cost (LMAC) (*Louisiana Register*, Volume 36, Number 1). In addition, the dispensing fee was increased for drugs with an LMAC.

The department subsequently determined that it was necessary to repeal the January 1, 2010 Emergency Rule in its entirety and amend the provisions governing the methods of payment for prescription drugs to redefine the LMAC (*Louisiana Register*, Volume 36, Number 2). The department promulgated an Emergency Rule to amend the February 1,

2010 Emergency Rule to revise the provisions governing the methods of payment for prescription drugs to further redefine the LMAC and increase the dispensing fee (*Louisiana Register*, Volume 36, Number 3). The department determined that it was necessary to repeal the March 1, 2010 Emergency Rule in its entirety and promulgated an Emergency Rule to amend the provisions governing the methods of payment for prescription drugs to revise the LMAC provisions (*Louisiana Register*, Volume 36, Number 3). The department subsequently promulgated an Emergency Rule to repeal the March 20, 2010 Emergency Rule in its entirety in order to revise the provisions governing the methods of payment for prescription drugs and the dispensing fee (*Louisiana Register*, Volume 38, Number 9).

The department promulgated an Emergency Rule which amended the provisions of the September 5, 2012 Emergency Rule to further revise the provisions governing the methods of payment for prescription drugs and the dispensing fee (*Louisiana Register*, Volume 38, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 1, 2012 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective February 28, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the methods of payment for prescription drugs covered under the Pharmacy Benefits Management Program.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XXIX. Pharmacy

#### Chapter 1. General Provisions

#### §105. Medicaid Pharmacy Benefits Management

##### System Point of Sale—Prospective Drug Utilization Program

A. - B. ...

C. Formulary Management. The formulary is managed through the use of federal upper limits (FUL). Federal upper limits provide for dispensing of multiple source drugs at established limitations unless the prescribing physician specifies that the brand product is medically necessary for a patient. Establishment of co-payments also provides for formulary management. The Medicaid Program has established a broad formulary with limited exceptions.

D. Reimbursement Management. The cost of pharmaceutical care is managed through estimated acquisition cost (EAC) of drug ingredient costs through average acquisition cost (AAC) or through wholesale acquisition cost (WAC) when no AAC is assigned; and compliance with federal upper limits regulations, and the establishment of the dispensing fee, drug rebates, and copayments.

E. - H. ...

I. POS/PRO-DUR Requirements Provider Participation

1. - 5. ...

6. Pharmacy providers and physicians may obtain assistance with clinical questions from the University of Louisiana at Monroe, School of Pharmacy.

I.7. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, Title XIX of the Social Security Act, and the 1995-96 General Appropriate Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1053 (June 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

#### Chapter 9. Methods of Payment

#### Subchapter A. General Provisions

#### §901. Definitions

*Average Acquisition Cost (AAC)*—the average of payments that pharmacists made to purchase a drug product, as determined through the collection and review of pharmacy invoices and other information deemed necessary by the Medicaid Program, and in accordance with applicable state and Federal law.

*Average Wholesale Price*—Repealed.

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*Dispensing Fee*—the fee paid by the Medicaid Program to reimburse for the professional services provided by a pharmacist when dispensing a prescription, including the provider fee assessed for each prescription filled in the state of Louisiana or shipped into the state of Louisiana per legislative mandate.

\*\*\*

*Single Source Drug*—a drug mandated or sold by one manufacturer or labeler.

*Usual and Customary Charge*—a pharmacy's charge to the general public that reflects all advertised savings, discounts, special promotions, or other programs, including membership-based discounts initiated to reduce prices for product costs available to the general public, a special population, or an inclusive category of customers.

*Wholesale Acquisition Cost (WAC)* —the manufacturer's published catalog price for a drug product to wholesalers as reported to Medicaid by one or more national compendia on a weekly basis.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1061 (June 2006), amended LR 34:87 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010), LR 40:

#### Subchapter B. Dispensing Fee

#### §915. General Provisions

A. The dispensing fee shall be set by the Department and reviewed periodically for reasonableness and, when deemed appropriate by the Medicaid Program, may be adjusted considering such factors as fee studies or surveys.

*Adjustment Factors*—Repealed.

a. - d. Repealed.

*Base Rate*—Repealed.

*Base Rate Components*—Repealed.

*Table*. Repealed.

a. - d. Repealed.

*Maximum Allowable Overhead Cost*—Repealed.

*Overhead Year*—Repealed.

B. Provider participation in the Louisiana Dispensing Fee Survey shall be mandatory. Failure to cooperate in the Louisiana Dispensing Fee Survey by a provider shall result in removal from participation as a provider of pharmacy services in the Medicaid Program. Any provider removed from participation shall not be allowed to re-enroll until a

dispensing fee survey document is properly completed and submitted to the bureau.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010), amended LR 40:

**§917. Maximum Allowable Overhead Cost Calculation**  
Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1559 (July 2010), repealed LR 40:

**§919. Parameters and Limitations**  
Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1560 (July 2010), repealed LR 40:

**§921. Interim Adjustment to Overhead Cost**  
Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1560 (July 2010), repealed LR 40:

**§923. Cost Survey**  
Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1560 (July 2010), repealed LR 40:

**§925. Dispensing Fee**  
Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010), repealed LR 40:

**Subchapter C. Estimated Acquisition Cost**

**§935. Estimated Acquisition Cost Formula**

A. *Estimated Acquisition Cost (EAC)* is the average acquisition cost of the drug dispensed adjusted by a multiplier of 1.1 for multiple source drugs and a multiplier of 1.01 for single-source drugs. If there is not an AAC available, the EAC is equal to the wholesale acquisition cost, as reported in the drug pricing compendia utilized by the department's fiscal intermediary. For department-defined specialty therapeutic classes, the EAC is the Wholesale Acquisition Cost adjusted by a multiplier of 1.05.

B. - B.4c. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010), amended LR 40:

**Subchapter D. Maximum Allowable Costs**

**§945. Reimbursement Methodology**

A. Maximum Pharmaceutical Price Schedule

1. ...
2. Repealed.

B. Payment will be made for medications in accordance with the payment procedures for any eligible person who has identified himself to the provider by presenting his identification card which shows his eligibility. The department advises participating pharmacists regarding payable medication.

C. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1064 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010), amended LR 40:

**§949. Cost Limits**

A. - A.3.c. ...

B. The department shall make payments for single source drugs based on the lower of:

1. estimated acquisition cost (EAC) plus the dispensing fee; or
2. the provider's usual and customary charges to the general public not to exceed the department's "Maximum Pharmaceutical Price Schedule." *General public* is defined here as all other non-Medicaid prescriptions including:
  - a. third party insurance;
  - b. pharmacy benefit management; or
  - c. cash.
3. Repealed.

C. The department shall make payments for multiple source drugs other than drugs subject to "physician certifications" based on the lower of:

1. estimated Acquisition Cost plus the dispensing fee;
2. federal upper limits plus the dispensing fee; or
3. the provider's usual and customary charges to the general public not to exceed the department's "maximum pharmaceutical price schedule." *General public* is defined here as all other non-Medicaid prescriptions including:
  - a. third party insurance;
  - b. pharmacy benefit management; or
  - c. cash.
4. Repealed.

D. - E.2....

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1065 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010), amended LR 40:

**Subchapter E. 340B Program**

**§961. Definitions**

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*Estimated Acquisition Cost (EAC)*—the average acquisition cost of the drug dispensed adjusted by a multiplier of 1.1 for multiple source drugs and a multiplier of 1.01 for single-source drugs. If there is not an AAC

available, the EAC is equal to the wholesale acquisition cost, as reported in the drug pricing compendia utilized by the department's fiscal intermediary. For department-defined specialty therapeutic classes, the EAC is the Wholesale Acquisition Cost adjusted by a multiplier of 1.05.

\*\*\*

*Wholesale Acquisition Cost (WAC)*—the manufacturer's published catalog price for a drug product to wholesalers as reported to Medicaid by one or more national compendia on a weekly basis.

\*\*\*

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1066 (June 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

### §963. Reimbursement

A. - B. ...

C. Dispensing Fees. The covered entity shall be paid a dispensing fee of \$10.51 for each prescription dispensed to a Medicaid patient. With respect to contract pharmacy arrangements in which the contract pharmacy also serves as the covered entity's billing agent, the contract pharmacy shall be paid the \$10.51 dispensing fee on behalf of the covered entity.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1066 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July 2010), amended LR 40:

### Subchapter F. Antihemophilia Drugs

#### §971. Reimbursement

A. Anti-hemophilia drugs purchased by a covered entity through the 340B Program and dispensed to Medicaid recipients shall be billed to Medicaid at actual 340B acquisition cost plus 10 percent and the dispensing fee unless the covered entity has implemented the Medicaid carve-out option. If the covered entity has implemented the Medicaid carve-out option, such drugs shall be reimbursed at EAC plus the dispensing fee or the billed charges, whichever is less.

B. Anti-hemophilia drugs purchased by a non-340B covered entity shall be reimbursed at EAC plus the dispensing fee.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1066 (June 2006), repealed LR 33:101 (January 2007), amended LR 34:881 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

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

Kathy H. Kliebert  
Secretary

1402#064

## DECLARATION OF EMERGENCY

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

Professional Services Program  
Public-Private Partnerships  
Professional Practitioners Supplemental Payments  
(LAC 50:IX.15157)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts §15157 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for the Professional Services Program to provide supplemental payments to physicians and other eligible professional service practitioners affiliated with the Tulane University School of Medicine in New Orleans (*Louisiana Register*, Volume 38, Number 8).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for the Professional Services Program to provide a supplemental payment to physicians and other professional service practitioners employed by a physician group affiliated with certain non-state owned hospitals participating in public-private partnerships (*Louisiana Register*, Volume 39, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 1, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging continued provider participation in the Medicaid Program and ensuring recipient access to hospital services.

Effective February 28, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for services rendered by physicians and other professional service practitioners.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part IX. Professional Services Program**  
**Subpart 15. Reimbursement**  
**Chapter 151. Reimbursement Methodology**  
**Subchapter F. Supplemental Payments**  
**§15157. Qualifying Criteria—Public-Private**  
**Partnerships Physician Payments**

A. Effective for dates of service on or after July 1, 2013, physicians and other professional service practitioners employed by a physician group affiliated with a non-state owned and operated hospital and providing services as a result of a public-private partnership with Louisiana State University, may qualify for supplemental payments for services rendered to Medicaid recipients.

B. To qualify for the supplemental payment, the physician or professional service practitioner must be:

1. licensed by the state of Louisiana;
2. enrolled as a Louisiana Medicaid provider; and
3. identified by Louisiana State University as a physician or other professional service practitioner that is employed by, or under contract to provide services through a public-private partnership at one of the former state-owned or operated hospitals that has terminated or reduced services.

C. The following professional services practitioners shall qualify to receive supplemental payments:

1. physicians;
2. physician assistants;
3. certified registered nurse practitioners; and
4. certified registered nurse anesthetists.

D. The supplemental payment shall be calculated in a manner that will bring payments for these services up to the community rate level.

1. For purposes of these provisions, the community rate shall be defined as the rates paid by commercial payers for the same service.

E. The private physician group shall periodically furnish satisfactory data for calculating the community rate as requested by the department.

F. The supplemental payment amount shall be determined by establishing a Medicare to community rate conversion factor for the private physician group. At the end of each quarter, for each Medicaid claim paid during the quarter, a Medicare payment amount will be calculated and the Medicare to community rate conversion factor will be applied to the result. Medicaid payments made for the claims paid during the quarter will then be subtracted from this amount to establish the supplemental payment amount for that quarter.

G. The supplemental payments shall be made on a quarterly basis and the Medicare to community rate conversion factor shall be recalculated at least every three years.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

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

Kathy H. Kliebert  
Secretary

1402#065

**DECLARATION OF EMERGENCY**

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

Rehabilitation Clinics  
Physical and Occupational Therapies  
Reimbursement Rate Increase  
(LAC 50:XI.301 and 303)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.301 and §303 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides Medicaid reimbursement for physical, occupational and speech therapies provided in rehabilitation clinics to recipients under the age of 21.

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing rehabilitation clinics in order to terminate the coverage and Medicaid reimbursement of services rendered to recipients 21 years of age and older (*Louisiana Register*, Volume 39, Number 1). In compliance with a court order from the *Melanie Chisholm, et al vs. Kathy Kliebert* class action litigation, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend the reimbursement methodology for rehabilitation clinics in order to increase the reimbursement rates for physical and occupational therapy services rendered to recipients under the age of 21. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to therapy services provided by rehabilitation clinics. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$280,056 for state fiscal year 2013-2014.

Effective February 13, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for rehabilitation clinics in order to increase the reimbursement rates.



**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XI. Clinic Services**  
**Subpart 1. Rehabilitation Clinics**

**Chapter 3. Reimbursement**

**§301. Reimbursement Methodology**

A. The Medicaid Program provides reimbursement for physical therapy, occupational therapy and speech therapy rendered in rehabilitation clinics to recipients under the age of 21.

B. Effective for dates of service on or after February 1, 2013, reimbursement shall not be made for services rendered to recipients 21 years of age and older.

C. Effective for dates of service on or after February 13, 2014, reimbursement for physical and occupational therapy services shall be 85 percent of the 2013 Medicare published rate. There shall be no automatic enhanced rate adjustment for physical and occupational therapy services.

D. Speech/language therapy services shall continue to be reimbursed at the flat fee in place as of February 13, 2014 and in accordance with the Medicaid published fee schedule for speech/language therapy services provided to recipients under the age of 21 in rehabilitation clinics.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services financing, LR 22:109 (February 1996), amended LR 23:731 (June 1997), repromulgated for inclusion in LAC, LR 30:1021 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

**§303. Reimbursement (Ages 0 up to 3)**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1034 (May 2004), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

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

Kathy H. Kliebert  
Secretary

1402#013

**DECLARATION OF EMERGENCY**

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

Rehabilitation Clinics  
Termination of Coverage for Recipients 21 and Older  
(LAC 50:XI.103 and 301)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XIII.103 and §301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act 13 of the 2012 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated the provisions governing the covered services and reimbursement paid to rehabilitation clinics in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 30, Number 5).

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing rehabilitation clinics in order to terminate the coverage and Medicaid reimbursement of services rendered to recipients 21 years of age and older (*Louisiana Register*, Volume 39, Number 1). In compliance with a court order from the Melanie Chisholm, et al vs. Kathy Kliebert class action litigation, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the reimbursement methodology for rehabilitation clinics in order to increase the reimbursement rates for physical and occupational therapy services rendered to recipients under the age of 21 (*Louisiana Register*, Volume 40, Number 2). The department now proposes to amend the provisions of the February 1, 2013 Emergency Rule in order to revise the formatting as a result of the publication of the February 1, 2014 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs and to ensure that these provisions are published in a clear and concise manner in the *Louisiana Administrative Code*.

Effective February 20, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the February 1, 2013 Emergency Rule governing rehabilitation clinic services rendered to recipients 21 years of age and older in order to terminate coverage of these services.

#### **Title 50**

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

#### **Part XI. Clinic Services**

##### **Subpart 1. Rehabilitation Clinics**

#### **Chapter 1. General Provisions**

##### **§103. Services**

A. ...

B. Effective for dates of service on or after February 1, 2013, the department terminates the coverage of all rehabilitation services to recipients 21 years of age and older.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:13 (January 1983), repromulgated for inclusion in LAC, LR 30:1021 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

#### **Chapter 3. Reimbursement**

##### **§301. Reimbursement Methodology**

A. ...

B. Effective for dates of service on or after February 1, 2013, reimbursement shall not be made for services rendered to recipients 21 years of age and older.

C. - D. Reserved.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:109 (February 1996), amended LR 23:731 (June 1997), repromulgated for inclusion in LAC, LR 30:1021 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

Kathy H. Kliebert  
Secretary

1402#051

### **DECLARATION OF EMERGENCY**

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

School Based Health Centers  
Rehabilitation Services  
Reimbursement Rate Increase  
(LAC 50:XV.9141)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.9141 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions to allow for Medicaid coverage and reimbursement of mental health services provided to students by School Based Health Centers and to establish provisions for other Medicaid-covered services students already receive (*Louisiana Register*, Volume 34, Number 7).

In compliance with a court order from the *Melanie Chisholm, et al vs. Kathy Kliebert* class action litigation, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend the provisions governing the reimbursement methodology for school based health centers in order to increase the reimbursement rates for physical and occupational therapy services.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to therapy services in school based health centers. It is anticipated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$76,718 for state fiscal year 2013-2014.

Effective February 13, 2014 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for school based health centers to increase the reimbursement rates for physical and occupational therapies.

#### **Title 50**

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

#### **Part XV. Services for Special Populations**

##### **Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment**

#### **Chapter 91. School Based Health Centers**

##### **Subchapter E. Reimbursement**

##### **§9141. Reimbursement Methodology**

A. - B.2. ...

C. Effective for dates of service on or after February 13, 2014, reimbursement for physical and occupational therapy services shall be 85 percent of the 2013 Medicare published rate.

D. Speech/language therapy services shall continue to be reimbursed at the flat fee in place as of February 13, 2014 and in accordance with the Medicaid published fee schedule for speech/language therapy services provided in school based health centers.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1420 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is

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

Kathy H. Kliebert  
Secretary

1402#014

## DECLARATION OF EMERGENCY

### Department of Natural Resources Office of Conservation

Statewide Orders No. 29-B and 29-B-a  
(LAC 43:XIX.Chapters 2 and 11)

Order extending the deadline of drilling and completion operational and safety requirements for wells drilled in search or for the production of oil or natural gas at water locations

Pursuant to the power delegated under the laws of the state of Louisiana, and particularly title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Louisiana Administrative Procedure Act, title 49, sections 953(B)(1) and (2), 954(B)(2), as amended, the following Emergency Rule and reasons therefore are now adopted and promulgated by the commissioner of conservation as being necessary to protect the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally, by extending the effectiveness of the Emergency Rule this Rule supersedes the previous Emergency Rule for drilling and completion operational and safety requirements for wells drilled in search of oil and natural gas at water locations. The following Emergency Rule provides for commissioner of conservation approved exceptions to equipment requirements on workover operations. Furthermore, the extension of the rule allows more time to complete comprehensive rule amendments.

#### A. Need and Purpose for Emergency Rule

In light of the Gulf of Mexico Deepwater Horizon oil spill incident in federal waters approximately 50 miles off Louisiana's coast and the threat posed to the natural resources of the state, and the economic livelihood and property of the citizens of the state caused thereby, the Office of Conservation began a review of its current drilling and completion operational and safety requirements for wells drilled in search of oil and natural gas at water locations. While the incidents of blowout of Louisiana wells is minimal, occurring at less than three-tenths of one percent of the wells drilled in Louisiana since 1987, the great risk posed by blowouts at water locations to the public health, safety and welfare of the people of the State, as well as the environment generally, necessitated the rule amendments contained herein.

After implementation of the Emergency Rule, conservation formed an ad hoc committee to further study comprehensive rulemaking in order to promulgate new permanent regulations which ensure increased operational and safety requirements for the drilling or completion of oil and gas wells at water locations within the state. Based upon the work of this ad hoc committee, draft proposed rules that would replace these emergency rules are being created for

the consideration and comment by interested parties. This draft proposed Rule was published in the Potpourri section of the *Louisiana Register* on July 20, 2012. Rule promulgation is expected to continue with revised draft rules being published as a Notice of Intent within the next 60 days.

#### B. Synopsis of Emergency Rule

The Emergency Rule set forth hereinafter is intended to provide greater protection to the public health, safety and welfare of the people of the State, as well as the environment generally by extending the effectiveness of new operational and safety requirements for the drilling and completion of oil and gas wells at water locations. Following the Gulf of Mexico-Deepwater Horizon oil spill, the Office of Conservation ("conservation") investigated the possible expansion of Statewide Orders No. 29-B and 29-B-a requirements relating to well control at water locations. As part of the rule expansion project, Conservation reviewed the well control regulations of the U.S. Department of the Interior's mineral management service or MMS (now named the Bureau of Safety and Environmental Enforcement). Except in the instances where it was determined that the MMS provisions were repetitive of other provisions already being incorporated, were duplicative of existing conservation regulations or were not applicable to the situations encountered in Louisiana's waters, all provisions of the MMS regulations concerning well control issues at water locations were adopted by the preceding Emergency Rule, which this Rule supersedes, integrated into conservation's Statewide Orders No. 29-B and 29-B-a.

Conservation is currently performing a comprehensive review of its regulations as it considers future amendments to its operational rules and regulations found in Statewide Order No. 29-B and elsewhere. Specifically, the Emergency Rule extends the effectiveness of a new Chapter within Statewide Order No. 29-B (LAC 43:XIX.Chapter 2) to provide additional rules concerning the drilling and completion of oil and gas wells at water locations, specifically providing for the following: rig movement and reporting requirements, additional requirements for applications to drill, casing program requirements, mandatory diverter systems and blowout preventer requirements, oil and gas well-workover operations, diesel engine safety requirements, and drilling fluid regulations. Further, the Emergency Rule amends Statewide Order No. 29-B-a (LAC 43:XIX.Chapter 11) to provide for and expand upon rules concerning the required use of storm chokes in oil and gas wells at water locations.

#### C. Reasons

Recognizing the potential advantages of expanding the operational and safety requirements for the drilling and completion of oil and gas wells at water locations within the state, it has been determined that failure to establish such requirements in the form of an administrative rule may lead to the existence of an imminent peril to the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally. By this Rule conservation extends the effectiveness of the following requirements until such time as final comprehensive rules may be promulgated.

Protection of the public and our environment therefore requires the commissioner of conservation to extend the following rules in order to assure that drilling and

completion of oil and gas wells at water locations within the state are undertaken in accordance with all reasonable care and protection to the health, safety of the public, oil and gas personnel and the environment generally. The Emergency Rule, amendment to Statewide Order No. 29-B (LAC 43:XIX.Chapter 2) and Statewide Order No. 29-B-a (LAC 43:XIX.Chapter 11) (“Emergency Rule”) set forth hereinafter are adopted and extended by the Office of Conservation.

#### **D. Effective Date and Duration**

1. The effective date for this Emergency Rule shall be February 10, 2014.

2. The Emergency Rule herein adopted as a part thereof, shall remain effective for a period of not less than 120 days hereafter, or until the adoption of the final version of an amendment to Statewide Order No. 29-B and Statewide Order No. 29-B-a as noted herein, whichever occurs first.

The Emergency Rule signed by the commissioner on July 10, 2013 and effective July 10, 2013 is hereby rescinded and replaced by the following Emergency Rule.

### **Title 43**

### **NATURAL RESOURCES**

#### **Part XIX. Office of Conservation—General Operations**

##### **Subpart 1. Statewide Order No. 29-B**

##### **Chapter 2. Additional Requirements for Water Locations**

#### **§201. Applicability**

A. In addition to the requirements set forth in Chapter 1 of this Subpart, all oil and gas wells being drilled or completed at a water location within the state and which are spud or on which workover operations commence on or after July 15, 2010 shall comply with this Chapter.

B. Unless otherwise stated herein, nothing within this Chapter shall alter the obligation of oil and gas operators to meet the requirements of Chapter 1 of this Subpart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:

#### **§203. Application to Drill**

In addition to the requirements set forth in §103 of this Subpart, at the time of submittal of an application for permit to drill, the applicant will provide an electronic copy on a disk of the associated drilling rig’s spill prevention control (SPC) plan that is required by DEQ pursuant to the provisions of Part IX of Title 33 of the *Louisiana Administrative Code* or any successor rule. Such plan shall become a part of the official well file. If the drilling rig to be used in drilling a permitted well changes between the date of the application and the date of drilling, the applicant shall provide an electronic copy on a disk of the SPC plan for the correct drilling rig within two business days of becoming aware of the change in rigs; but in no case shall the updated SPC plan be submitted after spudding of the well.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:

#### **§204. Rig Movement and Reporting**

A. The operator must report the movement of all drilling and workover rig units on and off locations to the

appropriate district manager with the rig name, well serial number and expected time of arrival and departure.

B. Drilling operations on a platform with producing wells or other hydrocarbon flow must comply with the following.

1. An emergency shutdown station must be installed near the driller’s console.

2. All producible wells located in the affected wellbay must be shut in below the surface and at the wellhead when:

a. a rig or related equipment is moved on and off a platform. This includes rigging up and rigging down activities within 500 feet of the affected platform;

b. a drilling unit is moved or skid between wells on a platform;

c. a mobile offshore drilling unit (MODU) moves within 500 feet of a platform.

3. Production may be resumed once the MODU is in place, secured, and ready to begin drilling operations.

C. The movement of rigs and related equipment on and off a platform or from well to well on the same platform, including rigging up and rigging down, shall be conducted in a safe manner. All wells in the same well-bay which are capable of producing hydrocarbons shall be shut in below the surface with a pump-through-type tubing plug and at the surface with a closed master valve prior to moving well-completion rigs and related equipment, unless otherwise approved by the district manager. A closed surface-controlled subsurface safety valve of the pump-through type may be used in lieu of the pump-through-type tubing plug, provided that the surface control has been locked out of operation. The well from which the rig or related equipment is to be moved shall also be equipped with a back-pressure valve prior to removing the blowout preventer (BOP) system and installing the tree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:

#### **§205. Casing Program**

##### **A. General Requirements**

1. The operator shall case and cement all wells with a sufficient number of strings of casing and quantity and quality of cement in a manner necessary to prevent fluid migration in the wellbore, protect the underground source of drinking water (USDW) from contamination, support unconsolidated sediments, and otherwise provide a means of control of the formation pressures and fluids.

2. The operator shall install casing necessary to withstand collapse, bursting, tensile, and other stresses that may be encountered and the well shall be cemented in a manner which will anchor and support the casing. Safety factors in casing program design shall be of sufficient magnitude to provide optimum well control while drilling and to assure safe operations for the life of the well.

3. All tubulars and cement shall meet or exceed API standards. Cementing jobs shall be designed so that cement composition, placement techniques, and waiting times ensure that the cement placed behind the bottom 500 feet of casing attains a minimum compressive strength of 500 psi before drilling out of the casing or before commencing completion operations.

4. Centralizers

a. Surface casing shall be centralized by means of placing centralizers in the following manner.

i. A centralizer shall be placed on every third joint from the shoe to surface, with two centralizers being placed on each of the lowermost three joints of casing.

ii. If conductor pipe is set, three centralizers shall be equally spaced on surface casing to fall within the conductor pipe.

b. Intermediate and production casing, and drilling and production liners shall be centralized by means of a centralizer placed every third joint from the shoe to top of cement. Additionally, two centralizers shall be placed on each of the lowermost three joints of casing.

c. All centralizers shall meet API standards.

5. A copy of the documentation furnished by the manufacturer, if new, or supplier, if reconditioned, which certifies tubular condition, shall be provided with the well history and work resume report (Form WH-1).

B. Conductor Pipe. A conductor pipe is that pipe ordinarily used for the purpose of supporting unconsolidated surface deposits. A conductor pipe shall be used during the drilling of any oil and gas well and shall be set at depth that allows use of a diverter system.

C. Surface Casing

1. Where no danger of pollution of the USDW exists, the minimum amount of surface or first-intermediate casing to be set shall be determined from Table 1 hereof, except that in no case shall less surface casing be set than an amount needed to protect the USDW unless an alternative method of USDW protection is approved by the district manager.

Total Depth of Contact	Casing Required	Surface Casing Test Pressure (lbs. per sq. in.)
0-2500	100	300
2500-3000	150	600
3000-4000	300	600
4000-5000	400	600
5000-6000	500	750
6000-7000	800	1000
7000-8000	1000	1000
8000-9000	1400	1000
9000-Deeper	1800	1000

a. In known low-pressure areas, exceptions to the above may be granted by the commissioner or his agent. If, however, in the opinion of the commissioner, or his agent, the above regulations shall be found inadequate, and additional or lesser amount of surface casing and/or test pressure shall be required for the purpose of safety and the protection of the USDW.

2. Surface casing shall be cemented with a sufficient volume of cement to insure cement returns to the surface.

3. Surface casing shall be tested before drilling the plug by applying a minimum pump pressure as set forth in Table 1 after at least 200 feet of the mud-laden fluid has been displaced with water at the top of the column. If at the end of 30 minutes the pressure gauge shows a drop of 10 percent of test pressure as outlined in Table 1, the operator

shall be required to take such corrective measures as will insure that such surface casing will hold said pressure for 30 minutes without a drop of more than 10 percent of the test pressure. The provisions of Paragraph E.7 below, for the producing casing, shall also apply to the surface casing.

4. Cement shall be allowed to stand a minimum of 12 hours under pressure before initiating test or drilling plug. Under pressure is complied with if one float valve is used or if pressure is held otherwise.

D. Intermediate Casing/Drilling Liner

1. Intermediate casing is that casing used as protection against caving of heaving formations or when other means are not adequate for the purpose of segregating upper oil, gas or water-bearing strata. Intermediate casing/drilling liner shall be set when required by abnormal pressure or other well conditions.

2. If an intermediate casing string is deemed necessary by the district manager for the prevention of underground waste, such regulations pertaining to a minimum setting depth, quality of casing, and cementing and testing of sand, shall be determined by the Office of Conservation after due hearing. The provisions of Paragraph E.7 below, for the producing casing, shall also apply to the intermediate casing.

3. Intermediate casing/drilling liner shall be at minimum, cemented in such a manner, at least 500 feet above all known hydrocarbon bearing formations to insure isolation and, if applicable, all abnormal pressure formations are isolated from normal pressure formations, but in no case shall less cement be used than the amount necessary to fill the casing/liner annulus to a point 500 feet above the shoe or the top of the liner whichever is less. If a liner is used as an intermediate string, the cement shall be tested by a fluid entry test (-0.5 ppg EMW) to determine whether a seal between the liner top and next larger casing string has been achieved, and the liner-lap point must be at least 300 feet above the previous casing shoe. The drilling liner (and liner-lap) shall be tested to a pressure at least equal to the anticipated pressure to which the liner will be subjected to during the formation-integrity test below that liner shoe, or subsequent liner shoes if set. Testing shall be in accordance with Subsection G below.

4. Before drilling the plug in the intermediate string of casing, the casing shall be tested by pump pressure, as determined from Table 2 hereof, after 200 feet of mud-laden fluid in the casing has been displaced by water at the top of the column.

Depth Set	Test Pressure (lbs. per sq. in.)
2000-3000'	800
3000-6000'	1000
6000-9000'	1200
9000-and deeper	1500

a. If at the end of 30 minutes the pressure gauge shows a drop of 10 percent of the test pressure or more, the operator shall be required to take such corrective measures as will insure that casing is so set and cemented that it will hold said pressure for 30 minutes without a drop of more than 10 percent of the test pressure on the gauge.

5. Cement shall be allowed to stand a minimum of 12 hours under pressure and a minimum total of 24 hours before initiating pressure test. Under pressure is complied with if one or more float valves are employed and are shown to be holding the cement in place, or when other means of holding pressure is used. When an operator elects to perforate and squeeze or to cement around the shoe, he may proceed with such work after 12 hours have elapsed after placing the first cement.

6. If the test is unsatisfactory, the operator shall not proceed with the drilling of the well until a satisfactory test has been obtained.

**E. Producing String**

1. Producing string, production casing or production liner is that casing used for the purpose of segregating the horizon from which production is obtained and affording a means of communication between such horizons and the surface.

2. The producing string of casing shall consist of new or reconditioned casing, tested at mill test pressure or as otherwise designated by the Office of Conservation.

3. Cement shall be by the pump-and-plug method, or another method approved by the Office of Conservation. Production casing/production liner shall be at minimum, cemented in such a manner, at least 500 feet above all known hydrocarbon bearing formations to insure isolation and, if applicable, all abnormal pressure formations are isolated from normal pressure formations, but in no case shall less cement be used than the amount necessary to fill the casing/liner annulus to a point 500 feet above the shoe or the top of the liner whichever is less. If a liner is used as a producing string, the cement shall be tested by a fluid entry test (-0.5 ppg EMW) to determine whether a seal between the liner top and next larger casing string has been achieved, and the liner-lap point must be at least 300 feet above the previous casing shoe. The production liner (and liner-lap) shall be tested to a pressure at least equal to the anticipated pressure to which the liner will be subjected to during the formation-integrity test below that liner shoe, or subsequent liner shoes if set. Testing shall be in accordance with Subsection G below.

4. The amount of cement to be left remaining in the casing, until the requirements of Paragraph 5 below have been met, shall be not less than 20 feet. This shall be accomplished through the use of a float-collar, or other approved or practicable means, unless a full-hole cementer, or its equivalent, is used.

5. Cement shall be allowed to stand a minimum of 12 hours under pressure and a minimum total of 24 hours before initiating pressure test in the producing or oil string. Under pressure is complied with if one or more float valves are employed and are shown to be holding the cement in place, or when other means of holding pressure is used. When an operator elects to perforate and squeeze or to cement around the shoe, he may proceed with such work after 12 hours have elapsed after placing the first cement.

6. Before drilling the plug in the producing string of casing, the casing shall be tested by pump pressure, as determined from Table 3 hereof, after 200 feet of mud-laden fluid in the casing has been displaced by water at the top of the column.

<b>Depth Set</b>	<b>Test Pressure (lbs. per sq. in.)</b>
2000-3000'	800
3000-6000'	1000
6000-9000'	1200
9000-and deeper	1500

a. If at the end of 30 minutes the pressure gauge shows a drop of 10 percent of the test pressure or more, the operator shall be required to take such corrective measures as will insure that the producing string of casing is so set and cemented that it will hold said pressure for 30 minutes without a drop of more than 10 percent of the test pressure on the gauge.

7. If the commissioner's agent is not present at the time designated by the operator for inspection of the casing tests of the producing string, the operator shall have such tests witnessed, preferably by an offset operator. An affidavit of test, on the form prescribed by the district office, signed by the operator and witness, shall be furnished to the district office showing that the test conformed satisfactorily to the above mentioned regulations before proceeding with the completion. If test is satisfactory, normal operations may be resumed immediately.

8. If the test is unsatisfactory, the operator shall not proceed with the completion of the well until a satisfactory test has been obtained.

**F. Cement Evaluation**

1. Cement evaluation tests (cement bond or temperature survey) shall be conducted for all casing and liners installed below surface casing to assure compliance with LAC 43:XIX.205.D.3 and E.3.

2. Remedial cementing operations that are required to achieve compliance with LAC 43:XIX.205.D.3 and E.3 shall be conducted following receipt of an approved work permit from the district manager for the proposed operations.

3. Cementing and wireline records demonstrating the presence of the required cement tops shall be retained by the operator for a period of two years.

**G. Leak-off Tests**

1. A pressure integrity test must be conducted below the surface casing or liner and all intermediate casings or liners. The district manager may require a pressure-integrity test at the conductor casing shoe if warranted by local geologic conditions or the planned casing setting depth. Each pressure integrity test must be conducted after drilling at least 10 feet but no more than 50 feet of new hole below the casing shoe and must be tested to either the formation leak-off pressure or to the anticipated equivalent drilling fluid weight at the setting depth of the next casing string.

a. The pressure integrity test and related hole-behavior observations, such as pore-pressure test results, gas-cut drilling fluid, and well kicks must be used to adjust the drilling fluid program and the setting depth of the next casing string. All test results must be recorded and hole-behavior observations made during the course of drilling related to formation integrity and pore pressure in the driller's report.

b. While drilling, a safe drilling margin must be maintained. When this safe margin cannot be maintained, drilling operations must be suspended until the situation is remedied.

#### H. Prolonged Drilling Operations

1. If wellbore operations continue for more than 30 days within a casing string run to the surface:

a. drilling operations must be stopped as soon as practicable, and the effects of the prolonged operations on continued drilling operations and the life of the well evaluated. At a minimum, the operator shall:

- i. caliper or pressure test the casing; and
- ii. report evaluation results to the district manager and obtain approval of those results before resuming operations.

b. If casing integrity as determined by the evaluation has deteriorated to a level below minimum safety factors, the casing must be repaired or another casing string run. Approval from the district manager shall be obtained prior to any casing repair activity.

#### I. Tubing and Completion

1. Well-completion operations means the work conducted to establish the production of a well after the production-casing string has been set, cemented, and pressure-tested.

2. Prior to engaging in well-completion operations, crew members shall be instructed in the safety requirements of the operations to be performed, possible hazards to be encountered, and general safety considerations to protect personnel, equipment, and the environment. Date and time of safety meetings shall be recorded and available for review by the Office of Conservation.

3. When well-completion operations are conducted on a platform where there are other hydrocarbon-producing wells or other hydrocarbon flow, an emergency shutdown system (ESD) manually controlled station shall be installed near the driller's console or well-servicing unit operator's work station.

4. No tubing string shall be placed in service or continue to be used unless such tubing string has the necessary strength and pressure integrity and is otherwise suitable for its intended use.

5. A valve, or its equivalent, tested to a pressure of not less than the calculated bottomhole pressure of the well, shall be installed below any and all tubing outlet connections.

6. When a well develops a casing pressure, upon completion, equivalent to more than three-quarters of the internal pressure that will develop the minimum yield point of the casing, such well shall be required by the district manager to be killed, and a tubing packer to be set so as to keep such excessive pressure off of the casing.

7. Wellhead Connections. Wellhead connections shall be tested prior to installation at a pressure indicated by the district manager in conformance with conditions existing in areas in which they are used. Whenever such tests are made in the field, they shall be witnessed by an agent of the Office of Conservation. Tubing and tubingheads shall be free from obstructions in wells used for bottomhole pressure test purposes.

8. When the tree is installed, the wellhead shall be equipped so that all annuli can be monitored for sustained pressure. If sustained casing pressure is observed on a well, the operator shall immediately notify the district manager.

9. Wellhead, tree, and related equipment shall have a pressure rating greater than the shut-in tubing pressure and

shall be designed, installed, used, maintained, and tested so as to achieve and maintain pressure control. New wells completed as flowing or gas-lift wells shall be equipped with a minimum of one master valve and one surface safety valve, installed above the master valve, in the vertical run of the tree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:

#### §207. Diverter Systems and Blowout Preventers

A. Diverter System. A diverter system shall be required when drilling surface hole in areas where drilling hazards are known or anticipated to exist. The district manager may, at his discretion, require the use of a diverter system on any well. In cases where it is required, a diverter system consisting of a diverter sealing element, diverter lines, and control systems must be designed, installed, used, maintained, and tested to ensure proper diversion of gases, water, drilling fluids, and other materials away from facilities and personnel. The diverter system shall be designed to incorporate the following elements and characteristics:

1. dual diverter lines arranged to provide for maximum diversion capability;

2. at least two diverter control stations. One station shall be on the drilling floor. The other station shall be in a readily accessible location away from the drilling floor;

3. remote-controlled valves in the diverter lines. All valves in the diverter system shall be full-opening. Installation of manual or butterfly valves in any part of the diverter system is prohibited;

4. minimize the number of turns in the diverter lines, maximize the radius of curvature of turns, and minimize or eliminate all right angles and sharp turns;

5. anchor and support systems to prevent whipping and vibration;

6. rigid piping for diverter lines. The use of flexible hoses with integral end couplings in lieu of rigid piping for diverter lines shall be approved by the district manager.

#### B. Diverter Testing Requirements

1. When the diverter system is installed, the diverter components including the sealing element, diverter valves, control systems, stations and vent lines shall be function and pressure tested.

2. For drilling operations with a surface wellhead configuration, the system shall be function tested at least once every 24-hour period after the initial test.

3. After nipping-up on conductor casing, the diverter sealing element and diverter valves are to be pressure tested to a minimum of 200 psig. Subsequent pressure tests are to be conducted within seven days after the previous test.

4. Function tests and pressure tests shall be alternated between control stations.

#### 5. Recordkeeping Requirements

a. Pressure and function tests are to be recorded in the driller's report and certified (signed and dated) by the operator's representative.

b. The control station used during a function or pressure test is to be recorded in the driller's report.

c. Problems or irregularities during the tests are to be recorded along with actions taken to remedy same in the driller's report.

d. All reports pertaining to diverter function and/or pressure tests are to be retained for inspection at the wellsite for the duration of drilling operations.

C. BOP Systems. The operator shall specify and insure that contractors design, install, use, maintain and test the BOP system to ensure well control during drilling, workover and all other appropriate operations. The surface BOP stack shall be installed before drilling below surface casing.

1. BOP system components for drilling activity located over a body of water shall be designed and utilized, as necessary, to control the well under all potential conditions that might occur during the operations being conducted and at minimum, shall include the following components:

- a. annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. two sets of hydraulically-operated pipe rams.

2. Drilling activity with a tapered drill string shall require the installation of two or more sets of conventional or variable-bore pipe rams in the BOP stack to provide, at minimum, two sets of rams capable of sealing around the larger-size drill string and one set of pipe rams capable of sealing around the smaller-size drill string.

3. A set of hydraulically-operated combination rams may be used for the blind rams and shear rams.

4. All connections used in the surface BOP system must be flanged, including the connections between the well control stack and the first full-opening valve on the choke line and the kill line.

5. The commissioner of conservation, following a public hearing, may grant exceptions to the requirements of LAC 43:XIX.207.C-J.

D. BOP Working Pressure. The working pressure rating of any BOP component, excluding annular-type preventers, shall exceed the maximum anticipated surface pressure (MASP) to which it may be subjected.

E. BOP Auxiliary Equipment. All BOP systems shall be equipped and provided with the following.

1. A hydraulically actuated accumulator system which shall provide 1.5 times volume of fluid capacity to close and hold closed all BOP components, with a minimum pressure of 200 psig above the pre-charge pressure without assistance from a charging system.

2. A backup to the primary accumulator-charging system, supplied by a power source independent from the power source to the primary, which shall be sufficient to close all BOP components and hold them closed.

3. Accumulator regulators supplied by rig air without a secondary source of pneumatic supply shall be equipped with manual overrides or other devices to ensure capability of hydraulic operation if the rig air is lost.

4. At least one operable remote BOP control station in addition to the one on the drilling floor. This control station shall be in a readily accessible location away from the drilling floor. If a BOP control station does not perform properly, operations shall be suspended until that station is operable.

5. A drilling spool with side outlets, if side outlets are not provided in the body of the BOP stack, to provide for separate kill and choke lines.

6. A kill line and a separate choke line are required. Each line must be equipped with two full-opening valves and at least one of the valves must be remotely controlled. The choke line shall be installed above the bottom ram. A manual valve must be used instead of the remotely controlled valve on the kill line if a check valve is installed between the two full-opening manual valves and the pump or manifold. The valves must have a working pressure rating equal to or greater than the working pressure rating of the connection to which they are attached, and must be installed between the well control stack and the choke or kill line. For operations with expected surface pressures greater than 3,500 psi, the kill line must be connected to a pump or manifold. The kill line inlet on the BOP stack must not be used for taking fluid returns from the wellbore.

7. A valve installed below the swivel (upper kelly cock), essentially full-opening, and a similar valve installed at the bottom of the kelly (lower kelly cock). An operator must be able to strip the lower kelly cock through the BOP stack. A wrench to fit each valve shall be stored in a location readily accessible to the drilling crew. If drilling with a mud motor and utilizing drill pipe in lieu of a kelly, you must install one kelly valve above, and one strippable kelly valve below the joint of pipe used in place of a kelly. On a top-drive system equipped with a remote-controlled valve, you must install a strippable kelly-type valve below the remote-controlled valve.

8. An essentially full-opening drill-string safety valve in the open position on the rig floor shall be available at all times while drilling operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the drill string. A wrench to fit the drill-string safety valve shall be stored in a location readily accessible to the drilling crew.

9. A safety valve shall be available on the rig floor assembled with the proper connection to fit the casing string being run in the hole.

10. Locking devices installed on the ram-type preventers.

F. BOP Maintenance and Testing Requirements

1. The BOP system shall be visually inspected on a daily basis.

2. Pressure tests (low and high pressure) of the BOP system are to be conducted at the following times and intervals:

a. during a shop test prior to transport of the BOPs to the drilling location. Shop tests are not required for equipment that is transported directly from one well location to another;

b. immediately following installation of the BOPs;

c. within 14 days of the previous BOP pressure test, alternating between control stations and at a staggered interval to allow each crew to operate the equipment. If either control system is not functional, further operations shall be suspended until the nonfunctional, system is operable. Exceptions may be granted by the district manager in cases where a trip is scheduled to occur within 2 days after the 14-day testing deadline;

d. before drilling out each string of casing or liner (The district manager may require that a conservation enforcement specialist witness the test prior to drilling out each casing string or liner.);



e. Not more than 48 hours before a well is drilled to a depth that is within 1000 feet of a hydrogen sulfide zone (The district manager may require that a conservation enforcement specialist witness the test prior to drilling to a depth that is within 1000 feet of a hydrogen sulfide zone.);

f. when the BOP tests are postponed due to well control problem(s), the BOP test is to be performed on the first trip out of the hole, and reasons for postponing the testing are to be recorded in the driller's report.

3. Low pressure tests (200-300 psig) of the BOP system (choke manifold, kelly valves, drill-string safety valves, etc.) are to be performed at the times and intervals specified in LAC 43:XIX.207.F.2. in accordance with the following provisions.

a. Test pressures are to be held for a minimum of five minutes.

b. Variable bore pipe rams are to be tested against the largest and smallest sizes of pipe in use, excluding drill collars and bottom hole assembly.

c. Bonnet seals are to be tested before running the casing when casing rams are installed in the BOP stack.

4. High pressure tests of the BOP system are to be performed at the times and intervals specified in LAC 43:XIX.207.F.2 in accordance with the following provisions.

a. Test pressures are to be held for a minimum of five minutes.

b. Ram-type BOP's, choke manifolds, and associated equipment are to be tested to the rated working pressure of the equipment or 500 psi greater than the calculated MASP for the applicable section of the hole.

c. Annular-type BOPs are to be tested to 70 percent of the rated working pressure of the equipment.

5. The annular and ram-type BOPs with the exception of the blind-shear rams are to be function tested every seven days between pressure tests. All BOP test records should be certified (signed and dated) by the operator's representative.

a. Blind-shear rams are to be tested at all casing points and at an interval not to exceed 30 days.

6. If the BOP equipment does not hold the required pressure during a test, the problem must be remedied and a retest of the affected component(s) performed. Additional BOP testing requirements:

a. use water to test the surface bop system;

b. if a control station is not functional operations shall be suspended until that station is operable;

c. test affected BOP components following the disconnection or repair of any well-pressure containment seal in the wellhead or BOP stack assembly.

G. BOP Record Keeping. The time, date and results of pressure tests, function tests, and inspections of the BOP system are to be recorded in the driller's report. All pressure tests shall be recorded on an analog chart or digital recorder. All documents are to be retained for inspection at the wellsite for the duration of drilling operations and are to be retained in the operator's files for a period of two years.

H. BOP Well Control Drills. Weekly well control drills with each drilling crew are to be conducted during a period of activity that minimizes the risk to drilling operations. The drills must cover a range of drilling operations, including drilling with a diverter (if applicable), on-bottom drilling, and tripping. Each drill must be recorded in the driller's

report and is to include the time required to close the BOP system, as well as, the total time to complete the entire drill.

I. Well Control Safety Training. In order to ensure that all drilling personnel understand and can properly perform their duties prior to drilling wells which are subject to the jurisdiction of the Office of Conservation, the operator shall require that contract drilling companies provide and/or implement the following:

1. periodic training for drilling contractor employees which ensures that employees maintain an understanding of, and competency in, well control practices;

2. procedures to verify adequate retention of the knowledge and skills that the contract drilling employees need to perform their assigned well control duties.

J. Well Control Operations

1. The operator must take necessary precautions to keep wells under control at all times and must:

a. use the best available and safest drilling technology to monitor and evaluate well conditions and to minimize the potential for the well to flow or kick;

b. have a person onsite during drilling operations who represents the operators interests and can fulfill the operators responsibilities;

c. ensure that the tool pusher, operator's representative, or a member of the drilling crew maintains continuous surveillance on the rig floor from the beginning of drilling operations until the well is completed or abandoned, unless you have secured the well with blowout preventers (BOPs), bridge plugs, cement plugs, or packers;

d. use and maintain equipment and materials necessary to ensure the safety and protection of personnel, equipment, natural resources, and the environment.

2. Whenever drilling operations are interrupted, a downhole safety device must be installed, such as a cement plug, bridge plug, or packer. The device must be installed at an appropriate depth within a properly cemented casing string or liner.

a. Among the events that may cause interruption to drilling operations are:

i. evacuation of the drilling crew;

ii. inability to keep the drilling rig on location; or

iii. repair to major drilling or well-control equipment.

3. If the diverter or BOP stack is nipped down while waiting on cement, it must be determined, before nipping down, when it will be safe to do so based on knowledge of formation conditions, cement composition, effects of nipping down, presence of potential drilling hazards, well conditions during drilling, cementing, and post cementing, as well as past experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:

#### **§209. Casing-Heads**

A. All wells shall be equipped with casing-heads with a test pressure in conformance with conditions existing in areas in which they are used. Casing-head body, as soon as installed shall be equipped with proper connections and valves accessible to the surface. Reconditioning shall be required on any well showing pressure on the casing-head, or leaking gas or oil between the oil string and next larger

size casing string, when, in the opinion of the district managers, such pressure or leakage assume hazardous proportions or indicate the existence of underground waste. Mud-laden fluid may be pumped between any two strings of casing at the top of the hole, but no cement shall be used except by special permission of the commissioner or his agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:

## **§211. Oil and Gas Well-Workover Operations**

A. Definitions. When used in this Section, the following terms shall have the meanings given below.

*Expected Surface Pressure*—the highest pressure predicted to be exerted upon the surface of a well. In calculating expected surface pressure, reservoir pressure as well as applied surface pressure must be considered.

*Routine Operations*—any of the following operations conducted on a well with the tree installed including cutting paraffin, removing and setting pump-through-type tubing plugs, gas-lift valves, and subsurface safety valves which can be removed by wireline operations, bailing sand, pressure surveys, swabbing, scale or corrosion treatment, caliper and gauge surveys, corrosion inhibitor treatment, removing or replacing subsurface pumps, through-tubing logging, wireline fishing, and setting and retrieving other subsurface flow-control devices.

*Workover Operations*—the work conducted on wells after the initial completion for the purpose of maintaining or restoring the productivity of a well.

B. When well-workover operations are conducted on a well with the tree removed, an emergency shutdown system (ESD) manually controlled station shall be installed near the driller's console or well-servicing unit operator's work station, except when there is no other hydrocarbon-producing well or other hydrocarbon flow on the platform.

C. Prior to engaging in well-workover operations, crew members shall be instructed in the safety requirements of the operations to be performed, possible hazards to be encountered, and general safety considerations to protect personnel, equipment, and the environment. Date and time of safety meetings shall be recorded and available for review.

D. Well-control fluids, equipment, and operations. The following requirements apply during all well-workover operations with the tree removed.

1. The minimum BOP-system components when the expected surface pressure is less than or equal to 5,000 psi shall include one annular-type well control component, one set of pipe rams, and one set of blind-shear rams. The shear ram component of this requirement shall be effective for any workover operations initiated on or after January 1, 2011 and not before.

2. The minimum BOP-system components when the expected surface pressure is greater than 5,000 psi shall include one annular-type well control component, two sets of pipe rams, and one set of blind-shear rams. The shear ram component of this requirement shall be effective for any workover operations initiated on or after January 1, 2011 and not before.

3. BOP auxiliary equipment in accordance with the requirements of LAC 43:XIX.207.E.

4. When coming out of the hole with drill pipe or a workover string, the annulus shall be filled with well-control fluid before the change in such fluid level decreases the hydrostatic pressure 75 pounds per square inch (psi) or every five stands of drill pipe or workover string, whichever gives a lower decrease in hydrostatic pressure. The number of stands of drill pipe or workover string and drill collars that may be pulled prior to filling the hole and the equivalent well-control fluid volume shall be calculated and posted near the operator's station. A mechanical, volumetric, or electronic device for measuring the amount of well-control fluid required to fill the hold shall be utilized.

5. The following well-control-fluid equipment shall be installed, maintained, and utilized:

- a. a fill-up line above the uppermost BOP;
- b. a well-control, fluid-volume measuring device for determining fluid volumes when filling the hole on trips; and
- c. a recording mud-pit-level indicator to determine mud-pit-volume gains and losses. This indicator shall include both a visual and an audible warning device.

E. The minimum BOP-system components for well-workover operations with the tree in place and performed through the wellhead inside of conventional tubing using small-diameter jointed pipe (usually 3/4 inch to 1 1/4 inch) as a work string, i.e., small-tubing operations, shall include two sets of pipe rams, and one set of blind rams.

1. An essentially full-opening work-string safety valve in the open position on the rig floor shall be available at all times while well-workover operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the work string. A wrench to fit the work-string safety valve shall be stored in a location readily accessible to the workover crew.

F. For coiled tubing operations with the production tree in place, you must meet the following minimum requirements for the BOP system:

1. BOP system components must be in the following order from the top down when expected surface pressures are less than or equal to 3,500 psi:

- a. stripper or annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. kill line inlet;
- e. hydraulically operated two-way slip rams;
- f. hydraulically operated pipe rams.

2. BOP system components must be in the following order from the top down when expected surface pressures are greater than 3,500 psi:

- a. stripper or annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. kill line inlet;
- e. hydraulically-operated two-way slip rams;
- f. hydraulically-operated pipe rams;
- g. hydraulically-operated blind-shear rams. These rams should be located as close to the tree as practical.

3. BOP system components must be in the following order from the top down for wells with returns taken through an outlet on the BOP stack:

- a. stripper or annular-type well control component;
- b. hydraulically-operated blind rams;
- c. hydraulically-operated shear rams;
- d. kill line inlet;
- e. hydraulically-operated two-way slip rams;
- f. hydraulically-operated pipe rams;
- g. a flow tee or cross;
- h. hydraulically-operated pipe rams;
- i. hydraulically-operated blind-shear rams on wells

with surface pressures less than or equal to 3,500 psi. As an option, the pipe rams can be placed below the blind-shear rams. The blind-shear rams should be placed as close to the tree as practical.

4. A set of hydraulically-operated combination rams may be used for the blind rams and shear rams.

5. A set of hydraulically-operated combination rams may be used for the hydraulic two-way slip rams and the hydraulically-operated pipe rams.

6. A dual check valve assembly must be attached to the coiled tubing connector at the downhole end of the coiled tubing string for all coiled tubing well-workover operations. To conduct operations without a downhole check valve, it must be approved by the district manager.

7. A kill line and a separate choke line are required. Each line must be equipped with two full-opening valves and at least one of the valves must be remotely controlled. A manual valve must be used instead of the remotely controlled valve on the kill line if a check valve is installed between the two full-opening manual valves and the pump or manifold. The valves must have a working pressure rating equal to or greater than the working pressure rating of the connection to which they are attached, and must be installed between the well control stack and the choke or kill line. For operations with expected surface pressures greater than 3,500 psi, the kill line must be connected to a pump or manifold. The kill line inlet on the BOP stack must not be used for taking fluid returns from the wellbore.

8. The hydraulic-actuating system must provide sufficient accumulator capacity to close-open-close each component in the BOP stack. This cycle must be completed with at least 200 psi above the pre-charge pressure without assistance from a charging system.

9. All connections used in the surface BOP system from the tree to the uppermost required ram must be flanged, including the connections between the well control stack and the first full-opening valve on the choke line and the kill line.

10. The coiled tubing connector must be tested to a low pressure of 200 to 300 psi, followed by a high pressure test to the rated working pressure of the connector or the expected surface pressure, whichever is less. The dual check valves must be successfully pressure tested to the rated working pressure of the connector, the rated working pressure of the dual check valve, expected surface pressure, or the collapse pressure of the coiled tubing, whichever is less.

G. The minimum BOP-system components for well-workover operations with the tree in place and performed by moving tubing or drill pipe in or out of a well under pressure utilizing equipment specifically designed for that purpose, i.e., snubbing operations, shall include the following:

1. one set of pipe rams hydraulically operated; and

2. two sets of stripper-type pipe rams hydraulically operated with spacer spool.

H. Test pressures must be recorded during BOP and coiled tubing tests on a pressure chart, or with a digital recorder, unless otherwise approved by the district manager. The test interval for each BOP system component must be 5 minutes, except for coiled tubing operations, which must include a 10 minute high-pressure test for the coiled tubing string.

I. Wireline Operations. The operator shall comply with the following requirements during routine, as defined in Subsection A of this section, and nonroutine wireline workover operations:

1. Wireline operations shall be conducted so as to minimize leakage of well fluids. Any leakage that does occur shall be contained to prevent pollution.

2. All wireline perforating operations and all other wireline operations where communication exists between the completed hydrocarbon-bearing zone(s) and the wellbore shall use a lubricator assembly containing at least one wireline valve.

3. When the lubricator is initially installed on the well, it shall be successfully pressure tested to the expected shut-in surface pressure.

J. Following completion of the well-workover activity, all such records shall be retained by the operator for a period of two years.

K. An essentially full-opening work-string safety valve in the open position on the rig floor shall be available at all times while well-workover operations are being conducted. This valve shall be maintained on the rig floor to fit all connections that are in the work string. A wrench to fit the work-string safety valve shall be stored in a location readily accessible to the workover crew.

L. The commissioner may grant an exception to any provisions of this section that require specific equipment upon proof of good cause. For consideration of an exception, the operator must show proof of the unavailability of properly sized equipment and demonstrate that anticipated surface pressures minimize the potential for a loss of well control during the proposed operations. All exception requests must be made in writing to the commissioner and include documentation of any available evidence supporting the request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:

### §213. Diesel Engine Safety Requirements

A. On or after January 1, 2011, each diesel engine with an air take device must be equipped to shut down the diesel engine in the event of a runaway.

1. A diesel engine that is not continuously manned, must be equipped with an automatic shutdown device.

2. A diesel engine that is continuously manned, may be equipped with either an automatic or remote manual air intake shutdown device.

3. A diesel engine does not have to be equipped with an air intake device if it meets one of the following criteria:

- a. starts a larger engine;
- b. powers a firewater pump;
- c. powers an emergency generator;
- d. powers a bop accumulator system;

- e. provides air supply to divers or confined entry personnel;
- f. powers temporary equipment on a nonproducing platform;
- g. powers an escape capsule; or
- h. powers a portable single-cylinder rig washer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:

### §215. Drilling Fluids

A. The inspectors and engineers of the Office of Conservation shall have access to the mud records of any drilling well, except those records which pertain to special muds and special work with respect to patentable rights, and shall be allowed to conduct any essential test or tests on the mud used in the drilling of a well. When the conditions and tests indicate a need for a change in the mud or drilling fluid program in order to insure proper control of the well, the district manager shall require the operator or company to use due diligence in correcting any objectionable conditions.

B. Well-control fluids, equipment, and operations shall be designed, utilized, maintained, and/or tested as necessary to control the well in foreseeable conditions and circumstances.

C. The well shall be continuously monitored during all operations and shall not be left unattended at any time unless the well is shut in and secured.

D. The following well-control-fluid equipment shall be installed, maintained, and utilized:

- 1. a fill-up line above the uppermost BOP;
- 2. a well-control, fluid-volume measuring device for determining fluid volumes when filling the hole on trips; and
- 3. a recording mud-pit-level indicator to determine mud-pit-volume gains and losses. This indicator shall include both a visual and an audible warning device.

#### E. Safe Practices

1. Before starting out of the hole with drill pipe, the drilling fluid must be properly conditioned. A volume of drilling fluid equal to the annular volume must be circulated with the drill pipe just off-bottom. This practice may be omitted if documentation in the driller's report shows:

- a. No indication of formation fluid influx before starting to pull the drill pipe from the hole;
- b. The weight of returning drilling fluid is within 0.2 pounds per gallon of the drilling fluid entering the hole;

2. Record each time drilling fluid is circulated in the hole in the driller's report.

3. When coming out of the hole with drill pipe, the annulus must be filled with drilling fluid before the hydrostatic pressure decreases by 75 psi, or every five stands of drill pipe, whichever gives a lower decrease in hydrostatic pressure. The number of stands of drill pipe and drill collars that may be pulled must be calculated before the hole is filled. Both sets of numbers must be posted near the driller's station. A mechanical, volumetric, or electronic device must be used to measure the drilling fluid required to fill the hole.

4. Controlled rates must be used to run and pull drill pipe and downhole tools so as not to swab or surge the well.

5. When there is an indication of swabbing or influx of formation fluids, appropriate measures must be taken to control the well. Circulate and condition the well, on or near-

bottom, unless well or drilling-fluid conditions prevent running the drill pipe back to the bottom.

6. The maximum pressures must be calculated and posted near the driller's console that you may safely contain under a shut-in BOP for each casing string. The pressures posted must consider the surface pressure at which the formation at the shoe would break down, the rated working pressure of the BOP stack, and 70 percent of casing burst (or casing test as approved by the district manager). As a minimum, you must post the following two pressures:

- a. the surface pressure at which the shoe would break down. This calculation must consider the current drilling fluid weight in the hole; and
- b. the lesser of the BOP's rated working pressure or 70 percent of casing-burst pressure (or casing test otherwise approved by the district manager).

7. An operable drilling fluid-gas separator and degasser must be installed before you begin drilling operations. This equipment must be maintained throughout the drilling of the well.

8. The test fluids in the hole must be circulated or reverse circulated before pulling drill-stem test tools from the hole. If circulating out test fluids is not feasible, with an appropriate kill weight fluid test fluids may be bullhead out of the drill-stem test string and tools.

9. When circulating, the drilling fluid must be tested at least once each work shift or more frequently if conditions warrant. The tests must conform to industry-accepted practices and include density, viscosity, and gel strength; hydrogen ion concentration; filtration; and any other tests the district manager requires for monitoring and maintaining drilling fluid quality, prevention of downhole equipment problems and for kick detection. The test results must be recorded in the drilling fluid report.

#### F. Monitoring Drilling Fluids

1. Once drilling fluid returns are established, the following drilling fluid-system monitoring equipment must be installed throughout subsequent drilling operations. This equipment must have the following indicators on the rig floor:

- a. pit level indicator to determine drilling fluid-pit volume gains and losses. This indicator must include both a visual and an audible warning device;
- b. volume measuring device to accurately determine drilling fluid volumes required to fill the hole on trips;
- c. return indicator devices that indicate the relationship between drilling fluid-return flow rate and pump discharge rate. This indicator must include both a visual and an audible warning device; and
- d. gas-detecting equipment to monitor the drilling fluid returns. The indicator may be located in the drilling fluid-logging compartment or on the rig floor. If the indicators are only in the logging compartment, you must continually man the equipment and have a means of immediate communication with the rig floor. If the indicators are on the rig floor only, an audible alarm must be installed.

#### G. Drilling Fluid Quantities

1. Quantities of drilling fluid and drilling fluid materials must be maintained and replenished at the drill site as necessary to ensure well control. These quantities must be determined based on known or anticipated drilling

conditions, rig storage capacity, weather conditions, and estimated time for delivery.

2. The daily inventories of drilling fluid and drilling fluid materials must be recorded, including weight materials and additives in the drilling fluid report.

3. If there are not sufficient quantities of drilling fluid and drilling fluid material to maintain well control, the drilling operations must be suspended.

#### H. Drilling Fluid-Handling Areas

1. Drilling fluid-handling areas must be classified according to API RP 500, recommended practice for classification of locations for electrical installations at petroleum facilities, classified as class I, division 1 and division 2 or API RP 505, recommended practice for classification of locations for electrical installations at petroleum facilities, classified as class 1, zone 0, zone 1, and zone 2. In areas where dangerous concentrations of combustible gas may accumulate. A ventilation system and gas monitors must be installed and maintained. Drilling fluid-handling areas must have the following safety equipment:

a. a ventilation system capable of replacing the air once every 5 minutes or 1.0 cubic feet of air-volume flow per minute, per square foot of area, whichever is greater. In addition:

i. if natural means provide adequate ventilation, then a mechanical ventilation system is not necessary;

ii. if a mechanical system does not run continuously, then it must activate when gas detectors indicate the presence of 1 percent or more of combustible gas by volume; and

iii. if discharges from a mechanical ventilation system may be hazardous, the drilling fluid-handling area must be maintained at a negative pressure. The negative pressure area must be protected by using at least one of the following: a pressure-sensitive alarm, open-door alarms on each access to the area, automatic door-closing devices, air locks, or other devices approved by the district manager;

b. gas detectors and alarms except in open areas where adequate ventilation is provided by natural means. Gas detectors must be tested and recalibrated quarterly. No more than 90 days may elapse between tests;

c. explosion-proof or pressurized electrical equipment to prevent the ignition of explosive gases. Where air is used for pressuring equipment, the air intake must be located outside of and as far as practicable from hazardous areas; and

d. alarms that activate when the mechanical ventilation system fails.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:

#### Subpart 4. Statewide Order No. 29-B-a

### Chapter 11. Required Use of Storm Chokes

#### §1101. Scope

A. Order establishing rules and regulations concerning the required use of storm chokes to prevent blowouts or uncontrolled flow in the case of damage to surface equipment.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 15, 1946, amended March 1, 1961, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:1127 (October 1994), LR 40:

#### §1103. Applicability

A. All wells capable of flow with a surface pressure in excess of 100 pounds, falling within the following categories, shall be equipped with storm chokes:

1. any locations inaccessible during periods of storm and/or floods, including spillways;

2. located in bodies of water being actively navigated;

3. located in wildlife refuges and/or game preserves;

4. located within 660 feet of railroads, ship channels, and other actively navigated bodies of water;

5. located within 660 feet of state and federal highways in southeast Louisiana, in that area east of a north-south line drawn through New Iberia and south of an east-west line through Opelousas;

6. located within 660 feet of state and federal highways in northeast Louisiana, in that area bounded on the west by the Ouachita River, on the north by the Arkansas-Louisiana line, on the east by the Mississippi River, and on the south by the Black and Red Rivers;

7. located within 660 feet of the following highways:

a. U.S. Highway 71 between Alexandria and Krotz Springs;

b. U.S. Highway 190 between Opelousas and Krotz Springs;

c. U.S. Highway 90 between Lake Charles and the Sabine River;

8. located within the corporate limits of any city, town, village, or other municipality.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 15, 1946, amended March 1, 1961, amended and promulgated by Department of Natural Resources, Office of Conservation, LR 20:1128 (October 1994), LR 40:

#### §1104. General Requirements for Storm Choke Use at Water Locations

A. This Section only applies to oil and gas wells at water locations.

B. A subsurface safety valve (SSSV) shall be designed, installed, used, maintained, and tested to ensure reliable operation.

1. The device shall be installed at a depth of 100 feet or more below the seafloor within 2 days after production is established.

2. Until a SSSV is installed, the well shall be attended in the immediate vicinity so that emergency actions may be taken while the well is open to flow. During testing and inspection procedures, the well shall not be left unattended while open to production unless a properly operating subsurface-safety device has been installed in the well.

3. The well shall not be open to flow while the SSSV is removed, except when flowing of the well is necessary for a particular operation such as cutting paraffin, bailing sand, or similar operations.

4. All SSSV's must be inspected, installed, used, maintained, and tested in accordance with American Petroleum Institute recommended practice 14B, recommended practice for design, installation, repair, and operation of subsurface safety valve systems.

C. Temporary Removal for Routine Operations

1. Each wireline or pumpdown-retrievable SSSV may be removed, without further authorization or notice, for a routine operation which does not require the approval of Form DM-4R.

2. The well shall be identified by a sign on the wellhead stating that the SSSV has been removed. If the master valve is open, a trained person shall be in the immediate vicinity of the well to attend the well so that emergency actions may be taken, if necessary.

3. A platform well shall be monitored, but a person need not remain in the well-bay area continuously if the master valve is closed. If the well is on a satellite structure, it must be attended or a pump-through plug installed in the tubing at least 100 feet below the mud line and the master valve closed, unless otherwise approved by the district manager.

4. Each operator shall maintain records indicating the date a SSSV is removed, the reason for its removal, and the date it is reinstalled

D. Emergency Action. In the event of an emergency, such as an impending storm, any well not equipped with a subsurface safety device and which is capable of natural flow shall have the device properly installed as soon as possible with due consideration being given to personnel safety.

E. Design and Operation

1. All SSSVs must be inspected, installed, maintained, and tested in accordance with API RP 14B, recommended practice for design, installation, repair, and operation of subsurface safety valve systems.

2. Testing requirements. Each SSSV installed in a well shall be removed, inspected, and repaired or adjusted, as necessary, and reinstalled or replaced at intervals not exceeding 6 months for those valves not installed in a landing nipple and 12 months for those valves installed in a landing nipple.

3. Records must be retained for a period of 2 years for each safety device installed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:

**§1105. Waivers**

A. Onshore Wells. Where the use of storm chokes would unduly interfere with normal operation of a well, the district manager may, upon submission of pertinent data, in writing, waive the requirements of this order.

B. Offshore Wells

1. The district manager, upon submission of pertinent data, in writing explaining the efforts made to overcome the particular difficulties encountered, may waive the use of a subsurface safety valve under the following circumstances, and may, in his discretion, require in lieu thereof a surface safety valve:

a. where sand is produced to such an extent or in such a manner as to tend to plug the tubing or make inoperative the subsurface safety valve;

b. when the flowing pressure of the well is in excess of 100 psi but is inadequate to activate the subsurface safety valve;

c. where flow rate fluctuations or water production difficulties are so severe that the subsurface safety valve would prevent the well from producing at its allowable rate;

d. where mechanical well conditions do not permit the installation of a subsurface safety valve;

e. in such other cases as the district manager may deem necessary to grant an exception.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1961, amended March 15, 1961, amended and promulgated by Department of Natural Resources, Office of Conservation, LR 20:1128 (October 1994), LR 40:

James H. Welsh  
Commissioner

1402#085

**DECLARATION OF EMERGENCY**

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

**Disciplinary Rules and Procedures for Adult Offenders  
(LAC 22:I.341)**

In accordance with the provisions R.S. 49:953, the Department of Public Safety and Corrections, Corrections Services, hereby determines that adoption of an Emergency Rule for implementation of amendments to the existing Departmental Regulation No. B-05-001 "Disciplinary Rules and Procedures for Adult Offenders" is necessary. A massive re-writing of the Disciplinary Rules and Procedures for Adult Offenders was undertaken and promulgation of the new procedures occurred in 2013. Since the promulgation, inadvertent errors have been found that could affect the substantial rights of the offender population and need to be corrected. Furthermore, extensive training has been scheduled for staff and offenders in the first quarter of 2014 on the new procedures and the corrections should be made prior to this training.

For the foregoing reasons, the Department of Public Safety and Corrections, Corrections Services, has determined that the adoption of an Emergency Rule for implementation of B-05-001 "Disciplinary Rules and Procedures for Adult Offenders" is necessary and hereby provides notice of its declaration of emergency effective on February 5, 2014, in accordance with R.S. 49:953. This Emergency Rule shall be in effect for 120 days or until adoption of the final rule, whichever occurs first.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE AND LAW  
ENFORCEMENT**

**Part I. Corrections**

**Chapter 3. Adult Services**

**Subchapter B. Disciplinary Rules and Procedures for  
Adult Offenders**

**§341. Disciplinary Rules and Procedures for Adult  
Offenders**

A. - F.1.a.i.(a).(iii).[a].[jiii]. ...

[a].[iv]. the date and approximate time of the offense; and

(a).(iii).[a].[v]. - (c). ...

(d). In instances when an offender is placed in administrative segregation for disciplinary purposes, the supervisor will conduct a review of the documentation to ensure it is complete and correct and, as needed, investigate to confirm the reasonableness of the allegation or circumstances prompting the assignment. This shall be done prior to the conclusion of the supervisor's tour of duty.

(e). Time spent in administrative segregation for the offense for which the offender was placed in administrative segregation must be credited against disciplinary detention or extra duty sentences even when these sanctions are suspended. Credit will not be given for time spent in administrative segregation based upon a request for protection or while an offender is awaiting transfer to another area.

(f). An appropriate review board should review the status of offenders who are in administrative segregation at least every seven days for the first two months and every 30 days thereafter.

F.1.a.ii.(a). ...

(b). Confirmation that the offender was advised of the charges shall be noted on the original of the disciplinary report by evidence of the offender's signature.

(c). If the offender refuses to sign the disciplinary report, the delivering officer shall note the refusal in the offender signature block and initial the box.

b. - b.ii. ...

iii. Counsel substitutes are only those offenders appointed by the warden or designee to assist other offenders with their legal claims, including but not limited to, assistance with filing of administrative remedy procedure requests, disciplinary board appeals and lost property claims. Counsel substitutes are not required to file disciplinary

appeals but should inform the offender who wants to appeal of the proper way to file. They may be removed from their positions if the warden or designee believes it appropriate. Offenders who are not counsel substitutes may not provide services to other offenders without the approval of the warden or designee.

G. - G.3.c. ...

i. Any offender who is placed in administrative segregation for a rule violation must be given a disciplinary hearing within 72 hours of being placed in administrative segregation. Official holidays, weekends, genuine emergencies and good faith efforts by the administration to provide a timely hearing are the only exceptions. The offender must be heard at the next available court date. When it is not possible to provide a full hearing within 72 hours of placement in administrative segregation, the accused must be brought before the disciplinary board, informed of the reasons for the delay and remanded back to administrative segregation or released to his quarters after a date for a full hearing has been set.

G.3.c.ii. - K.2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974), *Ralph v. Dees*, C.A. 71-94, USDC (Md. La.) and *Sandin v. Conner*, 115 S.Ct. 2293 (1995).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:413 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 34:2194 (October 2008), LR 39:3309 (August 2013), LR 40:000 (February 2014).

James M. Le Blanc  
Secretary

1402#036

# Rules

## RULE

### Department of Children and Family Services Division of Programs Licensing Section

Licensing Class “A” Regulations for Child Care Centers  
(LAC 67:III.7302, 7303, 7304, 7305, 7311,  
7315, 7317, 7331, 7333, and 7335)

The Department of Children and Family Services (DCFS), Division of Programs, Licensing Section in accordance with provisions of the Administrative Procedure Act, R.S. 49:953(A) has amended LAC 67:III, Subpart 21, Child Care Licensing, Chapter 73, Subchapter A, Sections 7302, 7303, 7304, 7305, 7311, 7315, 7317, 7331, 7333, and 7335.

In accordance with R.S. 46:1430, this Rule allows the Department of Children and Family Services (DCFS), in lieu of license revocation, to enact intermediate sanctions through the use of civil fines relative to child care facilities that violate the terms of licensure for specific violations, including violations of requirements related to supervision, criminal history checks, state central registry disclosure forms, staff-to-child ratios, motor vehicle checks, or failing to report critical incidents, if such condition or occurrence does not pose an imminent threat to the health, safety, rights, or welfare of a child. These civil fines would not be more than \$250 per day for each assessment, and the aggregate fines assessed for violations determined in any consecutive 12-month period shall not exceed \$2000. In addition, the Rule provides for a process of appeal and notes that all civil fines collected from providers will be placed in the Child Care Licensing Trust Fund for the education and training of employees, staff, or other personnel of child care facilities and child-placing agencies. The Rule also offers clarification and revisions to the specific areas for which a fine may be assessed to include supervision, criminal history checks, state central registry disclosure forms, staff-to-child ratios, motor vehicle checks, and critical incidents. In accordance with R.S. 46:1409.B (10), the Rule includes procedures to allow a day care center to remedy certain deficiencies immediately upon identification by the department.

This Rule is effective on March 1, 2014.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Economic Stability and Self-Sufficiency

#### Subpart 21. Child Care Licensing

#### Chapter 73. Day Care Centers

#### Subchapter A. Licensing Class “A” Regulations for Child Care Centers

#### §7302. Authority

A. - E. ...

F. The following is a listing of individuals by organizational type who are considered owners for licensing purposes.

1. *Individual Ownership*—individual and spouse.

2. *Partnership*—all limited or general partners and managers, including but not limited to, all persons registered as limited or general partners with the Secretary of State’s Corporations Division.

3. *Head Start*—individual responsible for supervising facility directors.

4. *Church Owned, Governmental Entity, or University Owned*—any clergy and/or board member that is present in the child care facility during the hours of operation or when children are present. Clergy and/or board members not present in the child care facility shall provide an annual statement attesting to such.

5. *Corporation* (includes limited liability companies)—any person who has 25 percent or greater share in the ownership or management of the business or who has less than a 25 percent share in the ownership or management of the business and meets one or more of the criteria listed below. If a person has less than a 25 percent share in the ownership or management of the business and does not meet one or more of the criteria listed below, a signed, notarized attestation form shall be submitted in lieu of providing a criminal background clearance. This attestation form is a signed statement which shall be updated annually from each owner acknowledging that he/she has less than a 25 percent share in the ownership or management of the business and that he/she does not meet one or more of the criteria below:

a. has unsupervised access to the children in care at the child care facility;

b. is present in the child care facility during hours of operation;

c. makes decisions regarding the day-to-day operations of the child care facility;

d. hires and/or fires child care staff including the director/director designee; and/or

e. oversees child care staff and/or conducts personnel evaluations of the child care staff.

G. All owners of a child day care facility shall provide documentation of a fingerprint based satisfactory criminal record check (CBC) from Louisiana State Police as required by R.S. 46:51.2., R.S. 15:587.1, and R.S. 1491.3. A copy of the criminal background check shall be submitted for each owner of a child care facility with an initial application, a change of ownership application, a change of location application, and/or an application for renewal of a child day care license. No person with a criminal conviction or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, shall directly or indirectly own, operate, and/or participate in the governance of a child care facility. In addition, neither an owner, nor a director, nor a director designee shall have a conviction of a felony conviction of, plea of guilty, or nolo contendere to any of the following crimes of fraud: 18 U.S.C. 287, 18 U.S.C. 134, R.S. 14:67.11, R.S. 14:68.2, R.S. 14:70, R.S. 14:70.1, R.S. 14:70.4, R.S. 14:70.5, R.S. 14:70.7, R.S. 14:70.8, R.S. 14:71, R.S. 14:71.1, R.S. 14:71.3, R.S. 14:72, R.S. 14:72.1, R.S. 14:72.1.1, R.S. 14:72.4, R.S. 14:72.5, R.S. 14:73.5, and R.S. 14:133.



1. An owner may provide a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police to Licensing. If an owner provides a certified copy of their criminal background check obtained from the Louisiana State Police, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. An original certified copy or a photocopy of the certified copy shall be kept on file at the facility in which the individual currently owns/operates. However, prior to the one year expiration of the certified criminal background check, a new fingerprint based satisfactory criminal background check shall be obtained from Louisiana State Police in order for the individual to continue to be eligible to own or operate the child care facility. If the clearance is not obtained prior to the one year expiration of the certified criminal background check, the owner is no longer eligible to own or operate the child care facility.

2. New members/owners added to a partnership, church, corporation, limited liability corporation or governmental entity where such change does not constitute a change of ownership for licensing purposes shall provide documentation of a satisfactory criminal record check by Louisiana State Police obtained in the same manner as those required by R.S. 46:51.2 and R.S. 15:587.1. No person with a criminal conviction or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, shall directly or indirectly own, operate or participate in the governance of a child care facility.

3. Every owner shall submit the criminal background check with the initial application or, in the case of an existing facility, with the application for renewal of the license. The criminal background check shall indicate that he or she has not been convicted of or pled guilty or nolo contendere to any offense enumerated in R.S. 15:587.1. If the criminal background check shows that any owner has been convicted of or pled guilty or nolo contendere of any enumerated offense under R.S. 15:587.1, the owner or director shall submit the information to the Licensing Section management staff within 24 hours or no later than the next business day, whichever is sooner, upon receipt of the result.

H. All owners shall complete, sign, and date the state central registry disclosure form (SCR 1) as required by R.S. 46:1414.1. This information shall be reported prior to the owner being on the premises of the child care facility, shall be updated annually at the time of licensure renewal, at any time upon the request of DCFS, and within 24 hours or no longer than the next business day, whichever is shorter, of any owner receiving notice of a justified (valid) finding of child abuse and/or neglect against them. If information is known to or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse and/or neglect of a child, the individual shall have a determination by the Risk Evaluation Panel or a ruling by the Division of Administrative Law (DAL) that the individual does not pose a risk to children in order to continue to own or operate a licensed child care facility.

1. Within 24 hours or no later than the next business day, whichever is shorter, of current owners receiving notice

of a justified (valid) finding of child abuse and/or neglect against them, an updated state central registry disclosure form (SCR 1) shall be completed by the owner and submitted to Licensing Section management staff as required by R.S. 46:1414.1. The owner shall request a risk evaluation assessment in accordance with LAC 67:I.305 within 10 calendar days from completion of the state central registry disclosure form or the license shall be revoked. Immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the owner, at any and all times when he/she is in the presence of a child or children, shall be directly supervised by a paid staff (employee) of the facility. The employee responsible for supervising the owner shall have on file a completed state central registry disclosure form indicating that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect. Under no circumstances may an owner with a justified finding be left alone and unsupervised with a child or children pending the disposition of the Risk Evaluation Panel or the DAL determination that the owner does not pose a risk to any child and/or children in care. An owner supervised by an employee who does not have a satisfactory disclosure form on file as provided in this subsection shall be deemed to be alone and unsupervised.

a. Any owner with a justified (valid) finding of abuse and/or neglect on the state central registry must submit, together with the SCR-1 required above either:

i. a written, signed, and dated statement to Licensing Section management staff acknowledging that they are aware of the supervision requirements and understand that under no circumstances are they to be left alone and unsupervised with a child or children and that they shall be directly supervised by a paid staff (employee) of the facility. The employee responsible for supervising the owner shall have on file a completed state central registry disclosure form indicating that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect; or

ii. a written, signed, and dated statement to Licensing Section management staff that he/she will not be on the premises of the facility at any time when a child is present nor during the facility's hours of operation.

b. If the Risk Evaluation Panel determines that the owner poses a risk to children and the individual does not appeal the determination within the required timeframe, the owner shall no longer be eligible to own or operate a child care facility.

c. If the Risk Evaluation Panel determines that the owner poses a risk to children and the individual appeals the determination to the DAL within the required timeframe, the owner shall continue to be under direct supervision when in the presence of a child or children on the child care premises. Supervision must continue until receipt of a ruling from the DAL that the owner does not pose a risk to children.

d. If the DAL upholds the Risk Evaluation Panel's determination that the owner poses a risk to children, the owner shall no longer be eligible to own or operate a child care facility.

2. Prospective owners shall complete, sign, and date the state central registry disclosure form and submit the disclosure form at the time of application to the DCFS

Licensing Section. If a prospective owner discloses that his or her name is currently recorded as a perpetrator on the state central registry, the application shall be denied unless the owner requests a risk evaluation assessment on the state central registry risk evaluation request form (SCR 2) within the required timeframe. DCFS will resume the licensure process when the owner provides the written determination by the Risk Evaluation Panel or the DAL that they do not pose a risk to children.

a. If the Risk Evaluation Panel determines that the prospective owner poses a risk to children and the individual does not appeal the determination within the required timeframe, the prospective owner shall withdraw the application within 14 calendar days of the mailing of the DAL decision or the application shall be denied.

b. If the Risk Evaluation Panel determines that the prospective owner poses a risk to children and the individual appeals the determination to the DAL within the required timeframe, the department shall not proceed with the licensure process until a ruling is made by the DAL that the owner does not pose a risk to children. In addition, if the owner/operator is operating legally with six or less children as defined in R.S. 46:1403, the owner shall submit:

i. a written, signed, and dated statement to Licensing Section management staff acknowledging that they are aware of the supervision requirements and understand that under no circumstances are they to be left alone and unsupervised with a child or children and that they shall be directly supervised by a paid staff (employee) of the facility. The employee responsible for supervising the owner shall have on file a completed state central registry disclosure form indicating that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect; or

ii. a written, signed, and dated statement to Licensing Section management staff that he/she will not be on the premises of the facility at any time when a child is present nor during the facility's hours of operation; or

iii. If the owner/operator is not providing care for any children, a written, signed dated statement to Licensing Section management staff shall note that the owner/operator is not caring for any children and will not care for children prior to receiving a license.

c. If the DAL upholds the Risk Evaluation Panel determination that the prospective owner poses a risk to children, the prospective owner shall withdraw the application within 14 calendar days of the mailing of the DAL decision or the application shall be denied.

3. State central registry disclosure forms, documentation of any disposition of the Risk Evaluation Panel and, when applicable, the DAL ruling shall be maintained in accordance with current DCFS licensing requirements and shall be available for review by DCFS personnel during the facility's hours of operation.

4. Any information received or knowledge acquired that a current or prospective owner and/or operator has falsified a state central registry disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) finding of abuse or neglect shall be reported in writing to Licensing Section management staff as soon as possible, but no later than the close of business on the next business day.

5. Any state central registry disclosure form, Risk Evaluation Panel finding, and DAL ruling that is maintained in a child care facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and/or neglect.

I. Critical Violations/Fines

1. In accordance with R.S. 46:1430, when a provider is cited for violations in the following areas, the Department (DCFS) may at its discretion elect to impose sanctions, revoke a license, or both:

a. §7302.G and/or §7311.A.5 and/or §7311.B—criminal background check;

b. §7302.H and/or §7311.A.6—state central registry disclosure;

c. §7303.F.1 and/or §7303.F.5—critical incidents;

d. §7315.A-D—ratio;

e. §7317—supervision; and/or

f. §7331.N—motor vehicle.

2. The option of imposing other sanctions does not impair the right of DCFS to revoke and/or not renew a provider's license to operate if it determines that the violation poses an imminent threat to the health, safety, rights, or welfare of a child or children. Only when the department finds that the violation does not pose an imminent threat to the health, safety, rights, or welfare of a child or children will the department consider sanctions in lieu of revocation or non-renewal; however, the absence of such an imminent threat does not preclude the possibility of revocation or non-renewal in addition to sanctions, including fines.

3. In determining whether multiple violations of one of the above categories has occurred, both for purposes of this Section and for purposes of establishing a history of non-compliance, all such violations cited during any 24-month period shall be counted, even if one or more of the violations occurred prior to the adoption of the current set of standards. If one or more of the violations occurred prior to adoption of the current set of standards, a violation is deemed to have been repeated if the regulation previously violated is substantially similar to the present rule.

4.a. For the first violation of one of the aforementioned categories, if the department does not revoke or not renew the license, the department may issue a formal warning letter noting the department's intent to take administrative action if further violations of the same category occur.

b. The warning letter shall include a directed corrective action plan (CAP) which shall outline the necessary action and timeframe for such action that a provider shall take in order to maintain compliance with the licensing regulations. The provider shall acknowledge receipt of the warning letter by submitting a written response to the CAP within 14 calendar days of receipt of the letter. Failure by the provider to submit requested information and/or failure to implement the CAP as evidenced by a repeated violation of the same category of the regulations may result in either the assessment of a civil fine, revocation/non-renewal of license, or both.

5. For the second violation of one of the same aforementioned categories within a 24-month period, provider will be assessed a civil fine of up to \$250 per day for violation of each of the aforementioned categories (if same category cited twice) and fined for each day the

provider was determined to be out of compliance with one of the aforementioned categories according to the following schedule of fines:

a. The base fine level for all violations shall be \$200 per day. From the base fine level, factor in any applicable upward or downward adjustments, even if the adjustment causes the total to exceed \$250. If the total fine after all upward and downward adjustments exceeds \$250, reduce the fine for the violation to \$250 as prescribed by law.

i. If the violation resulted in death or serious physical or emotional harm to a child, or placed a child at risk of death or serious physical or emotional harm, increase the fine by \$50.

ii. If a critical violation for child/staff ratio is cited and provider was found to have three or more children above the required ratio, increase the fine by \$50.

iii. If a critical violation for child/staff ratio is cited for failure to have a minimum of two staff present, increase the fine by \$50.

iv. If the provider had a previous license revoked for the same critical violation cited, increase the fine by \$25.

v. If a critical violation for supervision was cited due to a child being left alone outdoors, increase the fine by \$25.

vi. If the age of the child cited in the child/staff ratio critical violation is four years of age or younger, increase the fine by \$25.

vii. If the age of the child cited in the supervision critical violation is four years of age or younger, increase the fine by \$25.

viii. If the critical violation was cited and occurred despite the objective good faith best efforts of licensee to comply, decrease the fine by \$25.

ix. If a critical violation was cited for the provider's incomplete documentation of the motor vehicle check, decrease the fine by \$25.

x. If the cited critical violation was for annual state central registry disclosure forms, decrease the fine by \$25.

xi. If the provider self-reported the incident which caused the critical violation to be cited, decrease the fine by \$25.

6. For the third violation of one of the same aforementioned categories within a 2- month period, the provider's license may be revoked.

7. The aggregate fines assessed for violations determined in any consecutive 12-month period shall not exceed \$2,000. If a critical violation in a different category is noted by DCFS that warrants a fine and the provider has already reached the maximum allowable fine amount that could be assessed by the department in any consecutive twelve month period as defined by the law and the department does not revoke or not renew the license, the department may issue a formal warning letter noting the department's intent to take administrative action if further violations of the same category occur within the 12-month period. The warning letter shall include a directed CAP which shall outline the necessary action and timeframe for such action that a provider shall take in order to maintain compliance with the licensing regulations. The Provider shall acknowledge receipt of the warning letter by

submitting a written response to the CAP within 14 calendar days of receipt of the letter. Failure by the provider to submit requested information and/or failure to implement the CAP as evidenced by a repeated violation of the same category of the regulations may result in revocation/non-renewal of license.

J. Departmental Reconsideration and Appeal Procedure for Fines

1. When a fine is imposed under these regulations, the department shall notify the director or owner by letter that a fine has been assessed due to deficiencies cited at the facility and the right of departmental reconsideration. The notification may be sent by certified mail or hand delivered to the facility. If the director or owner is not present at the facility, delivery of the written reason(s) for such action may be made to any staff of the facility. Notice to a staff shall constitute notice to the facility of such action and the reasons therefore. The letter shall specify the dates and the violation cited for which the fine(s) shall be imposed. Fines are due within 30 calendar days from the date of receipt of the letter unless the provider request a reconsideration of the fine assessment. The provider may request reconsideration of the assessment by asking DCFS for such reconsideration in writing within 10 calendar days from the date of receipt of the letter. A request for reconsideration shall include a copy of the letter from the Licensing Section that notes the reasons for assessment of the fine together with the specific reasons the provider believes assessment of the fine to be unwarranted and shall be mailed to Department of Children and Family Services, Licensing Section, P.O. Box 260035 Baton Rouge, LA 70826. If the provider withdraws the request for reconsideration, the fine is payable within 7 calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

2. The department shall advise the director or owner by letter of the decision of DCFS after reconsideration and the right to appeal. The notification may be sent by certified mail or hand delivered to the facility. If the director or owner is not present at the facility, delivery of the written decision may be made to any staff of the facility. Notice to a staff shall constitute notice to the facility of such action.

a. If DCFS finds that the Licensing Section's assessment of the fine is justified, the provider shall have 15 calendar days from the receipt of the reconsideration letter to appeal the decision to the DAL. A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for assessment of the fine and a copy of the reconsideration decision together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

b. The DCFS Appeals Section shall notify the DAL of receipt of an appeal request. Division of Administrative Law shall conduct a hearing in accordance with the Administrative Procedure Act within 30 days of the receipt thereof, and shall render a decision not later than 60 days from the date of the hearing. The appellant will be notified by letter from DAL of the decision, either affirming or reversing the department's decision.

c. If the provider has filed a timely appeal and the department's assessment of fines is affirmed by an administrative law judge of the DAL, the fine shall be due within 30 calendar days after mailing notice of the final ruling of the administrative law judge or, if a rehearing is requested, within 30 calendar days after the rehearing decision is rendered. The provider shall have the right to seek judicial review of any final ruling of the administrative law judge as provided in the Administrative Procedure Act. If the appeal is dismissed or withdrawn, the fines shall be due and payable within 7 calendar days of the dismissal or withdrawal. If a judicial review is denied or dismissed, either in district court or by a court of appeal, the fines shall be due and payable within 7 calendar days after the provider's suspensive appeal rights have been exhausted.

3. If the provider does not appeal within 15 calendar days of receipt of the department's reconsideration decision, the fine is due within 30 calendar days of receipt of the department's reconsideration decision and shall be mailed to Department of Children and Family Services, Licensing Section, P.O. Box 260035 Baton Rouge, LA 70826. If the provider files a timely appeal, the fines shall be due and payable on the date set forth in §7302.J.2.c. If the provider withdraws the appeal, the fine is payable within 7 calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

4. If the provider does not pay the fine within the specified timeframe, the license shall be immediately revoked and the department shall pursue civil court action to collect the fines, together with all costs of bringing such action, including travel expenses and reasonable attorney fees. Interest shall begin to accrue at the current judicial rate on the day following the date on which the fines become due and payable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1107 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2755 (December 2007), amended LR 36:332 (February 2010), LR 36:847 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:811 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:66 (January 2013), LR 40:000 (February 2014), effective March 1, 2014.

### §7303. Procedures

A. - A.3. ...

#### 4. Change Of Ownership (CHOW)

a. Any of the following constitutes a change of ownership:

- i. change in the federal tax id number;
- ii. change in the state tax id number;
- iii. change in profit status;
- iv. any transfer of the child care business from an individual or juridical entity to any other individual or juridical entity;
- v. termination of child care services by one owner and beginning of services by a different owner without a break in services to the children; and/or

vi. addition of an individual to the existing ownership on file with the Licensing Section.

b. Although the following does not constitute a change of ownership for licensing purposes, a change of information form is required. The change of information form shall be submitted to the Licensing Section within 14 calendar days of the change:

- i. if individual ownership, upon death of the spouse and prior to execution of the estate;
- ii. if individual ownership, upon death of the spouse and execution of the estate, if the surviving spouse remains as the only owner;
- iii. if individual ownership, undergoing a separation or divorce until a judicial termination of the community assets and gains, signed by both parties;
- iv. changes in board members for churches, corporations, limited liability companies, universities, or governmental entities;
- v. any removal of a person from the existing organizational structure under which the child day care facility is currently licensed.

c. A facility facing adverse action shall not be eligible for a CHOW. An application involving a center facing adverse action shall be treated as an initial application rather than a change of ownership.

d. When a facility changes ownership, the current license is not transferable. Prior to the ownership change and in order for a temporary license to be issued, the new owner shall submit a CHOW application packet containing the following:

- i. a completed application and full licensure fee as listed in §7303.B.3 based on current licensed capacity or requested capacity, whichever is less;
- ii. current (as noted in §7303.A.4.e) Office of State Fire Marshal approval;
- iii. current (as noted in §7303.A.4.e) Office of Public Health approval;
- iv. current (as noted in §7303.A.4.e) city fire approval (if applicable);
- v. a sketch or drawing of the premises including classrooms, buildings and enclosed play area;
- vi. a list of staff to include staff's name and position;
- vii. documentation of director qualifications as listed in §7310.B;
- viii. signed and dated statement from current owner noting last day care will be provided at the facility;
- ix. signed and dated statement from new owner noting first day care will be provided at the facility;
- x. documentation of director designee qualifications, if applicable as listed in §7310.B;
- xi. three dated and signed reference letters on the director attesting affirmatively to his/her character, qualifications, and suitability to care and supervise children;
- xii. three dated and signed reference letters on director designee (if applicable) attesting affirmatively to his/her character, qualifications, and suitability to care and supervise children;
- xiii. documentation of a fingerprint-based satisfactory criminal record clearance for all staff, including owners and operators. CBC shall be dated no earlier than 30 days before the application has been received by the

Licensing Section. (the prior owner's documentation of satisfactory criminal background checks is not transferrable); and

xiv. documentation of completed state central registry disclosure forms noting no justified (valid) finding of abuse and/or neglect for all staff including owners and operators or a determination from the Risk Assessment Panel or Division of Administrative Law (DAL) noting that the individual does not pose a risk to children (the prior owner's documentation of state central registry disclosure forms is not transferrable).

e. The prior owner's current Office of State Fire Marshal, Office of Public Health, and city fire approvals are only transferrable for 60 calendar days. The new owner shall obtain approvals dated after the effective date of the new license from these agencies within 60 calendar days. The new owner will be responsible for forwarding the approval or extension from these agencies to the Licensing Section.

f. A licensing inspection shall be conducted within 60 calendar days to verify that the provider is in compliance with the minimum standards. At this time, licensing staff shall complete a measurement of the facility and enclosed, outdoor play yard. Upon review of the space, the capacity of the facility may be reduced or increased as verified by new measurement of the facility.

g. All staff/children's information shall be updated under the new ownership prior to or on the first day care is provided by the new owner.

h. If all information in §7303.A.4.d is not received prior to or on the last day care is provided by the existing owner, the new owner shall not operate until a license is issued. The new owner is not authorized to provide child care services until the licensure process is completed in accordance with §7303.A.1-2.

A.5. - C.4. ...

5. When a child care provider has been cited during an on-site inspection for violation of a licensing standard which the department deems non-critical, the department shall allow the provider an opportunity to immediately remedy the non-critical area of non-compliance if allowing such immediate correction does not endanger the health, safety, or well-being of any child in care. The remedy shall be included in the documentation noted by the department. The department shall exercise its discretion in determining which areas of the licensing standards are deemed critical under the particular circumstances which caused the deficiency to be cited.

a. Licensing staff shall cite the non-critical deficiencies at the time of the inspection and shall note in the inspection findings whether the deficiency was corrected during the licensing inspection. If all non-critical deficiencies are verified as corrected during the inspection and no critical areas of non-compliance are cited, no follow up inspection is required. If non-critical deficiencies are not verified as corrected during the inspection, or if deficiencies in critical areas are cited, a follow-up inspection may be conducted to determine that corrections have been made and maintained in a manner consistent with the licensing standards.

b. The statement of deficiencies shall be placed on the internet for public viewing unless posting the

information violates state or federal law or public policy, and the posted deficiency statements shall note which areas of non-compliance were verified as corrected at the time of the licensing inspection.

c. Areas of non-critical non-compliance may include but are not limited to posted items, paperwork, children's records, documentation of training, furnishing/equipment, and emergency/evacuation procedures.

D. - E.4. ...

F.1. The director shall report all critical incidents as specified below. For the following critical incidents, immediate notification shall be made to emergency personnel and/or law enforcement, as appropriate. In addition, the child's parent shall be contacted. Once contact or attempted contact has been made to child's parent, the director shall verbally notify Licensing Section management staff immediately. The verbal report shall be followed by a written report within 24 hours:

- a. death of a child while in the care of the provider;
- b. illness or injury requiring hospitalization or professional medical attention of a child while in the care of the provider;
- c. any child leaving the facility and/or play yard unsupervised or with an unauthorized person;
- d. any child left unsupervised on the play yard;
- e. use of corporal punishment;
- f. suspected abuse and/or neglect by facility staff;
- g. any child given the wrong medication or an overdose of the correct medication;
- h. leaving any child in a vehicle unsupervised or unsupervised on a field trip;
- i. fire on the child care premises if children are present;
- j. any serious and unusual situation that affects the safety and/or well-being of a child or children in the care of the provider;
- k. any emergency situation that requires sheltering in place;
  - l. implementation of facility lock-down procedures, and/or temporarily relocating children;
  - m. any loss of power over two hours while children are in care;
  - n. an accident involving transportation of children in which children were injured; and/or
  - o. a physical altercation between adults in the presence of children on the child care premises.

2. Director shall ensure that appropriate steps have been taken to ensure the health and safety of the children in sheltering in place and/or lock down situations prior to notifying parents and/or Licensing Section management staff.

3. Within 24 hours or the next business day, the director shall verbally notify Licensing Section management staff of the following reportable incidents. The verbal report shall be followed by a written report within 24 hours:

- a. fire on the child care premises if children not present;
- b. structural damage to the facility; and/or
- c. an accident involving transportation of children in which children were not injured.

4. The written report to DCFS Licensing Section for critical incidents and reportable incidents shall include the following information:

- a. name of facility;
- b. address of facility;
- c. license number;
- d. contact number;
- e. date of incident;
- f. time of incident;
- g. name of child or children involved;
- h. name of staff involved and other staff present;
- i. description of incident;
- j. date and time of notification to parents (to include attempted contacts), law enforcement, and child welfare (CW), if applicable;
- k. signature of person(s) notifying law enforcement, emergency personnel, CW, and parents;
- l. corrective action taken and/or needed to prevent reoccurrence;
- m. date and signature of staff completing report; and
- n. signature of parent, with date and time of signature.

5. The director shall contact or attempt to contact a child's parent immediately upon the occurrence of any critical incident as noted in §7303.F.1 or reportable incident as noted in §7303.F.3.c. If the parent cannot be contacted by phone the director shall notify the child's parent verbally at the time the child is picked up from the facility.

G. - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1108 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2756 (December 2007), amended LR 36:333 (February 2010), LR 36:832 (April 2010), repromulgated LR 36:1272 (June 2010), amended LR 36:1279 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section and Economic Stability and Self-Sufficiency Section, LR 36:2521 (November 2010), repromulgated 37:513 (February 2011), amended by the Department of Children and Family Services, Division of Programs, LR 37:812 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:247 (February 2014), effective March 1, 2014.

**§7304. Definitions**

\* \* \*

*Change of Ownership*—a transfer of ownership of a currently licensed facility that is in operation and caring for children, to another entity without a break in service to the children currently enrolled.

\* \* \*

*Corporation*—any entity incorporated in Louisiana or incorporated in another State, registered with the Secretary of state in Louisiana, and legally authorized to do business in Louisiana.

\* \* \*

*Individual Owner*—a natural person who directly owns a facility without setting up or registering a corporation, LLC, partnership, church, university, or governmental entity. The

spouse of a married owner is also an owner unless the business is the separate property of the licensee acquired before his/her marriage, acquired through a judicial separation of property agreement or acquired via a judicial termination of the community of aquets and gains.

\* \* \*

*Juridical Entity*—corporation, partnership, limited-liability company, church, university, or governmental entity.

\* \* \*

*Natural Person*—a human being and, if that person is married and not judicially separated or divorced, the spouse of that person.

\* \* \*

*Non-Vehicular Excursion*—any activity that takes place outside of the licensed area (play yard and facility), that is within a safe, reasonable walking distance, and that does not require transportation in a motor vehicle. This does not include walking with children to and from schools.

*Owner or Operator*—the individual who exercises ownership or control over a child day care facility, whether such ownership/control is direct or indirect.

*Ownership*—the right that confers on a person direct, immediate, and exclusive authority over a thing. The owner of a thing may use, enjoy, and dispose of it within the limits and under the conditions established by law.

1. *Direct Ownership*—when a natural person is the immediate owner of a child day care facility, i.e., exercising control personally rather than through a juridical entity.

2. *Indirect Ownership*—when the immediate owner is a juridical entity.

*Partnership*—includes any general or limited partnership licensed or authorized to do business in this state. The owners of a partnership are its limited or general partners and any managers thereof.

\* \* \*

*Water Activity*—a water-related activity in which children are in, on, near and accessible to, or immersed in a body of water, including but not limited to a swimming pool, wading pool, water park, lake, river or beach, etc.

*Water Play Activity*—a water-related activity in which there is no standing water, including but not limited to fountains, sprinklers, water slip and slides, water tables, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

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**§7305. General Requirements**

A. - M. ...

N. The physical presence of a sex offender in, on, or within 1,000 feet of a child day care facility is prohibited. Providers and child care staff shall not permit an individual convicted of a sex offense, as defined in R.S. 15:541, physical access to a child day care facility, as defined in R.S. 46:1403.

O. The owner or director of a child day care facility shall be required to call and notify law enforcement agencies and the Licensing Section management staff if a sex offender is on the premises of the child day care facility or within 1,000 feet of the child day care facility. The licensing office shall be contacted immediately. The verbal report shall be followed by a written report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1112 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2759 (December 2007), amended LR 36:333 (February 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:812 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:249 (February 2014), effective March 1, 2014.

### **§7311. Personnel Records**

A. - A.4. ...

5. documentation of a fingerprint based satisfactory criminal record check (CBC) from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being hired by or present in the child care facility. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in any licensed child care facility. CBC shall be dated no earlier than 30 days of the individual's hire date at the facility. If a staff person leaves the employment of the provider for more than 30 calendar days, a new fingerprint based CBC is required prior to the individual being rehired by or present on the child care premises. A criminal background check is satisfactory for purposes of this Section if it shows no arrests for any enumerated offense or, if an arrest is shown on the background check, the background check or certified documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction for any excludable offense. A plea of guilty or nolo contendere shall be deemed a conviction;

a. if an individual applicant has previously obtained a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police such certified copy shall be acceptable as meeting the CBC requirements for employees and/or staff. If an individual provides a certified copy of their criminal background check which he/she has previously obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. An original certified copy or a photocopy of the certified copy shall be kept on file at the facility in which the individual is currently employed/providing child care services. However, prior to the one year expiration of the certified criminal background check, a new fingerprint based satisfactory criminal background check shall be obtained from Louisiana State Police in order for the individual to continue employment/providing child care services at the center. If the clearance is not obtained prior to the one year expiration

of the certified criminal background check, the individual is no longer allowed on the child care premises until a clearance is received;

6. documentation of a state central registry disclosure form (SCR 1) completed by the staff (paid and/or non paid) as required by R.S. 46:1414.1. This information shall be reported prior to the individual being on the premises of the child care facility, shall be updated annually, at any time upon the request of DCFS, and within 24 hours or no later than the next business day, whichever is sooner, of any staff receiving notice of a justified (valid) finding of child abuse and/or neglect. Any current or prospective employee, or volunteer of a child care facility licensed by DCFS is prohibited from working in a child care facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse and/or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law (DAL) that the individual does not pose a risk to children.

a. The prospective paid and/or non paid staff (employee/volunteer) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner or operator of the facility.

i. If a prospective staff (employee/volunteer) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for employment or volunteer duties at that time due to the state central registry disclosure. The director will provide the prospective employee/volunteer with the state central registry risk evaluation request form (SCR 2) so that a risk assessment evaluation may be requested.

ii. Individuals are eligible for employment/volunteer services if and when they provide written determination from the Risk Evaluation Panel or the DAL noting that they do not pose a risk to children.

b. If a current staff receives notice of a justified (valid) finding of child abuse and/or neglect against them, he or she shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) finding as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section management staff within 24 hours or no later than the next business day, whichever is sooner, or upon being on the child care premises, whichever is sooner. Staff will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:I.305 or shall be terminated immediately.

i. If the staff person will no longer be employed at the center, the provider shall immediately submit a signed, dated statement noting the individual's name and termination date.

ii. Immediately upon receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued employment, the staff person with the justified (valid) finding, when in the presence of children shall be directly supervised by a paid staff (employee) of the facility. The employee responsible for such supervision must have on file a completed state central

registry disclosure form indicating that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect, or a determination from either the Risk Evaluation Panel or the DAL that the supervising employee does not pose a risk to children. Under no circumstances may the staff person with the justified finding be left alone and unsupervised with a child or children. The provider shall submit a written statement to Licensing Section management staff acknowledging that the staff person with the justified finding will not be left alone and unsupervised with a child or children pending the disposition by the Risk Evaluation Panel or the DAL that the staff person does not pose a risk to children. When the aforementioned conditions are met, the staff (employee/volunteer) may be counted in child/staff ratio. A person supervised by an employee who does not have a satisfactory disclosure form on file as provided in this subsection shall be deemed to be alone and unsupervised.

(a). If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual does not appeal the finding to the DAL within the required timeframe, the staff (employee/volunteer) shall be terminated immediately.

(b). If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual appeals the finding to the DAL within the required timeframe, the staff (employee/volunteer) shall continue to be under direct supervision while in the presence of children by another paid staff of the facility who has not disclosed that they have a justified (valid) finding on the state central registry until a ruling is made by the DAL that they do not pose a risk to children. Supervision shall not end until receipt of the ruling from the DAL that the employee does not pose a risk to children.

(c). If the DAL upholds the Risk Evaluation Panel finding that the individual does pose a risk to children, the individual shall be terminated immediately.

iii. State central registry disclosure forms, documentation of any disposition of the Risk Evaluation Panel and, when applicable, the DAL ruling shall be maintained in accordance with current DCFS licensing requirements and shall be available for review by DCFS personnel during the facility's hours of operation.

iv. Any information received or knowledge acquired that a current or prospective volunteer, employee, prospective volunteer, or prospective employee has falsified a state central registry disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) finding of abuse and/or neglect shall be reported in writing to a Licensing Section management staff as soon as possible, but no later than the close of business on the next business day.

v. Any state central registry disclosure form, Risk Evaluation Panel finding, and DAL ruling that is maintained in a child care facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and/or neglect.

B. All independent contractors including therapeutic professionals and extracurricular personnel, e.g. contracted transportation drivers, computer instructors, dance instructors, librarians, tumble bus personnel, speech therapists, licensed health care professionals, state-certified

teachers employed through a local school board, Louisiana Department of Education (LDE) staff, local school district staff, art instructors, and other outside contractors shall have the following information on file:

1. documentation of a fingerprint based satisfactory criminal record check (CBC) from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being present in the child care facility or providing services for the child care facility. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, shall be present in any capacity in any licensed child care facility. CBC shall be dated prior to the individual being present on the child care premises. A criminal background check is satisfactory for purposes of this section if it shows no arrests for any enumerated offense or, if an arrest is shown on the background check, the background check or certified documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction for any excludable offense. A plea of guilty or nolo contendere shall be deemed a conviction;

a. if an individual has previously obtained a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police such certified copy shall be acceptable as meeting the CBC requirements for independent contractors. If an individual provides a certified copy of their criminal background check which he/she has previously obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. An original certified copy or a photocopy of the certified copy shall be kept on file at the facility in which the individual is currently providing child care services. However, prior to the one year expiration of the certified criminal background check, a new fingerprint based satisfactory criminal background check shall be obtained from Louisiana State Police in order for the individual to continue providing child care services at the center. If the clearance is not obtained prior to the one year expiration of the certified criminal background check, the individual is no longer allowed on the child care premises until a clearance is received;

b. for the first school year that a LDE staff person or local school district staff person provides services to a child at a child care facility, that LDE staff person or local school district staff person shall provide documentation of a fingerprint based satisfactory criminal record check as required by §7311.A.5 or shall provide the original, completed, signed, notarized, DCFS approved affidavit to the provider prior to being present and working with a child or children at the facility. A photocopy of the original affidavit shall be kept on file at the facility. This affidavit will be acceptable for the entire school year noted in the text of the affidavit and expires on May 31 of the current school year. For all subsequent school years following the first year, the LDE staff or local school district staff person shall present a new affidavit or an original, completed, and signed letter from the superintendent of the school district or designee or superintendent of LDE or designee. The provider will need to view the original letter presented by the LDE staff or local school district staff person and keep a



photocopy of the original letter on file at the facility. This letter will be acceptable for the entire school year noted in the text of the letter and expires on May 31 of the current school year. The letter is acceptable only if the following conditions are met:

- i. the LDE staff person or local school district staff person has remained employed with the same school district as noted in the affidavit the provider has on file;
- ii. the provider has maintained a copy of the affidavit on file; and
- iii. the letter is presented on school district letterhead or LDE letterhead and signed by the superintendent of the school district or designee or superintendent of LDE or designee;

B.2. - C.3.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1114 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2762 (December 2007), amended by the Department of Children and Family Services, Division of Programs, LR 37:813 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:250 (February 2014), effective March 1, 2014.

**§7315. Required Child/Staff Ratios**

A. There shall always be a minimum of two staff present during hours of operation when children are present. In addition, child/staff ratios shall be met at all times as the number of children supervised by one staff person shall not exceed the ratios as indicated below. Only those staff members directly involved in child care and supervision shall be considered in assessing child/staff ratio.

Child/Staff	
Ages of Children	Ratio
Infants under 12 months	5:1
One year old	7:1
Two year old	11:1
Three year old	13:1
Four year old	15:1
Five year old	19:1
Six year old and up	23:1

1. ...
2. During naptime, required staffing shall be present in the building to satisfy child/staff ratios and be available to assist as needed (refer to §7317 regarding supervision requirements).
3. Staff counted for purposes of meeting child/staff ratio shall be awake.

B. ...

C. Child/staff ratio as specified in §7315.A-A.1 shall be met when walking children to and from school.

D. When the nature of a child with special health care needs or the number of children with special health care needs warrants added care, the provider shall add sufficient staff as deemed necessary by the Licensing Section in consultation with the provider to accommodate for these needs.

E. The DCFS form noting required child/staff ratios shall be posted in each room included in the facility's licensed capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1116 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2764 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:252 (February 2014), effective March 1, 2014.

**§7317. Supervision**

A. Children shall be supervised at all times in the facility, on the playground, on field trips, and on non vehicular excursions, including all water activities and water play activities.

1. Children shall not be left alone in any room, (excluding the restroom as noted in §7317.B) outdoors, or in vehicles, even momentarily, without a staff present.

2. A staff person shall be assigned to supervise specific children whose names and whereabouts that staff person shall know and with whom the staff person shall be physically present. Staff shall be able to state how many children are in their care at all times.

B. Children who are developmentally able may be permitted to go to the restroom on the child care premises independently, provided that:

1. staff member's proximity to children assures immediate intervention to safeguard a child from harm while in the restroom;

2. individuals who are not staff members may not enter the facility restroom area while in use by any child other than their own child;

3. a child five years of age and younger shall be supervised by staff members who are able to hear the child while in the restroom; and

4. a child six years of age and older may be permitted to go and return from the restroom without staff; however, staff must know the whereabouts of the child at all times.

C. When children are outside on the play yard, the staff member shall be able to summon another adult staff without leaving the group unsupervised.

D. Staff shall actively supervise children engaged in water activities and shall be able to see all parts of the swimming pool, including the bottom.

E. Children ages two years and above may be grouped together at rest time with one staff in each room supervising the resting children. If two rooms share a common doorway, one staff may supervise the resting children. If the view of the staff supervising the children is obstructed by an object such as a low shelving unit, children shall be checked by sight by staff continually circulating among the resting children.

F. Areas used by the children shall be lighted in such a way as to allow visual supervision at all times.

G. While on duty with a group of children, staff shall devote their entire time to supervising the children, meeting the needs of the children, and participating with them in their

activities. Staff duties that include cooking, housekeeping, and/or administrative functions shall not interfere with the supervision of children.

H. Individuals who do not serve a purpose related to the care of children or who hinder supervision of the children shall not be present in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1116 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2764 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:252 (February 2014), effective March 1, 2014.

### **§7331. General Transportation (Contract, Center-Provided, Parent Provided)**

A. - M. ...

N. A visual inspection of the vehicle is required to ensure that no child was left on the vehicle. A staff person shall physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all enclosed spaces and recesses in the vehicle's interior. The staff conducting the visual check shall record the time of the visual check inspection and sign his or her full name, indicating that no child was left on the vehicle. For field trips, whether facility provided or contracted, the vehicle shall be checked and a face-to-name count conducted prior to leaving facility for destination, when destination is reached, before departing destination for return to facility, and upon return to facility. For daily transportation services, the vehicle shall be inspected at the completion of each trip/route prior to the staff person exiting the vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1119 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2767 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1207 (May 2012), LR 40:253 (February 2014), effective March 1, 2014.

### **§7333. Field Trips (Contract, Center-Provided, Parent Provided)**

A. - A.1.e. ...

f. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1120 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2768 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:253 (February 2014), effective March 1, 2014.

### **§7335. Daily Transportation (Contract or Center-Provided)**

A. - A.1.e. ...

f. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1120 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2768 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:253 (February 2014), effective March 1, 2014.

Suzy Sonnier  
Secretary

1402#041

### **RULE**

#### **Department of Children and Family Services Division of Programs Licensing Section**

Licensing Class "B" Regulations for Child Care Centers  
(LAC 67:III.7355, 7357, 7359, 7361,  
7363, 7365, 7371, 7372 and 7385)

The Department of Children and Family Services (DCFS), Division of Programs, Licensing Section, in accordance with provisions of the Administrative Procedure Act, R.S. 49:953(A), has amended LAC 67:III, Subpart 21, Child Care Licensing, Chapter 73, Subchapter B, Sections 7355, 7357, 7359, 7361, 7363, 7365, 7371, 7372 and 7385.

In accordance with R.S. 46:1430, this Rule allows DCFS, in lieu of license revocation, to enact intermediate sanctions through the use of civil fines relative to child care facilities that violate the terms of licensure for specific violations, including violations of requirements related to supervision, criminal history checks, state central registry disclosure forms, staff-to-child ratios, motor vehicle checks, or failing to report critical incidents, if such condition or occurrence does not pose an imminent threat to the health, safety, rights, or welfare of a child. These civil fines would not be more than \$250 per day for each assessment, and the aggregate fines assessed for violations determined in any consecutive 12-month period shall not exceed \$2000. In addition, the Rule provides for a process of appeal and notes that all civil fines collected from providers will be placed in the Child Care Licensing Trust Fund for the education and training of employees, staff, or other personnel of child care facilities and child-placing agencies. The Rule also offers clarification and revisions to the specific areas for which a fine may be assessed to include supervision, criminal history checks, state central registry disclosure forms, staff-to-child ratios, motor vehicle checks, and critical incidents. In accordance with R.S. 46:1409(B)(10), the Rule includes procedures to allow a day care center to remedy certain deficiencies immediately upon identification by the department.

This Rule is effective March 1, 2014.

**Title 67  
SOCIAL SERVICES**

**Part III. Economic Stability and Self Sufficiency**

**Subpart 21. Child Care Licensing**

**Chapter 73 Day Care Centers**

**Subchapter B. Licensing Class "B" Regulations for  
Child Care Centers**

**§7355. Authority**

A. - E. ...

F. The following is a listing of individuals by organizational type who are considered owners for licensing purposes.

1. *Individual Ownership*—individual and spouse.
2. *Partnership*—all limited or general partners and managers, including but not limited to, all persons registered as limited or general partners with the Secretary of State's Corporations Division.
3. *Head Start*—individual responsible for supervising facility directors.
4. *Church Owned, Governmental Entity, or University Owned*—any clergy and/or board member that is present in the child care facility during the hours of operation or when children are present. Clergy and/or board members not present in the child care facility shall provide an annual statement attesting to such.
5. *Corporation* (includes limited liability companies)—any person who has 25 percent or greater share in the ownership or management of the business or who has less than a 25 percent share in the ownership or management of the business and meets one or more of the criteria listed below. If a person has less than a 25 percent share in the ownership or management of the business and does not meet one or more of the criteria listed below, a signed, notarized attestation form shall be submitted in lieu of providing a criminal background clearance. This attestation form is a signed statement which shall be updated annually from each owner acknowledging that he/she has less than a 25 percent share in the ownership or management of the business and that he/she does not meet one or more of the criteria below:
  - a. has unsupervised access to the children in care at the child care facility;
  - b. is present in the child care facility during hours of operation;
  - c. makes decisions regarding the day-to-day operations of the child care facility;
  - d. hires and/or fires child care staff including the director/director designee; and/or
  - e. oversees child care staff and/or conducts personnel evaluations of the child care staff.

G. All owners of a child day care facility shall provide documentation of a fingerprint based satisfactory criminal record check (CBC) from Louisiana State Police as required by R.S. 46:51.2., R.S. 15:587.1, and R.S. 1491.3. A copy of the criminal background check shall be submitted for each owner of a child care facility with an initial application, a change of ownership application, a change of location application, and/or an application for renewal of a child day care license. No person with a criminal conviction or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, shall directly or indirectly own, operate, and/or participate in the governance of a child care facility. In addition, neither an owner, nor a director, nor a director

designee shall have a conviction of a felony conviction of, plea of guilty, or nolo contendere to any of the following crimes of fraud: 18 U.S.C. 287, 18 U.S.C. 134, R.S. 14:67.11, R.S. 14:68.2, R.S. 14:70, R.S. 14:70.1, R.S. 14:70.4, R.S. 14:70.5, R.S. 14:70.7, R.S. 14:70.8, R.S. 14:71, R.S. 14:71.1, R.S. 14:71.3, R.S. 14:72, R.S. 14:72.1, R.S. 14:72.1.1, R.S. 14:72.4, R.S. 14:72.5, R.S. 14:73.5, and R.S. 14:133.

1. An owner may provide a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police to Licensing. If an owner provides a certified copy of their criminal background check obtained from the Louisiana State Police, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. An original certified copy or a photocopy of the certified copy shall be kept on file at the facility in which the individual currently owns/operates. However, prior to the one year expiration of the certified criminal background check, a new fingerprint based satisfactory criminal background check shall be obtained from Louisiana State Police in order for the individual to continue to be eligible to own or operate the child care facility. If the clearance is not obtained prior to the one year expiration of the certified criminal background check, the owner is no longer eligible to own or operate the child care facility.

2. New members/owners added to a partnership, church, corporation, limited liability corporation or governmental entity where such change does not constitute a change of ownership for licensing purposes shall provide documentation of a satisfactory criminal record check by Louisiana State Police obtained in the same manner as those required by R.S. 46:51.2 and R.S. 15:587.1. No person with a criminal conviction or plea of guilty or nolo contendere to any offense included in R.S. 15:587.1, shall directly or indirectly own, operate or participate in the governance of a child care facility.

3. Every owner shall submit the criminal background check showing that he or she has not been convicted of or pled guilty or nolo contendere to any offense enumerated in R.S. 15:587.1, together with the initial application or, in the case of an existing facility, with the application for renewal of the license. If the criminal background check shows that any owner has been convicted of or pled guilty or nolo contendere to any enumerated offense under R.S. 15:587.1, the owner or director shall submit the information to the Licensing Section management staff within 24 hours or no later than the next business day, whichever is sooner, upon receipt of the result.

H. All owners shall complete, sign, and date the state central registry disclosure form (SCR 1) as required by R.S. 46:1414.1. This information shall be reported prior to the owner being on the premises of the child care facility, shall be updated annually at the time of licensure renewal, at any time upon the request of DCFS, and within 24 hours or no longer than the next business day, whichever is shorter, of any owner receiving notice of a justified (valid) finding of child abuse and/or neglect against them. If information is known to or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse and/or neglect of a

child, the individual shall have a determination by the Risk Evaluation Panel or a ruling by the Division of Administrative Law (DAL) that the individual does not pose a risk to children in order to continue to own or operate a licensed child care facility.

1. Within 24 hours or no later than the next business day, whichever is shorter, of current owners receiving notice of a justified (valid) finding of child abuse and/or neglect against them, an updated state central registry disclosure form (SCR 1) shall be completed by the owner and submitted to Licensing Section management staff as required by R.S. 46:1414.1. The owner shall request a risk evaluation assessment in accordance with LAC 67:I.305 within 10 calendar days from completion of the state central registry disclosure form or the license shall be revoked. Immediately upon the knowledge that a justified (valid) finding has been issued by DCFS, the owner, at any and all times when he/she is in the presence of a child or children, shall be directly supervised by a paid staff (employee) of the facility. The employee responsible for supervising the owner shall have on file a completed state central registry disclosure form indicating that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect. Under no circumstances may an owner with a justified finding be left alone and unsupervised with a child or children pending the disposition of the Risk Evaluation Panel or the DAL determination that the owner does not pose a risk to any child and/or children in care. An owner supervised by an employee who does not have a satisfactory disclosure form on file as provided in this subsection shall be deemed to be alone and unsupervised.

a. Any owner with a justified (valid) finding of abuse and/or neglect on the state central registry must submit, together with the SCR-1 required above either:

i. a written, signed, and dated statement to Licensing Section management staff acknowledging that they are aware of the supervision requirements and understand that under no circumstances are they to be left alone and unsupervised with a child or children and that they shall be directly supervised by a paid staff (employee) of the facility. The employee responsible for supervising the owner shall have on file a completed state central registry disclosure form indicating that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect; or

ii. a written, signed, and dated statement to Licensing Section management staff that he/she will not be on the premises of the facility at any time when a child is present nor during the facility's hours of operation.

b. If the Risk Evaluation Panel determines that the owner poses a risk to children and the individual does not appeal the determination within the required timeframe, the owner shall no longer be eligible to own or operate the child care facility.

c. If the Risk Evaluation Panel determines that the owner poses a risk to children and the individual appeals the determination to the DAL within the required timeframe, the owner shall continue to be under direct supervision when in the presence of a child or children on the child care premises. Supervision must continue until receipt of a ruling from the DAL that the owner does not pose a risk to children.

d. If the DAL upholds the Risk Evaluation Panel's determination that the owner poses a risk to children, the owner shall no longer be eligible to own or operate the child care facility.

2. Prospective owners shall complete, sign, and date the state central registry disclosure form and submit the disclosure form at the time of application to the DCFS Licensing Section. If a prospective owner discloses that his or her name is currently recorded as a perpetrator on the state central registry, the application shall be denied unless the owner requests a risk evaluation assessment on the state central registry risk evaluation request form (SCR 2) within the required timeframe. DCFS will resume the licensure process when the owner provides the written determination by the Risk Evaluation Panel or the DAL that they do not pose a risk to children.

a. If the Risk Evaluation Panel determines that the prospective owner poses a risk to children and the individual does not appeal the determination within the required timeframe, the prospective owner shall withdraw the application within 14 calendar days of the mailing of the DAL decision or the application shall be denied.

b. If the Risk Evaluation Panel determines that the prospective owner poses a risk to children and the individual appeals the determination to the DAL within the required timeframe, the department shall not proceed with the licensure process until a ruling is made by the DAL that the owner does not pose a risk to children. In addition, if the owner/operator is operating legally with six or less children as defined in R.S 46:1403, the owner shall submit:

i. a written, signed, and dated statement to Licensing Section management staff acknowledging that they are aware of the supervision requirements and understand that under no circumstances are they to be left alone and unsupervised with a child or children and that they shall be directly supervised by a paid staff (employee) of the facility. The employee responsible for supervising the owner shall have on file a completed state central registry disclosure form indicating that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect; or

ii. a written, signed, and dated statement to Licensing Section management staff that he/she will not be on the premises of the facility at any time when a child is present nor during the facility's hours of operation; or

iii. If the owner/operator is not providing care for any children, a written, signed dated statement to Licensing Section management staff shall note that the owner/operator is not caring for any children and will not care for children prior to receiving a license.

c. If the DAL upholds the Risk Evaluation Panel determination that the prospective owner poses a risk to children, the prospective owner shall withdraw the application within 14 calendar days of the mailing of the DAL decision or the application shall be denied.

3. State central registry disclosure forms, documentation of any disposition of the Risk Evaluation Panel and, when applicable, the DAL ruling shall be maintained in accordance with current DCFS licensing requirements and shall be available for review by DCFS personnel during the facility's hours of operation.

4. Any information received or knowledge acquired that a current or prospective owner and/or operator has falsified a state central registry disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) finding of abuse or neglect shall be reported in writing to Licensing Section management staff as soon as possible, but no later than the close of business on the next business day.

5. Any state central registry disclosure form, Risk Evaluation Panel finding, and DAL ruling that is maintained in a child care facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and/or neglect.

I. Critical Violations/Fines

1. In accordance with R.S. 46:1430, when a provider is cited for violations in the following areas, the department (DCFS) may at its discretion elect to impose sanctions, revoke a license, or both:

- a. §7355.G and/or §7365.C.4, and/or §7365.C.5—criminal background check;
- b. §7355.H and/or §7365.C.6—state central registry disclosure;
- c. §7361.M.1 and/or 7361.M.5—critical incidents;
- d. §7363.C.1.i and/or 7363.D.2—motor vehicle;
- e. §7371.A—ratio, and/or;
- f. §7372—supervision.

2. The option of imposing other sanctions does not impair the right of DCFS to revoke and/or not renew a provider's license to operate if it determines that the violation poses an imminent threat to the health, safety, rights, or welfare of a child or children. Only when the department finds that the violation does not pose an imminent threat to the health, safety, rights, or welfare of a child or children will the department consider sanctions in lieu of revocation or non-renewal; however, the absence of such an imminent threat does not preclude the possibility of revocation or non-renewal in addition to sanctions, including fines.

3. In determining whether multiple violations of one of the above categories has occurred, both for purposes of this section and for purposes of establishing a history of non-compliance, all such violations cited during any 24-month period shall be counted, even if one or more of the violations occurred prior to the adoption of the current set of standards. If one or more of the violations occurred prior to adoption of the current set of standards, a violation is deemed to have been repeated if the regulation previously violated is substantially similar to the present rule.

4.a. For the first violation of one of the aforementioned categories, if the department does not revoke or not renew the license, the department may issue a formal warning letter noting the department's intent to take administrative action if further violations of the same category occur.

b. The warning letter shall include a directed corrective action plan (CAP) which shall outline the necessary action and timeframe for such action that a provider shall take in order to maintain compliance with the licensing regulations. The provider shall acknowledge receipt of the warning letter by submitting a written response to the CAP within 14 calendar days of receipt of the letter. Failure by the provider to submit requested information and/or failure to implement the CAP as evidenced by a

repeated violation of the same category of the regulations may result in either the assessment of a civil fine, revocation/non-renewal of license, or both.

5. For the second violation of one of the same aforementioned categories within a 24-month period, provider will be assessed a civil fine of up to \$250 per day for violation of each of the aforementioned categories (if same category cited (twice) and fined for each day the provider was determined to be out of compliance with one of the aforementioned categories according to the following schedule of fines:

a. The base fine level for all violations shall be \$200 per day. From the base fine level, factor in any applicable upward or downward adjustments, even if the adjustment causes the total to exceed \$250. If the total fine after all upward and downward adjustments, exceeds \$250, reduce the fine for the violation to \$250 as prescribed by law.

i. If the violation resulted in death or serious physical or emotional harm to a child, or placed a child at risk of death or serious physical or emotional harm, increase the fine by \$50.

ii. If a critical violation for child/staff ratio is cited and provider was found to have three or more children above the required ratio, increase the fine by \$50.

iii. If a critical violation for child/staff ratio is cited for failure to have a minimum of two staff present, increase the fine by \$50.

iv. If the provider had a previous license revoked for the same critical violation cited, increase the fine by \$25.

v. If a critical violation for supervision was cited due to a child being left alone outdoors, increase the fine by \$25.

vi. If the age of the child cited in the child/staff ratio critical violation is four years of age or younger, increase the fine by \$25.

vii. If the age of the child cited in the supervision critical violation is four years of age or younger, increase the fine by \$25.

viii. If the critical violation was cited and occurred despite the objective good faith best efforts of licensee to comply, decrease the fine by \$25.

ix. If a critical violation was cited for the provider's incomplete documentation of the motor vehicle check, decrease the fine by \$25.

x. If the cited critical violation was for annual state central registry disclosure forms, decrease the fine by \$25.

xi. If the provider self-reported the incident which caused the critical violation to be cited, decrease the fine by \$25.

6. For the third violation of one of the same aforementioned categories within a 24-month period, the provider's license may be revoked.

7. The aggregate fines assessed for violations determined in any consecutive 12-month period shall not exceed \$2,000. If a critical violation in a different category is noted by DCFS that warrants a fine and the provider has already reached the maximum allowable fine amount that could be assessed by the department in any consecutive 12-month period as defined by the law and the department does not revoke or not renew the license, the department may

issue a formal warning letter noting the department's intent to take administrative action if further violations of the same category occur within the 12-month period. The warning letter shall include a directed CAP which shall outline the necessary action and timeframe for such action that a provider shall take in order to maintain compliance with the licensing regulations. The provider shall acknowledge receipt of the warning letter by submitting a written response to the CAP within 14 calendar days of receipt of the letter. Failure by the provider to submit requested information and/or failure to implement the CAP as evidenced by a repeated violation of the same category of the regulations may result in revocation/non-renewal of license.

#### J. Departmental Reconsideration and Appeal Procedure for Fines

1. When a fine is imposed under these regulations, the department shall notify the director or owner by letter that a fine has been assessed due to deficiencies cited at the facility and the right of departmental reconsideration. The notification may be sent by certified mail or hand delivered to the facility. If the director or owner is not present at the facility, delivery of the written reason(s) for such action may be made to any staff of the facility. Notice to a staff shall constitute notice to the facility of such action and the reasons therefore. The letter shall specify the dates and the violation cited for which the fine(s) shall be imposed. Fines are due within 30 calendar days from the date of receipt of the letter unless the provider request a reconsideration of the fine assessment. The provider may request reconsideration of the assessment by asking DCFS for such reconsideration in writing within 10 calendar days from the date of receipt of the letter. A request for reconsideration shall include a copy of the letter from the Licensing Section that notes the reasons for assessment of the fine together with the specific reasons the provider believes assessment of the fine to be unwarranted and shall be mailed to Department of Children and Family Services, Licensing Section, P.O. Box 260035 Baton Rouge, LA 70826. If the provider withdraws the request for reconsideration, the fine is payable within 7 calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

2. The department shall advise the director or owner by letter of the decision of DCFS after reconsideration and the right to appeal. The notification may be sent by certified mail or hand delivered to the facility. If the director or owner is not present at the facility, delivery of the written decision may be made to any staff of the facility. Notice to a staff shall constitute notice to the facility of such action.

a. If DCFS finds that the Licensing Section's assessment of the fine is justified, the provider shall have 15 calendar days from the receipt of the reconsideration letter to appeal the decision to the DAL. A request for appeal shall include a copy of the letter from the Licensing Section that notes the reasons for assessment of the fine and a copy of the reconsideration decision together with the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have been reached in error, and shall be mailed to Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

b. The DCFS Appeals Section shall notify the DAL of receipt of an appeal request. Division of Administrative

Law (DAL) shall conduct a hearing in accordance with the Administrative Procedure Act within 30 days of the receipt thereof, and shall render a decision not later than 60 days from the date of the hearing. The appellant will be notified by letter from DAL of the decision, either affirming or reversing the department's decision.

c. If the provider has filed a timely appeal and the department's assessment of fines is affirmed by an administrative law judge of the DAL, the fine shall be due within 30 calendar days after mailing notice of the final ruling of the administrative law judge or, if a rehearing is requested, within 30 calendar days after the rehearing decision is rendered. The provider shall have the right to seek judicial review of any final ruling of the administrative law judge as provided in the Administrative Procedure Act. If the appeal is dismissed or withdrawn, the fines shall be due and payable within 7 calendar days of the dismissal or withdrawal. If a judicial review is denied or dismissed, either in district court or by a court of appeal, the fines shall be due and payable within 7 calendar days after the provider's suspensive appeal rights have been exhausted.

3. If the provider does not appeal within 15 calendar days of receipt of the department's reconsideration decision, the fine is due within 30 calendar days of receipt of the department's reconsideration decision and shall be mailed to Department of Children and Family Services, Licensing Section, P.O. Box 260035 Baton Rouge, LA 70826. If the provider files a timely appeal, the fines shall be due and payable on the date set forth in §7355.J.2.c. If the provider withdraws the appeal, the fine is payable within 7 calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

4. If the provider does not pay the fine within the specified timeframe, the license shall be immediately revoked and the department shall pursue civil court action to collect the fines, together with all costs of bringing such action, including travel expenses and reasonable attorney fees. Interest shall begin to accrue at the current judicial rate on the day following the date on which the fines become due and payable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1635 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended LR 36:333 (February 2010), LR 36:849 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:66 (January 2013), LR 40:254 (February 2014), effective March 1, 2014.

#### §7357. Definitions

A. ...

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*Change of Ownership*—a transfer of ownership of a currently licensed facility that is in operation and caring for children, to another entity without a break in service to the children currently enrolled.

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*Corporation*—any entity incorporated in Louisiana or incorporated in another state, registered with the Secretary of

State in Louisiana, and legally authorized to do business in Louisiana.

\* \* \*

*Individual Owner*—a natural person who directly owns a facility without setting up or registering a corporation, LLC, partnership, church, university, or governmental entity. The spouse of a married owner is also an owner unless the business is the separate property of the licensee acquired before his/her marriage, acquired through a judicial separation of property agreement or acquired via a judicial termination of the community of acquets and gains.

\* \* \*

*Juridical Entity*—corporation, partnership, limited-liability company, church, university, or governmental entity.

\* \* \*

*Natural Person*—a human being and, if that person is married and not judicially separated or divorced, the spouse of that person.

*Non-Vehicular Excursion*—any activity that takes place outside of the licensed area (play yard and facility), that is within a safe, reasonable walking distance, and that does not require transportation in a motor vehicle. This does not include walking with children to and from schools.

*Owner* or *Operator*—the individual who exercises ownership or control over a child day care facility, whether such ownership/control is direct or indirect.

*Ownership*—the right that confers on a person direct, immediate, and exclusive authority over a thing. The owner of a thing may use, enjoy, and dispose of it within the limits and under the conditions established by law.

a. *Direct Ownership*—when a natural person is the immediate owner of a child day care facility, i.e., exercising control personally rather than through a juridical entity.

b. *Indirect Ownership*—when the immediate owner is a juridical entity.

*Partnership*—includes any general or limited partnership licensed or authorized to do business in this state. The owners of a partnership are its limited or general partners and any managers thereof.

\* \* \*

*Water Activity*—a water-related activity in which children are in, on, near and accessible to, or immersed in, a body of water, including but not limited to a swimming pool, wading pool, water park, river, lake, beach, etc.

*Water Play Activity*—a water-related activity in which there is no standing water, including but not limited to fountains, sprinklers, water slip and slides, water tables, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended LR 36:334 (February 2010), LR 36:850 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:814 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:471 (March 2013), LR 40:257 (February 2014), effective March 1, 2014.

## §7359. Procedures

A. - A.3. ...

### 4. Change Of Ownership (CHOW)

a. Any of the following constitutes a change of ownership:

- i. change in the federal tax id number;
- ii. change in the state tax id number;
- iii. change in profit status;

iv. any transfer of the child care business from an individual or juridical entity to any other individual or juridical entity;

v. termination of child care services by one owner and beginning of services by a different owner without a break in services to the children; and/or

vi. addition of an individual to the existing ownership on file with the Licensing Section.

b. Although the following does not constitute a change of ownership for licensing purposes, a change of information form is required. The change of information form shall be submitted to the Licensing Section within 14 calendar days of the change:

i. if individual ownership, upon death of the spouse and prior to execution of the estate;

ii. if individual ownership, upon death of the spouse and execution of the estate, if the surviving spouse remains as the only owner;

iii. if individual ownership, undergoing a separation or divorce until a judicial termination of the community acquets and gains, signed by both parties;

iv. changes in board members for churches, corporations, limited liability companies, universities, or governmental entities;

v. any removal of a person from the existing organizational structure under which the child day care facility is currently licensed.

c. A facility facing adverse action shall not be eligible for a CHOW. An application involving a center facing adverse action shall be treated as an initial application rather than a change of ownership.

d. When a facility changes ownership, the current license is not transferable. Prior to the ownership change and in order for a temporary license to be issued, the new owner shall submit a CHOW application packet containing the following:

i. a completed application and full licensure fee as listed in §7359.B.2 based on current licensed capacity or requested capacity, whichever is less;

ii. current (as noted in §7359.A.4.e) Office of State Fire Marshal approval;

iii. current (as noted in §7359.A.4.e) Office of Public Health approval;

iv. current (as noted in §7359.A.4.e) City Fire approval (if applicable);

v. a sketch or drawing of the premises including classrooms, buildings and enclosed play area;

vi. a list of staff to include staff's name and position;

vii. documentation of director qualifications as listed in §7369.A;

viii. signed and dated statement from current owner noting last day care will be provided at the facility;

ix. signed and dated statement from new owner noting first day care will be provided at the facility;

x. three dated and signed reference letters on the director attesting affirmatively to his/her character, qualifications, and suitability to care and supervise children;

xi. documentation of a fingerprint-based satisfactory criminal record clearance for all staff, including owners and operators. CBC shall be dated no earlier than 30 days before the application has been received by the Licensing Section (the prior owner's documentation of satisfactory criminal background checks is not transferrable); and

xii. documentation of completed state central registry disclosure forms noting no justified (valid) finding of abuse and/or neglect for all staff including owners and operators or a determination from the Risk Assessment Panel or Division of Administrative Law (DAL) noting that the individual does not pose a risk to children (the prior owner's documentation of state central registry disclosure forms is not transferrable).

e. The prior owner's current Office of State Fire Marshal, Office of Public Health, and City Fire approvals are only transferrable for 60 calendar days. The new owner shall obtain approvals dated after the effective date of the new license from these agencies within 60 calendar days. The new owner will be responsible for forwarding the approval or extension from these agencies to the Licensing Section.

f. A licensing inspection shall be conducted within 60 calendar days to verify that the provider is in compliance with the minimum standards. At this time, licensing staff shall complete a measurement of the facility and enclosed, outdoor play yard. Upon review of the space, the capacity of the facility may be reduced or increased as verified by new measurement of the facility.

g. All staff/children's information shall be updated under the new ownership prior to or on the first day care is provided by the new owner.

h. If all information in §7359.A.4.d is not received prior to or on the last day care is provided by the existing owner, the new owner shall not operate until a license is issued. The new owner is not authorized to provide child care services until the licensure process is completed in accordance with §7359.A.1-2.

A.5. - E.3. ...

4. When a child care provider has been cited during an on-site inspection for violation of a licensing standard which the department deems non-critical, the department shall allow the provider an opportunity to immediately remedy the non-critical area of non-compliance if allowing such immediate correction does not endanger the health, safety, or well-being of any child in care. The remedy shall be included in the documentation noted by the department. The department shall exercise its discretion in determining which areas of the licensing standards are deemed critical under the particular circumstances which caused the deficiency to be cited.

a. Licensing staff shall cite the non-critical deficiencies at the time of the inspection and shall note in the inspection findings whether the deficiency was corrected during the licensing inspection. If all non-critical deficiencies are verified as corrected during the inspection

and no critical areas of non-compliance are cited, no follow up inspection is required. If non-critical deficiencies are not verified as corrected during the inspection, or if deficiencies in critical areas are cited, a follow-up inspection may be conducted to determine that corrections have been made and maintained in a manner consistent with the licensing standards.

b. The statement of deficiencies shall be placed on the internet for public viewing unless posting the information violates state or federal law or public policy, and the posted deficiency statements shall note which areas of non-compliance were verified as corrected at the time of the licensing inspection.

c. Areas of non-critical non-compliance may include but are not limited to posted items, paperwork, children's records, documentation of training, furnishing/equipment, and emergency/evacuation procedures.

F. - J.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1636 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2771 (December 2007), amended LR 36:335 (February 2010), LR 36:833 (April 2010), repromulgated LR 36:1273 (June 2010), amended LR 36:1279 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section and Economic Stability and Self-Sufficiency Section, LR 36:2521 (November 2010), repromulgated LR 37:513 (February 2011), amended by the Department of Children and Family Services, Division of Programs, LR 37:814 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:258 (February 2014), effective March 1, 2014.

### §7361. General Requirements

A. - L. ...

M.1. The director shall report all critical incidents as specified below. For the following critical incidents, immediate notification shall be made to emergency personnel and/or law enforcement, as appropriate. In addition, the child's parent shall be contacted. Once contact or attempted contact has been made to child's parent, the director shall verbally notify Licensing Section Management staff immediately. The verbal report shall be followed by a written report within 24 hours:

- a. death of a child while in the care of the provider;
- b. illness or injury requiring hospitalization or professional medical attention of a child while in the care of the provider;
- c. any child leaving the facility and/or play yard unsupervised or with an unauthorized person;
- d. any child left unsupervised on the play yard;
- e. use of corporal punishment;
- f. suspected abuse and/or neglect by facility staff;
- g. any child given the wrong medication or an overdose of the correct medication;
- h. leaving any child in a vehicle unsupervised or unsupervised on a field trip;
- i. fire on the child care premises if children are present;



j. any serious and unusual situation that affects the safety and/or well-being of a child or children in the care of the provider;

k. any emergency situation that requires sheltering in place;

l. implementation of facility lock-down procedures, and/or temporarily relocating children;

m. any loss of power over two hours while children are in care;

n. an accident involving transportation of children in which children were injured; and/or

o. a physical altercation between adults in the presence of children on the child care premises.

2. Director shall ensure that appropriate steps have been taken to ensure the health and safety of the children in sheltering in place and/or lock down situations prior to notifying parents and/or Licensing Section management staff.

3. Within 24 hours or the next business day, the director shall verbally notify Licensing Section management staff of the following reportable incidents. The verbal report shall be followed by a written report within 24 hours:

a. fire on the child care premises if children not present;

b. structural damage to the facility; and/or

c. an accident involving transportation of children in which children were not injured.

4. The written report to DCFS Licensing Section for critical incidents and reportable incidents shall include the following information:

a. name of facility;

b. address of facility;

c. license number;

d. contact number;

e. date of incident;

f. time of incident;

g. name of child or children involved;

h. name of staff involved and other staff present;

i. description of incident;

j. date and time of notification to parents (to include attempted contacts), law enforcement, and child welfare (CW), if applicable;

k. signature of person(s) notifying law enforcement, emergency personnel, CW, and parents;

l. corrective action taken and/or needed to prevent reoccurrence;

m. date and signature of staff completing report; and

n. signature of parent, with date and time of signature.

5. The director shall contact or attempt to contact a child's parent immediately upon the occurrence of any critical incident as noted in §7361.M.1 or reportable incident as noted in §7361.M.3.c. If the parent cannot be contacted by phone the director shall notify the child's parent verbally at the time the child is picked up from the facility.

N. The physical presence of a sex offender in, on, or within 1,000 feet of a child day care facility is prohibited. Providers and child care staff shall not permit an individual convicted of a sex offense as defined in R.S. 15:541 physical access to a child day care facility as defined in R.S. 46:1403.

O. The owner or director of a child day care facility shall be required to call and notify law enforcement agencies and

the licensing management staff if a sex offender is on the premises of the child day care facility or within 1,000 feet of the child day care facility. The licensing office shall be contacted immediately. The verbal report shall be followed by a written report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1638 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2773 (December 2007), amended LR 36:335 (February 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:814 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:259 (February 2014), effective March 1, 2014.

### §7363. Transportation

A. - C.1.h. ...

i. a visual inspection of the vehicle is conducted to verify that no child was left on the vehicle. A staff person shall physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all enclosed spaces and recesses in the vehicle's interior. The staff conducting the visual check shall record the time of the visual check inspection and sign his or her full name, indicating that no child was left on the vehicle. For daily transportation services, the vehicle shall be inspected at the completion of each trip/route prior to the staff person exiting the vehicle.

1.j. - 10. ...

D.1. Field Trips. Whether transportation for field trips is provided by the center, parents, or an outside source, there shall be signed parental authorization for each child to leave the center and to be transported in the vehicle.

2. A visual inspection of the vehicle is required to ensure that no child was left on the vehicle. A staff person shall physically walk through the vehicle and inspect all seat surfaces, under all seats, and in all enclosed spaces and recesses in the vehicle's interior. The staff conducting the visual check shall record the time of the visual check inspection and sign his or her full name, indicating that no child was left on the vehicle. For field trips, whether facility provided or contracted, the vehicle shall be checked and a face-to-name count conducted prior to leaving facility for destination, when destination is reached, before departing destination for return to facility, and upon return to facility.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 26:1638 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2773 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1207 (May 2012), LR 40:260 (February 2014), effective March 1, 2014.

### §7365. Center Staff

A. - C.3. ...

4. Criminal Records Check. All paid and unpaid staff persons, substitutes, and foster grandparents shall have documentation of a fingerprint based satisfactory criminal record check (CBC) from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the

individual being hired by or present in the child care facility. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in any licensed child care facility. CBC shall be dated no earlier than 30 days of the individual's hire date at the facility. If a staff person leaves the employment of the provider for more than 30 calendar days, a new fingerprint based CBC is required prior to the individual being rehired by or present on the child care premises. A criminal background check is satisfactory for purposes of this section if it shows no arrests for any enumerated offense or, if an arrest is shown on the background check, the background check or certified documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction for any excludable offense. A plea of guilty or nolo contendere shall be deemed a conviction.

a. If an individual applicant has previously obtained a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police such certified copy shall be acceptable as meeting the CBC requirements for employees and/or staff. If an individual provides a certified copy of their criminal background check which he/she has previously obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. An original certified copy or a photocopy of the certified copy shall be kept on file at the facility in which the individual is currently employed/providing child care services. However, prior to the one year expiration of the certified criminal background check, a new fingerprint based satisfactory criminal background check shall be obtained from Louisiana State Police in order for the individual to continue employment/providing child care services at the center. If the clearance is not obtained prior to the one year expiration of the certified criminal background check, the individual is no longer allowed on the child care premises until a clearance is received.

5. Criminal Records Check—Independent Contractors. All independent contractors including therapeutic professionals and extracurricular personnel, e.g. contracted transportation drivers, computer instructors, dance instructors, librarians, tumble bus personnel, speech therapists, licensed health care professionals, state-certified teachers employed through a local school board, Louisiana Department of Education (LDE) staff, local school district staff, art instructors, and other outside contractors shall have documentation of a fingerprint based satisfactory criminal record check (CBC) from Louisiana State Police as required by R.S. 46:51.2. This check shall be obtained prior to the individual being present in the child care facility or providing services for the child care facility. No person who has been convicted of, or pled guilty or nolo contendere to any offense included in R.S. 15:587.1, shall be present in any capacity in any licensed child care facility. CBC shall be dated prior to the individual being present on the child care premises. A criminal background check is satisfactory for purposes of this Section if it shows no arrests for any enumerated offense or, if an arrest is shown on the background check, the background check or certified

documentation from the jurisdiction of arrest affirmatively shows that the charges were disposed of without a conviction for any excludable offense. A plea of guilty or nolo contendere shall be deemed a conviction.

a. If an individual has previously obtained a certified copy of their criminal background check obtained from the Louisiana Bureau of Criminal Identification and Information Section of the Louisiana State Police such certified copy shall be acceptable as meeting the CBC requirements for independent contractors. If an individual provides a certified copy of their criminal background check which he/she has previously obtained from the Louisiana State Police to the provider, this criminal background check shall be accepted for a period of one year from the date of issuance of the certified copy. An original certified copy or a photocopy of the certified copy shall be kept on file at the facility in which the individual is currently providing child care services. However, prior to the one year expiration of the certified criminal background check, a new fingerprint based satisfactory criminal background check shall be obtained from Louisiana State Police in order for the individual to continue providing child care services at the center. If the clearance is not obtained prior to the one year expiration of the certified criminal background check, the individual is no longer allowed on the child care premises until a clearance is received.

b. For the first school year that a LDE staff person or local school district staff person provides services to a child at a child care facility, that LDE staff person or local school district staff person shall provide documentation of a fingerprint based satisfactory criminal record check as required by §7365.C.4 or shall provide the original, completed, signed, notarized, DCFS approved affidavit to the provider prior to being present and working with a child or children at the facility. A photocopy of the original affidavit shall be kept on file at the facility. This affidavit will be acceptable for the entire school year noted in the text of the affidavit and expires on May 31 of the current school year. For all subsequent school years following the first year, the LDE staff or local school district staff person shall present a new affidavit or an original, completed, and signed letter from the superintendent of the school district or designee or superintendent of LDE or designee. The provider will need to view the original letter presented by the LDE staff or local school district staff person and keep a photocopy of the original letter on file at the facility. This letter will be acceptable for the entire school year noted in the text of the letter and expires on May 31 of the current school year. The letter is acceptable only if the following conditions are met:

i. the LDE staff person or local school district staff person has remained employed with the same school district as noted in the affidavit the provider has on file;

ii. the provider has maintained a copy of the affidavit on file; and

iii. the letter is presented on school district letterhead or LDE letterhead and signed by the superintendent of the school district or designee or superintendent of LDE or designee.

6. State Central Registry Disclosure. Documentation of a state central registry disclosure form (SCR 1) completed by the staff (paid and/or non paid) as required by R.S.

46:1414.1. This information shall be reported prior to the individual being on the premises of the child care facility, shall be updated annually, at any time upon the request of DCFS, and within 24 hours or no later than the next business day, whichever is sooner, of any staff receiving notice of a justified (valid) finding of child abuse and/or neglect. Any current or prospective employee, or volunteer of a child care facility licensed by DCFS is prohibited from working in a child care facility if the individual discloses, or information is known or received by DCFS, that the individual's name is recorded on the state central registry (SCR) as a perpetrator for a justified (valid) finding of abuse and/or neglect of a child, unless there is a finding by the Risk Evaluation Panel or a ruling by the Division of Administrative Law (DAL) that the individual does not pose a risk to children.

a. The prospective paid and/or non paid staff (employee/volunteer) shall complete, sign, and date the state central registry disclosure form and submit the disclosure form to the owner or operator of the facility.

i. If a prospective staff (employee/volunteer) discloses that his or her name is currently recorded as a perpetrator on the state central registry, the director shall inform the applicant they will not be considered for employment or volunteer duties at that time due to the state central registry disclosure. The director will provide the prospective employee/volunteer with the state central registry risk evaluation request form (SCR 2) so that a risk assessment evaluation may be requested.

ii. Individuals are eligible for employment/volunteer services if and when they provide written determination from the Risk Evaluation Panel or the DAL noting that they do not pose a risk to children.

b. If a current staff receives notice of a justified (valid) finding of child abuse and/or neglect against them, he or she shall complete an updated state central registry disclosure form (SCR 1) noting the existence of the justified (valid) finding as required by R.S. 46:1414.1. This updated SCR 1 shall be submitted to the Licensing Section management staff within 24 hours or no later than the next business day, whichever is sooner, or upon being on the child care premises, whichever is sooner. Staff will have 10 calendar days from completion of the state central registry disclosure form to request a risk assessment evaluation in accordance with LAC 67:1.305 or shall be terminated immediately.

i. If the staff person will no longer be employed at the center, the provider shall immediately submit a signed, dated statement noting the individual's name and termination date.

ii. Immediately upon receipt of the knowledge that a justified (valid) finding has been issued by DCFS and as a condition of continued employment, the staff person with the justified (valid) finding, when in the presence of children shall be directly supervised by a paid staff (employee) of the facility. The employee responsible for such supervision must have on file a completed state central registry disclosure form indicating that the employee's name does not appear on the state central registry with a justified (valid) finding of abuse and/or neglect, or a determination from either the Risk Evaluation Panel or the DAL that the supervising employee does not pose a risk to children. Under no circumstances may the staff person with the justified

finding be left alone and unsupervised with a child or children. The provider shall submit a written statement to Licensing Section management staff acknowledging that the staff person with the justified finding will not be left alone and unsupervised with a child or children pending the disposition by the Risk Evaluation Panel or the DAL that the staff person does not pose a risk to children. When the aforementioned conditions are met, the staff (employee/volunteer) may be counted in child/staff ratio. A person supervised by an employee who does not have a satisfactory disclosure form on file as provided in this subsection shall be deemed to be alone and unsupervised.

(a). If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual does not appeal the finding to DAL within the required timeframe, the staff (employee/volunteer) shall be terminated immediately.

(b). If the Risk Evaluation Panel finds the individual does pose a risk to children and the individual appeals the finding to the DAL within the required timeframe, the staff (employee/volunteer) shall continue to be under direct supervision while in the presence of children by another paid staff of the facility who has not disclosed that they have a justified (valid) finding on the state central registry until a ruling is made by the DAL that they do not pose a risk to children. Supervision shall not end until receipt of the ruling from the DAL that the employee does not pose a risk to children.

(c). If the DAL upholds the Risk Evaluation Panel finding that the individual does pose a risk to children, the individual shall be terminated immediately.

iii. State central registry disclosure forms, documentation of any disposition of the Risk Evaluation Panel and, when applicable, the DAL ruling shall be maintained in accordance with current DCFS licensing requirements and shall be available for review by DCFS personnel during the facility's hours of operation.

iv. Any information received or knowledge acquired that a current or prospective volunteer, employee, prospective volunteer, or prospective employee has falsified a state central registry disclosure form stating that they are not currently recorded as a perpetrator with a justified (valid) finding of abuse and/or neglect shall be reported in writing to a Licensing Section management staff as soon as possible, but no later than the close of business on the next business day.

v. Any state central registry disclosure form, Risk Evaluation Panel finding, and DAL ruling that is maintained in a child care facility licensing file shall be confidential and subject to the confidentiality provisions of R.S. 46:56(F) pertaining to the investigations of abuse and/or neglect.

#### 7. Health Requirements

a. All center staff shall be required to obtain three months before or within 30 days after beginning work and at least every three years thereafter a written statement from a physician certifying that the individual is in good health and is physically able to care for the children, and is free from infectious and contagious diseases.

b. At the time of employment, the individual shall have no evidence of active tuberculosis. Tuberculin test result dated within one year prior to offer of employment is acceptable. Staff shall be retested on time schedule as

mandated by the Office of Public Health. For additional requirements, refer to Chapter II of State Sanitary Code.

c. The director or any center staff shall not remain at work if he/she has any sign of a contagious disease.

d. Substitute workers, temporary employees, or volunteers shall meet the same medical requirements as regularly employed personnel. Refer to substitute and temporary employees as defined.

8. Job Descriptions. A personnel job description shall be kept on file detailing employee's responsibilities.

9. Personnel Records. Personnel records shall be kept on file for a minimum of one year after the employee leaves. Health records may be returned to the staff member upon request.

D. - D.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1639 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2774 (December 2007), amended by the Department of Children and Family Services, Division of Programs, LR 37:815 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:982 (April 2012), LR 40:260 (February 2014), effective March 1, 2014.

**§7371. Required Child/Staff Ratios**

**A. Staff to Child Ratios**

Class B	
Ages of Children	Child/Staff Ratio
Children under 12 months	6:1
One year old	8:1
Two year old	12:1
Three year old	14:1
Four year old	16:1
Five year old	20:1
Six year old and up	25:1

1. Mixed Ages. When the center serves children of mixed ages, excluding children under two years, an average of the staff ratio may be applied.

2. Staff Involved in Ratio. Only those staff members directly involved in child care and supervision shall be considered in assessing child/staff ratio.

3. When the number of children in the center exceeds 10, there must be an individual immediately available in case of an emergency.

4. At naptime, appropriate staffing shall be present within the center to satisfy required child/staff ratio.

B. The DCFS form noting required child/staff ratios shall be posted in each room included in the facility's licensed capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1641 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2775 (December 2007), amended by the

Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:263 (February 2014), effective March 1, 2014.

**§7372. Supervision**

A. Children shall be supervised at all times in the facility, on the playground, on field trips, and on non vehicular excursions, including all water activities and water play activities.

1. Children shall not be left alone in any room, (excluding the restroom as noted in §7372.B) outdoors, or in vehicles, even momentarily, without a staff present.

2. A staff person shall be assigned to supervise specific children whose names and whereabouts that staff person shall know and with whom the staff person shall be physically present. Staff shall be able to state how many children are in their care at all times.

B. Children who are developmentally able may be permitted to go to the restroom on the child care premises independently, provided that:

1. staff member's proximity to children assures immediate intervention to safeguard a child from harm while in the restroom;

2. individuals who are not staff members may not enter the facility restroom area while in use by any child other than their own child;

3. a child five years of age and younger shall be supervised by staff members who are able to hear the child while in the restroom; and

4. a child six years of age and older may be permitted to go and return from the restroom without staff; however, staff must know the whereabouts of the child at all times.

C. When children are outside on the play yard, the staff member shall be able to summon another adult staff without leaving the group unsupervised.

D. Staff shall actively supervise children engaged in water activities and shall be able to see all parts of the swimming pool, including the bottom.

E. Children ages two years and above may be grouped together at rest time with one staff in each room supervising the resting children. If two rooms share a common doorway, one staff may supervise the resting children. If the view of the staff supervising the children is obstructed by an object such as a low shelving unit, children shall be checked by sight by staff continually circulating among the resting children.

F. Areas used by the children shall be lighted in such a way as to allow visual supervision at all times.

G. While on duty with a group of children, staff shall devote their entire time to supervising the children, meeting the needs of the children, and participating with them in their activities. Staff duties that include cooking, housekeeping, and/or administrative functions shall not interfere with the supervision of children.

H. Individuals who do not serve a purpose related to the care of children or who hinder supervision of the children shall not be present in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1430 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:263 (February 2014), effective March 1, 2014.

**§7385. Supervision**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1644 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2779 (December 2007), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:263 (February 2014), effective March 1, 2014.

Suzy Sonnier  
Secretary

1402#040

## RULE

**Department of Economic Development  
Office of the Secretary  
Office of Business Development  
and  
Louisiana Economic Development Corporation**

Economic Development Award Program (EDAP),  
Economic Development Loan Program (EDLOP) and  
Economic Development Site Readiness Program (EDRED)  
(LAC 13:III.Chapter 1)

The Louisiana Department of Economic Development, Office of the Secretary, Office of Business Development, and Louisiana Economic Development Corporation, pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341, has amended, supplemented and expanded portions of the rules of the Economic Development Award Program (EDAP) and the Economic Development Loan Program (EDLOP), provided in LAC 13:III.Chapter 1.

The Department of Economic Development, Office of the Secretary, Office of Business Development, and Louisiana Economic Development Corporation, have found a need to amend, supplement, expand and re-adopt certain provisions of the rules for the regulation of the Economic Development Award Program (EDAP) and the Economic Development Loan Program (EDLOP). The amendments to these rules actually repeal and eliminate the rules of the Economic Development Loan Program (EDLOP) as they currently exist, and merge the repealed rules of that program into the revised rules of the Economic Development Award Program (EDAP), thereby amending, supplementing, expanding, updating and re-adopting with some new wording the definitions and provisions already in the rules of the existing Economic Development Award Program (EDAP). All of these amended rules will promote economic development in this state, will increase the state's competitiveness and enhance the state's ability to secure economic development projects, will encourage the investment of new capital to create new Louisiana businesses and expand existing Louisiana businesses, and will help to successfully secure the creation and/or retention of jobs by business entities newly locating in Louisiana or which may already exist in Louisiana and are relocating and/or expanding their

operations, but require state assistance for such development as an incentive to influence the company's decision to locate in Louisiana, maintain or expand its Louisiana operations, and/or increase its capital investment in Louisiana. Without the amendments to these rules the state may suffer the loss of business investment and economic development projects creating and/or retaining jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

## Title 13

### ECONOMIC DEVELOPMENT

#### Part III. Financial Assistance Programs

#### Chapter 1. Economic Development Award Program (EDAP), Economic Development Loan Program (EDLOP) and Economic Development Site Readiness Program (EDRED)

##### Subchapter A. Economic Development Award Program (EDAP)

#### §101. Economic Development Award Program (EDAP); Preamble and Purpose

A. The Economic Development Award Program (EDAP) is vital to support, promote and enhance the state's commitment to Targeted Industry-Based Economic Development, and the state's long term goals as set forth in the Louisiana Department of Economic Development's Master Plan for Economic Development for the State of Louisiana.

B. The purpose of this EDAP program is to assist in the financing or funding of Sponsored Projects and/or Un-sponsored Projects, further described below, for which LED and LEDC assistance is requested in order to promote economic development in this state and provide an incentive to influence a company's decision to locate, relocate, maintain, rebuild and/or expand its business operations in Louisiana, and/or to increase its capital investment in Louisiana:

1. a sponsored project would include the financing or funding of an expansion, improvements and/or provision of publicly-owned infrastructure for a public entity for the benefit of industrial or business development projects that promote targeted industry economic development and that require state assistance for basic infrastructure development, with a public entity recommending the award, serving as a sponsor of and participating in the award application and the award agreement;

2. an un-sponsored project would include the financing or funding for locating, obtaining and/or improving privately-owned property and improvements, including the purchase or leasing of a building site, the purchase or construction, renovation, rebuilding and improvement of buildings, their surrounding property, for machinery and equipment purchases and rebuilding, the demolition or removal of existing buildings and/or improvements if a part of the site preparation for the construction of new buildings and/or improvements, and for additional costs related to and incurred in connection with the location or relocation of the business enterprise, including appropriate professional and/or real estate fees and commissions, but without the requirement of a public entity sponsor.

C. The Louisiana Department of Economic Development, with the approval of the Board of Directors of

Louisiana Economic Development Corporation, may take necessary steps to successfully secure projects in highly competitive bidding circumstances.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341, et seq.

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### **§103. Definitions**

*Applicants*—the company or business enterprise and (if a Sponsored Project) the public entity, collectively, requesting or seeking financial assistance from LED and LEDC under this program.

*Award*—the funding of financial assistance and/or appropriations, including performance-based grants or loans approved under this program for eligible applicants, which will promote economic development in this state, and will serve as an incentive to influence a company's decision to locate or relocate its business operations in Louisiana, maintain, rebuild and/or expand its Louisiana operations, and/or increase its capital investment in Louisiana.

*Award Agreement*—that agreement or contract hereinafter referred to between the company, LED and LEDC, and (if a sponsored project) the public entity, through which, by cooperative endeavor agreement or otherwise, the parties set forth the amount of the award, the terms, conditions and performance objectives or obligations of the award provided pursuant to the rules of this program.

*Awardee*—an applicant, company or business enterprise, and (if a sponsored project) the public entity receiving an award under this program.

*Borrower*—the awardee receiving and accepting a loan award under this program.

*Company*—the business enterprise, being a legal entity duly authorized to do and doing business in the State of Louisiana, in need of funding for a project pursuant to these rules, which is undertaking the project or for which the project is being undertaken, and which is seeking and/or receiving the benefit of the award under this program.

*Default*—the failure to perform a task, to fulfill an obligation, or to do what is required; the failure to create new jobs or the number of new jobs as agreed, or to employ, to retain, or to maintain the employment of the number of employees as agreed; the failure to achieve and/or to maintain the employee compensation or payroll levels as agreed; the failure to pay or to repay any loan or interest due thereon as agreed; or the failure to meet a financial obligation.

*EDAP*—the Economic Development Award Program.

*Employee*—a Louisiana resident hired by a company for permanent full-time employment.

*Financed Lease*—a lease entered into that satisfies the criteria of a lease intended as a security device in which a security interest may be reserved in favor of LED or LEDC, for the payment or repayment of an award, a debt, a loan or some other obligation; in which case LED or LEDC, as the

creditor or lender, shall be the lessor, the awardee, as the debtor or borrower, shall be the lessee, and the installment payments of the award, loan or other obligation shall be the lease or rental payments.

*Grant or Grant Award*—funding of financial assistance approved under this program for eligible applicants, provided the awardee achieves and maintains the performance obligations as required in the award agreement. This type of award is not ordinarily intended to be repaid in cash payments except in the event of a default by the awardee in the performance of its obligations under the award agreement. In the event of a default, the full repayment by the awardee of the award may be required, or repayment of the unpaid or uncredited balance may be required of the awardee after appropriate *performance credits*, have been applied against the repayment obligation.

*Guaranty*—an agreement, promise or undertaking by a second party to make the payment of a debt or loan or to perform an obligation in the event the party liable in the first instance fails to make payment or to perform an obligation.

*Infrastructure*—considered to be basic hard assets, permanent type assets, such as land, buildings, structures, substantial, installed or permanently attached machinery and/or equipment, streets, roads, highways, rights-of-way or servitudes, including paving or other hard surfacing, piping, drainage and/or sewage facilities, utility lines, poles and facilities, railroad spurs, tracks, cross ties, and all things similar or appurtenant thereto, and including costs related to the purchase, design, location, construction, and/or installation of such hard assets.

*Infrastructure Project*—refers to the undertaking for which an award is granted hereunder for the purchase, or new construction, improvement or expansion of land, roadways, servitudes, parking facilities, equipment, bridges, railroad spurs, utilities, water works, drainage, sewage, buildings, ports and waterways.

*LED*—the Louisiana Department of Economic Development.

*LEDC*—the Louisiana Economic Development Corporation.

*LEDC Board*—the Board of Directors of the Louisiana Economic Development Corporation.

*Loan or Loan Award*—funding of financial assistance approved under this program for eligible applicants, provided the awardee achieves and maintains the performance obligations as required in the award agreement, which award is to be repaid in cash payments over a period of time by the awardee/borrower. Such financial assistance loans may be repaid either with or without interest (at the discretion of the LEDC Board), and may also be repaid by applying against the unpaid or uncredited balance of the award appropriate *performance credits* earned by the awardee through the performance of its required obligations during the term of the award agreement; and in the event such "credits" are utilized and earned, any interest due may also be waived, all to be determined in its discretion by the LEDC Board, or by the LED or LEDC staff.

*Loan Participation*—the sharing by one lender of a part or portion of a loan with another lender or other lenders, whereby the participant or participants may provide a portion of the loan funds, or may purchase a portion of the loan, and which participant or participants would be entitled

to share in the proceeds of the loan repayments and any interest income.

*Performance Credits*—may include any of the following or any combination of the following credits earned by the awardee through the performance of its required obligations during the term of the award agreement, as determined in its discretion by the LEDC Board, or by the LED or LEDC staff, and as provided in the award agreement:

1. *Jobs Credits*—refers to credits, in an amount determined as provided in the award agreement, earned for the number of new permanent full-time jobs created, filled with employees and maintained within the agreed employment and/or contract term, which credits are applied against an obligation to repay an award or the unpaid or uncredited balance of an award, as provided in the award agreement;

2. *Payroll Credits*—refers to credits, in an amount as provided in the award agreement, earned for dollar amounts of new job annual payroll, for increases to existing job annual payroll, or for total new annual payroll for all new and existing permanent full-time jobs, or any combinations thereof, paid by the company within the agreed employment and/or contract term, which credits are applied against an obligation to repay an award or the unpaid or uncredited balance of an award, as provided in the award agreement; and

3. *Jobs/Payroll Credits*—refers to a combination of “Jobs Credits” and “Payroll Credits” applied against an obligation to repay an award or the unpaid or uncredited balance of an award, as provided in the award agreement.

*Permanent Full-Time Jobs or Permanent Full-Time Equivalent Jobs*—refers to direct jobs which are not contract jobs, that are permanent and not temporary in nature, requiring employees to work an average of 30 or more hours per week.

*Program*—the Economic Development Award Program (EDAP), which may include sponsored projects or unsponsored projects that are undertaken by a company and a public entity (if a sponsored project), and funded wholly or partially by LED and LEDC through an award pursuant to these rules and the bylaws of LEDC.

*Project*—refers to the undertaking related to the location, relocation, maintaining, rebuilding or expansion of a business enterprise or an industrial facility in this state, for which an award is sought and/or is granted under this program which will promote economic development in this state, for which LED and LEDC assistance is requested under this program.

*Public Entity or Sponsoring Entity*—the public or quasi-public entity that is responsible for recommending to LED and LEDC the approval of the financial award for the project, for engaging in the award agreement with the company, and pursuant thereto is responsible with the company for the performance and oversight of the project and for supervising with LED the company’s compliance with the terms, conditions and performance objectives and obligations of the award agreement.

*Secretary*—the Secretary of the Department of Economic Development, who is also the President of LEDC, or his designee.

*Security Interest*—a lien, incumbrance or mortgage affecting movable or immovable property, or a Uniform

Commercial Code (UCC-1) Financing Statement, given by an awardee, as debtor or borrower, in favor of LED and/or LEDC, as creditor or lender, to assure the awardee’s payment or repayment of all or the unpaid or uncredited balance of an award, loan, debt, or promise to pay an amount of money, or for the fulfillment or performance of an obligation or obligations. A security interest may also be reserved in favor of LED or LEDC, as the creditor or lender, in the form of a lease, commonly called a *financed lease*, as defined above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341, et seq.

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### **§105. General Principles**

A. The following general principles, including the eligibility requirements set forth in §107 and the criteria provided in §109 below, will direct the administration of the Economic Development Award Program (EDAP).

1. LEDC acting through LED may make an EDAP award, by grant or loan, on terms and conditions which are determined by the LEDC board in its discretion, considering the recommendations of the Secretary and/or the staff of LED or LEDC, or by the staff of LED or LEDC in the absence of a determination by the LEDC board, will be beneficial in meeting the goals and purposes stated in the preamble and purpose of these rules.

2. Awards are not to be construed as an entitlement for companies locating or located in Louisiana, and are subject to the discretion of the LEDC board, after considering the recommendations of the Secretary and/or the staff of LED or LEDC.

3. An award must reasonably be expected to be a significant factor in a company’s location, investment and/or expansion decisions.

4. Awards must reasonably be demonstrated to result in the improvement of or enhancement to the economic development and well-being of the state and local community or communities wherein the project is or is to be located.

5. The retention and strengthening of existing businesses will be evaluated using the same procedures and with the same priority as the recruitment of new businesses to the state.

6. The anticipated economic benefits to the state and to the local community or communities wherein the project is or is to be located will be considered in approving and making the award.

7. The favorable recommendation of the local governing authority wherein the project is or shall be located is expected and will be a factor in the consideration of the award.

8. Appropriate cost matching or funds matching by the applicants, private investors, the local community and/or

local governing authority, as well as among project beneficiaries will be a factor in the consideration of an award.

9. Award funds shall be utilized for the approved project only.

10. In a sponsored project, during the term of the award agreement the sponsoring public entity shall maintain public ownership of the public property and infrastructure improvements acquired or paid for with state funds; and in an unsponsored project, during the term of the award agreement the awardee/company shall maintain ownership of the property and improvements acquired or paid for with state funds. These parties shall not transfer ownership of such property or improvements for less than the fair market value thereof. Should either of these parties elect to sell such property or improvements, or should any other party to the award agreement or any other third party elect to purchase such property or improvements for fair market value during the term of the award agreement, the proceeds derived from such purchase and received by the selling party shall be refunded to LED or LEDC by the selling party immediately on receipt of such proceeds, to be applied as a credit against the remaining unpaid or uncredited balance of the award.

11. In the discretion of the LEDC board, after considering the recommendations of the Secretary and/or the staff of LED or LEDC, a two-year moratorium from the date of an LEDC board approval or award of a grant or a loan may be required on additional EDAP awards for the benefit of the same company at the same location, and a company shall not be eligible for or receive another EDAP award so long as the same company is currently still obligated under an existing EDAP award involving the same location.

12. Whether or not an award will be made is entirely in the discretion of the LEDC board, after considering the recommendations of the secretary and/or the staff of LED or LEDC, and shall depend on the facts and circumstances of each case, the funds available, funds already allocated, and other such factors as the LEDC board may, in its discretion, deem to be pertinent.

13. The approval or rejection of any application for an award shall not establish any precedent and shall not bind the LEDC board, the LED secretary or the staff of LED or LEDC to any course of action with regard to any application or award.

14. A loan award may also take the form of a loan participation, wherein LED or LEDC may act as the originator of the loan, and may share or participate a portion of the loan with another lender or other lenders; or LED or LEDC may act as a participant in a loan, and accept a portion or a share of a loan originated by another lender or other lenders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341, et seq.

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Louisiana Economic Development Corporation, LR 40:266 (February 2014).

#### **§107. Eligibility**

A. An eligible application for the award must meet the general principles set forth in Section 105 above and the criteria provided in Section 109 below; must demonstrate a need for the funding of the project consistent with these rules; and,

1. In connection with a sponsored project, the infrastructure project must be or will be owned by, and the ownership benefits or rights resulting from the infrastructure project must inure to the benefit of one of the following:

- a. a public or quasi-public entity; or
- b. a political subdivision of the state; or

2. In connection with an unsponsored project, the project must be or will be owned by, and the ownership benefits or rights resulting from the project must inure to the benefit of the applicant/ company, business enterprise or awardee, which in the case of a loan award, will also be the borrower.

B. A company or public entity shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to failure or inability to pay its obligations, including state or federal taxes, a bankruptcy proceeding, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit, or if the company or public entity has another contract with LED or LEDC in which the company or public entity is in default and/or is not in compliance. Should a company or a public entity, after receiving an award, fail to maintain its eligibility during the term of the award agreement, the LEDC Board, in its discretion, may terminate the agreement and the award, and may seek a refund of any or all funds previously disbursed under the agreement.

C.1. Businesses not eligible for awards under this program shall include:

- a. retail businesses, enterprises and/or operations;
- b. real estate businesses, enterprises, operations and/or developments (whether commercial or residential);
- c. lodging or hospitality businesses, enterprises and/or operations;
- d. assisted living businesses, enterprises or operations, retirement communities, or nursing homes; or
- e. gaming or gambling businesses, enterprises and/or operations.

2. This ineligibility provision shall not apply to wholesale, storage warehouse or distribution centers; catalog sales or mail-order centers; home-office headquarters or administrative office buildings; even though such facilities are related to ineligible business enterprises, provided that retail sales, hospitality services, assisted living or nursing services, and gaming activities are not provided directly and personally to individuals in any such facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 23:37 (January 1997); amended by the Department of Economic Development, Office of the Secretary, LR 23:1639 (December 1997), LR 25:238 (February 1999), LR 26:237 (February 2000); amended by the Department of Economic Development, Office of Business Development, Louisiana



Economic Development Corporation, LR 29:861 (June 2003), LR 31:903 (April 2005), LR 35:872 (May 2009), amended by the Department of Economic Development, Office of the Secretary, Louisiana Economic Development Corporation, LR 40:267 (February 2014).

### **§109. Criteria for Projects**

A. In addition to the general principles set forth in §105 and the eligibility requirements provided in §107 above, projects must meet the criteria hereinafter set forth for an award under this program.

1. Job Creation and/or Retention and Capital Investment

a. Projects must create or retain at least 10 permanent full-time jobs in Louisiana, at the project location.

b. Consideration will be given for projects having a significant new private capital investment.

c. The number of jobs to be retained and/or created and the compensation or payroll amounts or levels to be achieved and maintained as stated in the application for the award or as up-dated and finalized in the award agreement, will be strictly adhered to, and will be made an integral part of the award agreement.

2. Preference will be given to projects for industries identified by LED or LEDC as targeted industries, and to projects located in areas of the state with high unemployment levels.

3. Preference will be given to projects intended to provide, expand, or improve basic infrastructure supporting mixed use by the company and the surrounding community, and secondary consideration will be given to projects involving machinery and equipment purchases or rebuilding.

4. Companies must be in full compliance with all state and federal laws.

5. No assistance may be provided for Louisiana companies relocating their operations to another labor market area (as defined by the US Census Bureau) within Louisiana, except when the company gives sufficient evidence that it is otherwise likely to relocate outside of Louisiana, or the company is significantly expanding and increasing its number of employees and its capital investment in this state.

6. The minimum award request size shall be \$50,000.

7. Extra consideration will be given for companies paying wages substantially above the prevailing regional wage.

8. If a company does not start the project or begin construction of the project, or make substantial progress toward preparation of architectural and engineering plans and specifications and/or permit applications, or execute purchase orders for machinery and equipment or orders for the rebuilding of machinery and equipment within six (6) months after its award approval by the LEDC Board, the LEDC Board of Directors, in its discretion, may extend the time period for the company's start of the project, reconsider and withdraw the award or funding for the project, and/or require reapplication. LED or LEDC may require copies of written, signed documentation demonstrating that the contemplated project has begun or has been started.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR

23:37 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1639 (December 1997), LR 25:238 (February 1999), LR 26:237 (February 2000); amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:862 (June 2003), LR 31:904 (April 2005), LR 35:873 (May 2009), amended by the Department of Economic Development, Office of the Secretary, Louisiana Economic Development Corporation, LR 40:268 (February 2014).

### **§111. Application Procedure for Projects**

A. The applicants must submit an application to LED or LEDC on a form provided by LED or LEDC which shall contain, but not be limited to, the following:

1. a business plan that contains an overview of the company, its history, and the business climate in which it operates, including business projections and, in the discretion of the LEDC Board or the LED or LEDC staff, either audited financial statements, or an independent CPA certification of the company's net worth sufficient to demonstrate to LED or LEDC the financial ability of the company considering the circumstances relating to the award, as well as financial statements of any guarantors which may also be required by the LED or LEDC staff in its discretion;

2. a detailed description of the project to be undertaken, along with the factors creating the need, including the purchase, construction, renovation or rebuilding, operation and maintenance plans, a timetable for the project's completion, and the economic scope of the investment involved in the project;

3. a cash flow analysis of the project, providing detailed support for the use of the funding to be provided, and a proposed repayment schedule for any loan for which the applicant has applied which is consistent with the revenues to be generated by the project;

4. evidence of the number, types and compensation or payroll levels of jobs to be created and/or retained by the company in connection with the project, and the amount of capital investment for the project;

5. a statement or disclosure as to whether or not the company has sought or applied for any other type of financing (public or private) for this project, and the results or disposition of that search and/or application, including documentation from any commercial banks or other lenders specifying the reasons why the banks or other lenders would not extend funding to the applicant;

6. evidence of the support of the local community and the favorable recommendation of the local governing authority for the applicant's project to be funded as requested or described in the award application; and

7. any additional information that the LED or LEDC staff may require.

B. The applicants and their applications must meet the general principles of §105, the eligibility requirements under §107, and the criteria provided in §109 above, in order to qualify for an award under this program.

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Business Development, Louisiana Economic Development Corporation, LR 29:863 (June 2003), LR 31:904 (April 2005), LR 35:873 (May 2009), amended by the Department of Economic Development, Office of the Secretary, Louisiana Economic Development Corporation, LR 40:268 (February 2014).

### **§113. Submission and Review Procedure for Projects**

A. Applicants must submit their completed application to LED or to LEDC. Submitted applications will be reviewed and evaluated by the staff of LED or LEDC. Input may be required from the applicant, other divisions of the Department of Economic Development, LEDC, and other state agencies as needed in order to:

1. evaluate the strategic importance of the project to the economic well-being of the state and local communities;
2. validate the information presented; and/or
3. determine the overall feasibility of the company's plan.

B. An economic cost-benefit analysis of the project, including an analysis of the direct and indirect net economic impact and fiscal benefits to the state and local communities, will be prepared and utilized by the LED or LEDC staff.

C. Upon determination that an application meets the general principles of §105, the eligibility requirements under §107, and the criteria provided for this program under §109, the secretary of LED and/or the staff of LED or LEDC will then make recommendations to the LEDC Board of Directors. The application will then be reviewed and approved or rejected by the LEDC board in its discretion, after considering the recommendations of the secretary of LED and/or the staff of LED or LEDC. The LED director or the targeted industry specialist in whose industrial area the applicant company participates may also make recommendations to the LEDC board as to the approval or disapproval of the award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 23:38 (January 1997), amended by the Department of Economic Development, Office of the Secretary, LR 23:1639 (December 1997), LR 25:238 (February 1999), LR 26:237 (February 2000); amended by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:863 (June 2003), LR 31:904 (April 2005), amended LR 35:879 (May 2009), amended by the Department of Economic Development, Office of the Secretary, Louisiana Economic Development Corporation, LR 40:269 (February 2014).

### **§115. General Award Provisions**

A. These provisions shall be applicable to all awards (whether grants or loans) under this program. All agreements shall demonstrate the intent of the company, LED, LEDC and (if a sponsored project) the public entity, to enter into the award agreement.

1. Award Agreement. After an award has been approved, a written award agreement, contract or cooperative endeavor agreement will be executed between LEDC, acting through LED, the company or business enterprise and (if a sponsored project) the public entity receiving the award. The agreement will specify the amount of the award; the terms and conditions of any award; a promise to pay or to repay any award in the event of default by the awardee; the performance objectives, obligations and requirements the company and the public entity (if any) will be required to meet; and the compliance requirements to be

enforced in exchange for state assistance, including but not limited to, time lines for investment, for performance, for job retention and/or creation, as well as the compensation or payroll amounts or levels for such jobs. Under the agreement, the public entity (if any) will oversee the progress of the project and the performance of the company. In a sponsored project, LED or LEDC will disburse funds to the public entity in a manner determined by the LED or LEDC staff. In an unsponsored project, LED or LEDC will disburse funds to the company in a manner determined by the LED or LEDC staff.

2. Interest. As determined by the LEDC Board in its discretion, after considering the recommendations of the Secretary and/or the LED or LEDC staff, or by the staff of LED or LEDC in the absence of a determination by the LEDC board, any award either may or may not require the payment of interest.

a. Award Interest. If interest is to be paid on the award, the rate of interest shall not be less than the then current U.S. Government Treasury security rate that coincides with the term or time period of the award at the time of the award approval, nor more than 2.5 percent above such treasury security rate, as determined by the LEDC board or by the LED or LEDC staff. The award may be repaid in cash payments as hereinafter provided, and may also be repaid by allowing performance credits to be appropriately applied against the unpaid or uncredited balance of the award in an amount determined by the LEDC Board or by the LED or LEDC staff. Performance credits, may include jobs credits, payroll credits or jobs/payroll credits, earned by the awardee through the performance of its required obligations during the term of the award agreement; and in the event such credits are utilized and earned, any interest due may also be waived, all as determined by the LEDC board or by the LED or LEDC staff.

b. Default Interest. Interest payable after default may be at a higher rate, but not to exceed 12 percent per annum, from the date of default, if that date can be determined, or otherwise from the date of the discovery of the default, at a rate determined by the LEDC board or by the LED or LEDC staff.

3. Repayment. The award agreement may provide for the repayment of such awarded funds on a stated date, or within a stated time, in annual installments or on demand, as determined by the LEDC board in its discretion, considering the recommendations of the secretary and/or the staff of LED or LEDC as to such repayment terms, or by the staff of LED or LEDC in the absence of a determination by the LEDC board. If necessary and appropriate, a repayment term may be structured with a balloon payment at the end of the last year of the term of the repayment obligation; however, refinancing of the balloon payment will not be permitted.

4. Collateral Ratio. In connection with unsponsored projects, for the purposes of establishing an acceptable award to value (AtV) ratio for collateral in connection with any awards, or a loan to value (LtV) ratio for collateral in connection with loan awards, the applicant must present to the LED or LEDC staff a current appraisal of the property, improvements or other items being funded or being offered as collateral, or its documented purchase price. After the award or loan request has been approved and the value of the

property, improvements or other items to be funded or used as collateral has been substantiated, the LED or LEDC staff will determine the eligible AtV or LtV based on the criteria established by the LED or LEDC staff and these rules. The LED or LEDC staff shall have the discretion and ability to reduce the AtV or LtV based on the applicant's financial ability to repay the award or the loan. If the LED or LEDC staff determines the applicant is financially unable to meet a predetermined debt service coverage ratio of 1.25 to 1 (1.25:1), the award amount or the loan amount shall be reduced in order that the AtV or the LtV may be reduced accordingly to meet the required debt service coverage ratio.

5. Security Interest. When appropriate, and if required by the LEDC board in its discretion, considering the recommendations of the secretary and/or the staff of LED or LEDC as to such security interest, or by the staff of LED or LEDC in the absence of a determination by the LEDC board, the awardee shall execute an appropriate security instrument or document providing the LEDC and/or LED a security interest in either the funded movable and/or immovable property or any other property or assets of the awardee offered as security for the award as the LEDC Board or the LED or LEDC staff shall deem appropriate in the circumstances considering the project and the specific interests and properties relating thereto; such security instrument or document to contain all appropriate, usual, customary, and generally accepted Louisiana security provisions.

6. Financed Lease. When appropriate, and if required by the LEDC board in its discretion, considering the recommendations of the secretary and/or the staff of LED or LEDC as to such security interest, or by the staff of LED or LEDC in the absence of a determination by the LEDC Board, the awardee shall execute an appropriate financed lease for the purpose of financing and providing security for the award as the LEDC board or the LED or LEDC staff shall deem appropriate in the circumstances considering the project and the specific interests and properties relating thereto; such financed lease to contain all appropriate, usual, customary, and generally accepted Louisiana lease and security provisions.

7. Examination/Audit of Books, Records and Accounts. LED, LEDC and the state shall retain and shall have the right to examine/audit all appropriate books, records and accounts of the awardee relating to the project at any reasonable time and from time to time, as well as such books, records and assets of any and all guarantors of the obligations of the awardee.

8. Guaranties. Should the circumstances warrant, and if required by the LEDC Board in its discretion, considering the recommendations of the secretary and/or the staff of LED or LEDC as to the need for any such guaranty, a guaranty of an awardee's obligations to pay or repay the award proceeds or any part thereof, and/or a guaranty or guaranties of a company's obligations to perform any or all of its performance requirements or obligations under the award agreement, shall be required from any appropriate person, persons, company, companies, business enterprise, or any public entity, sponsoring entity or governmental authority.

9. Execution of Documents. If an awardee does not execute the appropriate documentation which has been prepared by the staff of LED or LEDC for the award transaction within 60 days after the completed documentation has been forwarded to the awardee, in the LEDC board's discretion the awardee shall be required to appear before the LEDC board to explain the delay, and the LEDC board shall have the right to reconsider the award, and may either withdraw the award or grant an extension of time to the awardee. In the event the awardee does not execute the documentation within the additional time extended to it, the LEDC board, in its discretion, may reconsider and withdraw the award.

#### 10. Funding.

a. Eligible project costs may include costs related to the acquisition, improvement, design, location, construction and/or installation of assets and other improvements, including, but not limited to, the following:

- i. site (land) and/or buildings;
- ii. engineering and architectural expenses related to the project;
- iii. site preparation;
- iv. construction, renovation and/or rebuilding expenses; and/or
- v. building materials;
- vi. and only with regard to unsponsored projects, real estate fees and/or commissions paid in connection with the acquisition or leasing of land, buildings and/or office space for the location of the business operation;
- vii. and again, only with regard to unsponsored projects, purchases or rebuilding of capital machinery and/or equipment that has been approved by the LEDC Board, in its discretion, considering the recommendations of the secretary and/or the staff of LED or LEDC . If any such machinery and/or equipment to be financed by the award is not to be located on property owned by the awardee, the owners, lessors and lessees of such private or public property shall each execute an appropriate written lien waiver or release allowing representatives of LED or LEDC to enter upon such private or public property and remove therefrom any or all of such machinery and/or equipment at any time either the LED or LEDC staff shall determine such to be in its security interests to do so.

b. Project costs ineligible for award funds include, but are not limited to:

- i. recurrent expenses associated with the project (e.g., operation and maintenance costs);
- ii. company moving expenses;
- iii. expenses already approved for funding through the general appropriations bill, or for cash approved through the capital outlay bill, or approved for funding through the state's capital outlay process for which the Division of Administration and the Bond Commission have already approved a line of credit and the sale of bonds;
- iv. refinancing of existing debt, public or private;
- v. only with regard to sponsored projects, costs related to furniture, fixtures, computers, consumables, machinery, equipment, transportation equipment, rolling stock or movable equipment;

vi. and again, only with regard to sponsored projects, improvements to privately-owned property, unless provisions are included in the project for the transfer of ownership to a public or quasi-public entity; and

vii. only with regard to unsponsored projects, purchases or rebuilding of capital machinery and/or equipment that has not been approved by the LEDC board, in its discretion, considering the recommendations of the secretary and/or the staff of LED or LEDC.

11. Loan Participation. If and when appropriate, LED or LEDC, as the originator, may share a part or portion of a loan award, with another lender or other lenders, whereby the participant or participants may provide a portion of the loan award funds or may purchase a portion of the loan award; or LED or LEDC, as a participant, may share in a part or portion of a loan originated by another lender or other lenders, by providing a portion of the loan funds or by purchasing a portion of the loan; in either of which cases the participant or participants shall share in the proceeds of the loan repayments and interest income, and an appropriate loan participation agreement shall be executed between the lenders designating the shares of the parties, outlining the various rights and responsibilities of the parties, providing for the servicing and/or collecting of the indebtedness, providing for the payment of any fees and reimbursement of any expenses of the servicing party, and containing the usual and customary provisions of such agreements.

B. Allocation of Amount for Awards. Following the state's appropriation of funds for each fiscal year, the board of directors of LEDC, considering the recommendations of the secretary and/or the staff of LED or LEDC, shall allocate, and may revise from time to time, the amount of such funds available for awards.

1. For all EDAP awards, matching funds shall be a consideration; and

a. the portion of the total project costs financed by the award may not exceed:

i. 90 percent for projects located in parishes with per capita personal income below the median for all parishes; or

ii. 75 percent for projects in parishes with unemployment rates above the statewide average; or

iii. 50 percent for all other projects.

b. other state funds cannot be used as the match for EDAP funds;

c. all monitoring will be done by the staff of LED or LEDC and/or their regional representatives. Expenditures for monitoring or fiscal agents may be deducted from such awards, in the discretion of the LEDC board, considering the recommendations of the secretary and/or the staff of LED or LEDC as to such deductions;

d. the award amount shall not exceed 25 percent of the total funds allocated to the Economic Development Award Program during a fiscal year, plus any rollover funds from the previous year, unless the project creates in excess of 200 jobs, or creates an annual payroll in excess of \$3.1 million;

e. the LEDC board of directors, in its discretion, considering the recommendations of the secretary and/or the staff of LED or LEDC, may limit the amount of awards to effect the best allocation of resources based upon the number

of projects requiring funding and the availability of program funds.

2. Resources shall be allocated by the board of directors of LEDC, in its discretion, considering the recommendations of the secretary and/or the staff of LED or LEDC, in order to effect the best allocation of resources, based upon the number of projects anticipated to require similar funding and the availability of program funds.

#### C. Conditions for Disbursement of Funds

1. With regard to sponsored projects, award funds will be disbursed to the sponsoring entity, and with regard to unsponsored projects, award funds will be disbursed to the awardee/company. Award funds will be available for disbursement as needed, on a reimbursement basis in accordance with the award agreement following submission of required documentation to LED or LEDC from the sponsoring entity and/or the awardee/company, as the case may be. After the achievement of conditions required by the award agreement before the advancement of funds will be permitted, funding disbursements or advances of award funds may be made to the awardee at any time during the term of the award agreement, either before, at the same time as, or after other performance requirements or objectives have been accomplished or performance credits have been earned by the awardee.

#### 2. Program Funding Source

a. If the program is funded through the state's general appropriations bill, only funds spent on the project after the approval of the award by the LEDC Board of Directors will be considered eligible for reimbursement.

b. If the program is funded through a capital outlay bill, eligible expenses cannot be incurred until a cooperative endeavor agreement (contract) has been agreed upon, signed and executed.

3. Award funds will not be available for disbursement until:

a. LED or LEDC receives signed commitments by the project's other financing sources (public and/or private);

b. LED or LEDC receives signed confirmation that all technical studies or other analyses (e.g., environmental or engineering studies), and licenses or permits needed prior to the start of the project have been completed, issued and/or obtained, in the event such are required in connection with the project; and

c. all other closing conditions specified in the award agreement have been satisfied.

4. Awardees will be eligible for the advancement of award funds on an as-needed reimbursement basis, with requests for such funds supplemented with copies of invoices or appropriate documentation showing the use of the funds, after the achievement of any, all or substantially all of the conditions required by the award agreement before the advancement of funds can be made have been met, achieved, performed or completed. After the awardee has met or achieved such conditions, or performed or completed or substantially performed or substantially completed the conditions required by the award agreement before the advancement of funds can be made, the award amount may be disbursed to the awardee as provided in the paragraphs below after the staff of LED or LEDC or its designee has determined, or, if deemed to be appropriate by the staff, inspects the project, circumstances or documentation to

assure that all or substantially all of the conditions required by the award agreement before the advancement of funds can be made have been met, achieved, performed or completed. Such conditions shall be considered substantially met, substantially performed or substantially completed when the LED or LEDC staff has determined, in its discretion, that the benefits to the state or results anticipated or expected as a result of the conditions to be performed have been achieved, even though 100 percent of all stated conditions of the award agreement may not have been fully met or achieved.

5. After the conditions required by the award agreement have been met, achieved or satisfactorily performed or completed as provided above, and in the event the award is intended to fund one or more purchases, all award funds (100 percent) needed to fund the purchase price shall be available for disbursement or reimbursement following the completion of each of the respective purchases and appropriate inspections of the project by the LED or LEDC staff, or following the receipt and the LED or LEDC staff approval of copies of appropriate invoices or sales describing the items or improvements purchased.

6. After the conditions required by the loan award agreement have been met, achieved or satisfactorily performed or completed as provided above, awardees will be eligible for disbursement or reimbursement of other award funds for the performance of tasks, work or construction projects at 90 percent of the award amount until all or substantially all of the tasks or work required by the award agreement have been performed or completed. Ten percent of the amount of the award shall be held as a "retainage" until the completion or the substantial completion of such work. After the awardee has performed or completed or substantially performed or substantially completed the tasks or work required by the award agreement, the final 10 percent "retainage" of the award amount will be paid after the LED or LEDC staff or its designee inspects the project to assure that all or substantially all of the tasks or work required by the award agreement have been performed or completed. Such tasks or work shall be considered substantially performed or substantially completed when the LED or LEDC staff has determined that the benefits to the state anticipated or expected as a result of the project, tasks or work performed have been achieved, even though 100 percent of all stated objectives of the award agreement may not have been fully achieved.

#### D. Compliance Requirements

1. Companies and public entities shall be required to submit progress reports, describing the progress toward the achievement of performance objectives, obligations and requirements specified in the award agreement. Progress reports by a public entity and/or a company shall include a review and certification of a company's award repayment record, if appropriate, the company's hiring records and the extent of a company's compliance with contract employment commitments, including the number of jobs created, retained and/or maintained, and the compensation or payroll amounts or levels achieved and maintained. Copies of the company's Louisiana Workforce Commission (LWC) ES-4 Forms (quarterly report of wages paid) filed by the company may be required to be submitted with periodic progress reports or as otherwise requested by the LED or LEDC staff to support

the company's reported progress toward the achievement of performance objectives, job creation, employment and compensation or payroll level requirements. Further, the public entity shall oversee the timely submission of reporting requirements of the company to LED or LEDC.

2. Award agreements will contain "clawback" or refund provisions to protect the state in the event of a default. In the event a company or public entity fails to timely start or to proceed with and/or complete its project, or fails to timely meet its performance objectives and/or any job creation or employment requirements, including but not limited to the retention or creation of the number of jobs or the achieving or maintaining of compensation or payroll amounts or levels within the time and for the term agreed, as specified in its award agreement with LED and LEDC; if the awardee/company ceases its operations, reduces its employment numbers or payroll amounts or levels to less than the required amounts; if the awardee/company transfers ownership of the company (or substantially all of its assets) to an entity that is not approved by the state; any such acts, omissions or failures shall constitute a default under the award agreement, and LED and LEDC shall retain all rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or public entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state. Reclamation shall not begin unless the LED or LEDC staff has determined, after an analysis of the benefits of the project to the state and the unmet performance objectives, that the state has not satisfactorily or adequately recouped its costs through the benefits provided by the project.

3. In the event an applicant, a company, public entity, awardee or other party to an award agreement knowingly files a false statement in its application or in a progress report or other filing, the applicant, company, public entity, awardee or other party to an award agreement and/or their representatives may be guilty of the offense of filing false public records, and may be subject to the penalty provided for in R.S. 14:133. In the event an applicant, company, public entity, awardee or other party to an award agreement is reasonably believed to have filed a false statement in its application, a progress report or any other filing, LED and/or LEDC is authorized to notify the district attorney of East Baton Rouge Parish, Louisiana, and may also notify any other appropriate law enforcement official or personnel, so that an appropriate investigation may be undertaken with respect to the false statement and the application of state funds to the project.

4. LED and LEDC shall retain the right to require and/or conduct, at any reasonable time and from time to time, financial and performance audits of a company, public entity, or guarantor, and its project, including all relevant accounts, records and documents of the company, the public entity and/or the guarantor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 23:38 (January 1997); amended by the Department of Economic Development, Office of the Secretary, LR 23:1640 (December 1997), LR 25:239 (February 1999), LR 26:238 (February 2000); amended by the Department of Economic

Development, Office of Business Development, Louisiana Economic Development Corporation, LR 29:864 (June 2003), LR 31:905 (April 2005), LR 35:874 (May 2009), amended by the Department of Economic Development, Office of the Secretary, Louisiana Economic Development Corporation, LR 40:269 (February 2014).

**§§117. - 129. Reserved.**

**Subchapter B. Economic Development Loan Program (EDLOP) Repealed.**

**§131. Economic Development Loan Program (EDLOP); Preamble and Purpose**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 31:906 (April 2005), amended LR 35:876 (May 2009), repealed by the Department of Economic Development, Office of the Secretary, Louisiana Economic Development Corporation, LR 40:273 (February 2014).

**§133. Definitions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 31:907 (April 2005), amended LR 35:876 (May 2009), repealed by the Department of Economic Development, Office of the Secretary, Louisiana Economic Development Corporation, LR 40:273 (February 2014).

**§135. General Principles**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 31:907 (April 2005), amended LR 35:877 (May 2009), repealed by the Department of Economic Development, Office of the Secretary, Louisiana Economic Development Corporation, LR 40:273 (February 2014).

**§137. Eligibility**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 31:908 (April 2005), amended LR 35:878 (May 2009), repealed by the Department of Economic Development, Office of the Secretary, Louisiana Economic Development Corporation, LR 40:273 (February 2014).

**§139. Criteria for Projects**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 31:908 (April 2005), amended LR 35:878 (May 2009), repealed by the Department of Economic Development, Office of the Secretary, Louisiana Economic Development Corporation, LR 40:273 (February 2014).

**§141. Application Procedure for Projects**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 31:909 (April 2005), amended LR 35:879 (May 2009), repealed by the Department of Economic Development, Office of the Secretary, Louisiana Economic Development Corporation, LR 40:273 (February 2014).

**§143. Submission and Review Procedure for Projects Repealed.**

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 31:909 (April 2005), amended LR 35:879 (May 2009), repealed by the Department of Economic Development, Office of the Secretary, Louisiana Economic Development Corporation, LR 40:273 (February 2014).

**§145. General Loan Award Provisions**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, 36:108, 51:2302, 51:2312, and 51:2341.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Louisiana Economic Development Corporation, LR 31:909 (April 2005), amended LR 35:879 (May 2009), repealed by the Department of Economic Development, Office of the Secretary, Louisiana Economic Development Corporation, LR 40:273 (February 2014).

Anne G. Villa  
Undersecretary

1402#016

**RULE**

**Department of Economic Development  
Office of the Secretary  
Office of Business Development  
and  
Louisiana Economic Development Corporation**

Small Business Loan and Guaranty Program (SBL and GP) and State Small Business Credit Initiative (SSBCI) Program (LAC 19:VII.109 and 309)

The Louisiana Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 36:104, 36:108, 51:2302, and 51:2312, has amended, supplemented and expanded portions of the rules of the Small Business Loan and Guaranty Program (SBL and GP) provided in LAC 19:VII.Chapter 1 and the State Small Business Credit Initiative (SSBCI) Program provided in LAC 19:VII.Chapter 3, amending particularly §109.F.1 and §309.E.1 regarding the term periods of various types of Louisiana Economic Development Corporation (LEDC) loan guaranties.

The Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, found a need to amend, supplement and expand §109.F.1 and §309.E.1 of the rules of the Small Business Loan and Guaranty Program (SBL and GP) and the State Small Business Credit Initiative (SSBCI) Program, regarding the extension of term periods of various types of LEDC loan guaranties, including revolving lines of credit, equipment term loans, and real estate term loans. The amendments to these rules will enhance and expand economic development in Louisiana; will stimulate the flow of capital and other financial assistance for the sound financing of the development, expansion, and retention of small business concerns in Louisiana; and will further help secure the creation or retention of jobs created by small businesses in Louisiana. Without the amendments to these rules, the state may suffer the loss of small business investment and economic development projects creating economic growth in Louisiana and creating or retaining jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

**Title 19**  
**CORPORATIONS AND BUSINESS**  
**Part VII. Louisiana Economic Development**  
**Corporation**

**Subpart 1. Small Business Loan and Guaranty Program (SBL and GP)**

**Chapter 1. Loan and Guaranty Policies for the Small Business Loan and Guaranty Program (SBL and GP)**

**§109. General Loan, Credit, Guaranty and Participation Provisions**

- A. - E.4. ...
- F. Terms

1. Maturity, collateral, and other loan terms shall be negotiated between the borrower and the applicant/lending institution, and the LEDC shall have an opportunity to approve the terms of such loans prior to the closing, but guaranty term periods with regard to various types of loan guaranties shall be limited as follows.

- a. For revolving lines of credit (RLOC), guaranty term periods may extend for up to and not exceed 7 years.
- b. For equipment term loans, guaranty term periods may extend for up to and not exceed 10 years.
- c. For real estate term loans, guaranty term periods may extend for up to and shall not exceed 25 years.

- G. - H.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 15:448 (June 1989), amended LR 23:41 (January 1997), LR 26:2256 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 38:995 (April 2012), LR 40:274 (February 2014).

**Chapter 3. Loan and Guaranty Policies for the State Small Business Credit Initiative (SSBCI) Program**

**§309. General Loan, Credit, Guaranty and Participation Provisions**

- A. - D.1.b. ...

E. Terms

1. For loan guaranties included in this Chapter 3 program, all of the provisions contained in §109.F.1.a, b and c of Chapter 1 of the Small Business Loan and Guaranty Program, with regard to term periods of various types of loan guaranties, shall also apply to this Chapter 3 program.

- F. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 38:999 (April 2012), amended LR 40:274 (February 2014).

Anne G. Villa  
Undersecretary

1402#018

**RULE**

**Department of Economic Development**  
**Office of the Secretary**  
**Office of Business Development**  
**and**  
**Louisiana Economic Development Corporation**

Louisiana Seed Capital Program (LSCP) and Seed Capital Program for the State Small Business Credit Initiative (SSBCI) Program (LAC 19:VII.7713 and 8713)

The Louisiana Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 36:104, 36:108, 51:2302, and 51:2312, has amended, supplemented and expanded portions of the rules of the Louisiana Seed Capital Program (LSCP) provided in LAC 19:VII.Chapter 77, and the Seed Capital Program for the State Small Business Credit Initiative (SSBCI) Program provided in LAC 19:VII.Chapter 87; amending particularly §7713.B.1 and §8713.B and C, increasing the maximum total dollar amount of a Louisiana Economic Development Corporation (LEDC) match investment in an eligible seed venture capital fund.

The Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, found a need to amend, supplement and expand §7713.B.1 and §8713.B and C, of the rules of the Louisiana Seed Capital Program (LSCP) and the Seed Capital Program for the State Small Business Credit Initiative (SSBCI) Program, increasing the maximum total dollar amount of an LEDC match investment in an eligible seed venture capital fund. The amendments to these rules will enhance and expand economic development in Louisiana; will stimulate the flow of capital and other financial assistance for the sound financing of the development, expansion, and retention of business concerns in Louisiana; will provide higher levels of employment, income growth, and expanded economic

opportunities in all areas of our state; and will further help secure the creation or retention of jobs created by businesses in Louisiana. Without the amendments to these rules, the state may suffer the loss of business investment and economic development projects creating economic growth in Louisiana and creating or retaining jobs that would improve the standard of living and enrich the quality of life for citizens of this state.

**Title 19**  
**CORPORATIONS AND BUSINESS**  
**Part VII. Louisiana Economic Development Corporation**

**Subpart 11. Louisiana Seed Capital Program (LSCP)**  
**Chapter 77. Louisiana Seed Capital Program (LSCP)**  
**§7713. Investments**

- A. - A.3. ...
- B. Match Investment

1. A qualified or eligible fund may receive a match investment equal to \$1 of LEDC funds for each \$2 of funds privately raised by the applicant fund. The maximum total dollar amount of an LEDC match investment in an eligible fund shall not exceed \$2,000,000.

- B.2. - C.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Louisiana Economic Development Corporation, LR 26:2254 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 38:990 (April 2013), LR 40:275 (February 2014).

**Chapter 87. Seed Capital Program for the State Small Business Credit Initiative (SSBCI) Program**

**§8713. Investments**

- A. ...

B. A qualified or eligible fund may receive a match investment equal to \$1 of LEDC funds for each \$1.50 of funds privately raised by the applicant fund. The maximum total dollar amount of an LEDC match investment in an eligible fund shall not exceed \$2,000,000.

C. LEDC investments made in a qualified Seed Capital Fund will not exceed an initial investment of \$450,000, with up to four expected follow-up investments, but shall not exceed a total investment of \$2,000,000 per fund.

AUTHORITY NOTE: Promulgated in accordance with LA. R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 38:992 (April 2012), amended LR 40:275 (February 2014).

Anne G. Villa  
Undersecretary

1402#017

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators—Carnegie Credit and Credit Flexibility (LAC 28: CXV.2314)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2314, Carnegie Credit and Credit Flexibility. The revised policy clarifies that schools must provide a minimum of 7,965 instructional minutes and students must complete a minimum of 7,515 minutes to earn a Carnegie credit.

**Title 28**  
**EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for School Administrators**

**Chapter 23. Curriculum and Instruction**  
**Subchapter A. Standards and Curricula**

**§2314. Carnegie Credit and Credit Flexibility**

- A. - A.2. ...

B. When awarding credit based on instructional time, LEAs shall provide a minimum of 7,965 instructional minutes for one Carnegie credit, and students shall be in attendance for a minimum of 7,515 minutes. In order to grant one-half Carnegie credit, LEAs shall provide a minimum of 3,983 instructional minutes, and students shall be in attendance for a minimum of 3,758 minutes.

- C. - G.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2215 (August 2013), amended LR 39:3260 (December 2013), LR 40:275 (February 2014).

Heather Cope  
Executive Director

1402#003

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—Programs of Study (LAC 28: LXXIX.2102)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for Nonpublic School Administrators*: §2102, Carnegie Credit and Credit Flexibility. The revision adds two classifications of approved nonpublic schools. The revised



policy clarifies that schools must provide a minimum of 7,965 instructional minutes and students must complete a minimum of 7,515 minutes to earn a Carnegie credit.

**Title 28  
EDUCATION**

**Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana  
Handbook for Nonpublic School Administrators**

**Chapter 21. Curriculum and Instruction**

**Subchapter A. General**

**§2102. Carnegie Credit and Credit Flexibility**

A. - A.2. ...

B. When awarding credit based on instructional time, LEAs shall provide a minimum of 7,965 instructional minutes for one Carnegie credit, and students shall be in attendance for a minimum of 7,515 minutes. In order to grant one-half Carnegie credit, LEAs shall provide a minimum of 3,983 instructional minutes, and students shall be in attendance for a minimum of 3,758 minutes.

C. - E. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1444 (June 2013), amended LR 40:276 (February 2014).

Heather Cope  
Executive Director

1402#005

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 746—Louisiana Standards for  
State Certification of School Personnel  
(LAC 28:CXXXI.233, 235, 237, 243, 305, 309,  
311, 313, 323, 348, 625, 627, 633, and 648)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §233, The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements); §235, The Master's Degree Program Alternative Path to Certification (Minimum Requirements); §237, Certification-Only Program Alternative Path to Certification; §243, PRAXIS Exams and Scores; §305, Professional Level Certificates; §309, Out-of-State (OS) Certificate; §311, World Language Certificate (WLC) PK-12; §313, Practitioner Licenses; §323, Temporary Authority to Teach (TAT); §348, Math for Professionals Certificate; §625, Requirements to add Early Interventionist Birth to Five Years; §627, Requirements to add Hearing Impaired K-12; §633, Requirements to add Visual Impairments/Blind K-12; and §648, Algebra I. The proposed policy will allow the adoption of the following Praxis exams: Special Education: Early Childhood (0691); Special Education: Teaching Students with Visual Impairments (0282); Special Education: Education of Deaf and Hard of Hearing (0272); Environmental Education (0831); Core Academic Skills for Educators: Reading (5712), Writing (5722) and Mathematics (5732); Middle

School English (5047); Middle School Mathematics (5169); English Language Arts: Content and Analysis (5039); and Mathematics: Content Knowledge (5161), in addition to setting a passing score for the current Professional School Counselor (0421 or 5421) exam previously adopted. The core academic skills for educators in reading, writing and mathematics and the new content exams for middle/secondary education in English and mathematics are aligned with the common core state standards.

**Title 28  
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards  
for State Certification of School Personnel**

**Chapter 2. Louisiana Educator Preparation  
Programs**

**Subchapter B. Alternate Teacher Preparation Programs**

**§233. The Practitioner Teacher Program Alternative  
Path to Certification (Minimum Requirements)**

A. - B.3. ...

4. pass the Praxis core academic skills for educators in reading, writing, and mathematics. Candidates who already possess a graduate degree will be exempted from this requirement;

B.5. - H. ...

I. Program requirements must be met within a three year time period. For certification purposes, private providers and colleges or universities will submit signed statements to the Department of Education indicating that the student completing the Practitioner Teacher Program alternative certification path met the following requirements:

1. passed the core academic skills for educators components of the Praxis;

NOTE: This test was required for admission.

I.2. - L. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1790 (October 2006), amended LR 34:1387 (July 2008), LR 35:1477 (August 2009), LR 36:2261, 2263 (October 2010), LR 37:549, 558 (February 2011), LR 37:3208 (November 2011), LR 39:1460 (June 2013), LR 40:276 (February 2014).

**§235. The Master's Degree Program Alternative Path  
to Certification (Minimum Requirements)**

A. - C.2. ...

3. pass the Praxis core academic skills for educators in reading, writing, and mathematics (individuals who already possess a graduate degree will be exempted from this requirement);

C.4. - D.5.a. ...

E. Certification Requirements. Colleges/universities will submit signed statements to the Louisiana Department of Education indicating that the student completing the master's degree program alternative certification path met the following requirements:

1. passed core academic skills for educators components of Praxis (as required for admission);

2. - 5.b....

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1792 (October 2006), amended LR 35:1480 (August 2009), LR 36:2262, 2263 (October 2010), LR 37:549 (February 2011), LR 37:3209 (November 2011), LR 39:1460 (June 2013), LR 40:276 (February 2014).

**§237. Certification-Only Program Alternative Path to Certification**

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

4. Testing Requirements

a. Pass the Praxis core academic skills for educators. Candidates who already possess a graduate degree will be exempted from this requirement. An ACT composite score of 22 or a SAT combined verbal/critical reading and math score of 1030 may be used in lieu of Praxis core academic skills for educators exams.

C.4.b. - E.2.c. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1794 (October 2006), amended LR 35:1482 (August 2009), LR 36:2262, 2263 (October 2010), LR 37:550 (February 2011), LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014).

**Subchapter D. Testing Required for Licensure Areas**

**§243. PRAXIS Exams and Scores**

A. A teacher applicant for certification must successfully complete the appropriate written or computer delivered tests<sup>1</sup> identified prior to Louisiana teacher certification.

1. Core Academic Skills for Educators<sup>2</sup>. Teacher applicants in all content areas must pass all three Praxis core academic skills for educators tests.

B. Content and Pedagogy Requirements

Pre-Professional Skills Test "Paper or Computer Administrations"	Test #	Score	Effective Date
PPST:R—Pre-Professional Skills Test: Reading	0710/5710	176	Effective 7/1/10 to 12/31/13
PPST:W—Pre-Professional Skills Test: Writing	0720/5720	175	
PST:M—Pre-Professional Skills Test: Mathematics	0730/5730	175	

Core Academic Skills for Educators	Test #	Score	Effective Date
Reading	5712	156	Effective 1/1/14
Writing	5722	162	
Mathematics	5732	150	

<sup>1</sup> To differentiate the computer delivered tests, Educational Testing Service has placed the number "5" or "6" preceding the current test code. The Department will accept computer delivered passing test scores for licensure.

<sup>2</sup> NOTE: An ACT composite score of 22 or a SAT combined verbal and math score of 1030 may be used in lieu of Praxis 1 PPST Exams or Core Academic Skills for Educators in reading, writing and math by prospective teachers in Louisiana

2. Principles of Learning and Teaching (PLT) Exams

Principles of Learning and Teaching : Early Childhood	0621 or 5621	157	Effective 1/1/12
Principles of Learning and Teaching: K-6	0622 or 5622	160	
Principles of Learning and Teaching: 5-9	0623 or 5623	160	
Principles of Learning and Teaching: 7-12	0624 or 5624	157	

Certification Area	Name of Praxis Test	Content Exam Score	Pedagogy: Principles of Learning and Teaching		
			PLT K-6 (#0622 or 5622)	PLT 5-9 (#0623 or 5623)	PLT 7-12 (#0624 or 5624)
Early Childhood PK-3	Elementary Content Knowledge (0014 or 5014)	150	PLT: Early Childhood 0621 or 5621 (Score 157)		
Grades 1-5	Elementary Content Knowledge (0014 or 5014)	150	160	---	---
Grades 4-8 Mathematics	Middle School Mathematics (0069) Prior to 1/1/14	148	---	160	---
	Middle School Mathematics (5169) Effective 1/1/14	165	-		
Grades 4-8 Science	Middle School Science (0439)	150	---	160	---
Grades 4-8 Social Studies	Middle School Social Studies (0089 or 5089)	149	---	160	---
Grades 4-8 English/ Language Arts	Middle School English/Language Arts (0049 or 5049) Prior to 1/1/14	160	---	160	---
	Middle School English (5047) Effective 1/1/14	164			

C. Certification Areas  
 1. Grades 6-12 Certification

Grades 6-12 Certification Areas					
		Score			PLT 7-12
Agriculture	Agriculture (0700)	510	---		157
Biology	Biology: Content Knowledge (0235 or 5235)	150	---		157
Business	Business Education: Content Knowledge (0101 or 5101)	154	---		157
Chemistry	Chemistry: Content Knowledge (0245 or 5245)	151	---		157
Chinese	Chinese (Mandarin): World Language (5665)	164	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
Environmental Science	Environmental Education (0831)	156	---		157
English	English Language, Literature, and Composition: Content Knowledge (0041 or 5041) Pedagogy (0043) English Language Arts: Content and Analysis (5039) Effective 1/1/14	160 130 168	---		157
Family and Consumer Sciences	Family and Consumer Sciences (0121 or 5121)	141	---		157
French	French: World Language (5174)	157	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
General Science	General Science: Content Knowledge (0435 or 5435)	156	---		157
German	German: World Language (5183)	157	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
Mathematics	Mathematics: Content Knowledge (0061 or 5061) Effective 6/1/10 – 12/31/13 Mathematics: Content Knowledge (5161) Effective 1/1/14	135 160	---	- - -	157
Physics	Physics: Content Knowledge (0265 or 5265)	141	---	-	157
Social Studies	Social Studies: Content and Interpretation (0086 or 5086)	160	---	-	157
Spanish	Spanish: World Language (5195)	157	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
Speech	Speech Communications (0221)	146	---		157
Technology Education	Technology Education (0051)	159	---		157
Computer Science Earth Science Journalism Latin Marketing	At this time, a content area exam is not required for certification in Louisiana.	---	---		157

2. All-Level K-12 Certification

All-Level K-12 Certification Areas						
		Score	PLT K-6		PLT 5-9	PLT 7-12
Grades K-12 Art	Art: Content Knowledge (0134 or 5134)	159	160	or	160	157
Grades K-12 Dance	None Available**	---	160		160	157
Grades K-12 Foreign Languages	Chinese (Mandarin): World Language (5665)	164	PLT K-6 (Score 160) or PLT 5-9 (Score 160)			
	French: World Language (5174)	157	or			
	German: World Language (5183)	157	PL7-12 (Score 157) until 6/30/13;			
	Spanish: World Language (5195)	157	After 6/30/13 World Languages Pedagogy 0841 (Score 158)			
Grades K-12 Music	Music: Content Knowledge (0113 or 5113)	151	160	or	160	157
Grades K-12 Health and Physical Education	Phys. Education: Content Knowledge (0091 or 5091) Effective 6/1/04	146	160	or	160	157

\*\*At this time, a content area exam is not required for certification in Louisiana.

D. Special Education Areas

Area	Content Exam	Score	Pedagogy Requirement	Score
All Special Education Area(s)				
Early Interventionist	Elementary Content Knowledge (0014 or 5014)	150	Special Education: Core Knowledge and Applications (0354 or 5354) and Principles of Learning and Teaching: Early Childhood (0621 or 5621) Effective 1/1/12	145 157
			Special Education: Early Childhood (0691) and Principles of Learning and Teaching: Early Childhood (0621 or 5621) Effective 1/1/14	159 157
Hearing Impaired	Elementary Content Knowledge (0014 or 5014)	150	Special Education: Core Knowledge and Applications (0354 or 5354) and Education of Deaf and Hard of Hearing Students (0271) Effective 11/1/11	145 160
			Special Education: Core Knowledge and Applications (0354 or 5354) and Special Education: Education of Deaf and Hard of Hearing Students (0272 or 5272) Effective 1/1/14	145 160
Mild to Moderate Disabilities	ALL Candidates must pass a content area exam appropriate to certification level 1-5, 4-8, 6-12 (e.g., 0014, or core subject-specific exams for middle or secondary grades)		Special Education: Core Knowledge and Mild to Moderate Applications (0543 or 5543)	153
Significant Disabilities	Elementary Content Knowledge (0014 or 5014)	150	Special Education: Core Knowledge and Severe to Profound Applications (0545 or 5545)	153
Visual Impairments/Blind	Elementary Content Knowledge (0014 or 5014)	150	Special Education: Core Content Knowledge and Applications (0354 or 5354) Effective 11/1/11	145
			Special Education: Core Content Knowledge and Applications (0354 or 5354) and Special Education: Teaching Students with Visual Impairments (0282) Effective 1/1/14	145 163

E. Administrative and Instructional Support Areas

Certification Area	Name of Praxis Test	Area Test Score
Educational Leader—Level 1	School Leaders Licensure Assessment (1011 or 6011)	166
Educational Leader—Level 3	School Superintendent Assessment (6021)	160
Guidance Counselor K-12	Professional School Counselor (0421 or 5421)	156
School Librarian	Library Media Specialist (0311 or 5311)	136

All Praxis scores used for certification must be sent directly from ETS to the State Department of Education electronically, or the original Praxis score report from ETS must be submitted with candidate's application.

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010), LR 37:551 (February 2011), repromulgated LR 37:556 (February 2011), amended LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014).

**Chapter 3. Teaching Authorizations and Certifications**

**Subchapter A. Standard Teaching Authorizations**

**§305. Professional Level Certificates**

A. - A.1.a.i.(b). ...

(c). present appropriate scores on the NTE core battery (common exams) or the corresponding Praxis exams (core academic skills for educators in reading, writing, and mathematics); the principles of learning and

teaching (PLT) or other pedagogy exam required for the area(s) of certification; and the specialty area exam in the certification area in which the teacher preparation program was completed or in which the initial certificate was issued; and

a.i.(d). - b.i.(d). ...

(i). present appropriate scores on the NTE core battery (common exams) or the corresponding Praxis exams (core academic skills for educators in reading, writing, and mathematics); the principles of learning and teaching (PLT) or other pedagogy exam required for the area(s) of certification; and the specialty area exam in the certification area in which the teacher preparation program was completed or in which the initial certificate was issued;

b.i.(d)(ii). - d.i.(b). ...

(c). present appropriate scores on the NTE core battery (common exams) or the corresponding Praxis exams (core academic skills for educators in reading, writing, and mathematics); the principles of learning and teaching (PLT) or other pedagogy exam required for the area(s) of certification; and the specialty area exam(s) in the certification area(s) in which the teacher preparation program was completed or in which the initial certificate was issued.

B. - E.3. ...

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

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1797 (October 2006), amended LR 33: 433 (March 2007), LR 34:233 (February 2008), LR 34:1611 (August 2008), LR 35:222 (February 2009), LR

37:558 (February 2011), LR 38:1951 (August 2012), LR 40:279 (February 2014).

### §309. Out-of-State (OS) Certificate

A. - C.1. ...

a. present appropriate scores on the NTE core battery (common exams) or the corresponding Praxis exams (core academic skills for educators in reading, writing, and mathematics); the principles of learning and teaching (PLT) or other pedagogy exam required for the area(s) of certification; and the specialty area exam in the certification area in which the teacher preparation program was completed or in which the initial certificate was issued;

b. - c.iii. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1799 (October 2006), amended LR 33:433 (March 2007), LR 34:1611 (August 2008), LR 35:222 (February 2009), LR 35:894 (May 2009), LR 37:559 (February 2011), LR 37:882 (March 2011), LR 40:280 (February 2014).

### §311. World Language Certificate (WLC) PK-12

A. - D. ...

E. Professional Certificate. A professional level 1 certificate may be issued after successful completion of the PRAXIS core academic skills for educators, PRAXIS II content area examination(s), and PRAXIS principles of learning and teaching: K-6, 5-9, or 7-12. The test of English as a foreign language may be used in lieu of the PRAXIS core academic skills for educators. For renewal and reinstatement guidelines of a level 1 certificate, see Chapter 3.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1800 (October 2006), amended LR 33:1618 (August 2007), LR 34:233 (February 2008), LR 35:642 (April 2009), LR 36:486 (March 2010), LR 38:1952 (August 2012), LR 40:280 (February 2014).

### §313. Practitioner Licenses

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

c. passing scores on Praxis core academic skills for educators and current Praxis content area exam(s). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program. Candidates possessing a graduate degree from a regionally accredited college or university will be exempted from the core academic skills for educators requirement.

NOTE: Special education mild/moderate certification candidates must qualify for admission to alternate programs by passing a Praxis specialty area exam. Secondary education candidates (grades 6-12) must pass a Praxis core subject area exam. If there is no content Praxis exam adopted by the State in the specific secondary core subject area, candidates must demonstrate content mastery by presenting 31 semester credit hours in the core subject area.

2. - 4. ...

C. Practitioner License 2—issued to a candidate who is admitted to and enrolled in a state-approved non-master's/certification-only alternate certification program.

1. - 1.b. ...

c. passing scores on Praxis core academic skills for educators and current Praxis content area exam(s). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program. Candidates possessing a graduate degree from a regionally accredited college or university will be exempted from the core academic skills for educators requirement.

NOTE: Special education mild/moderate certification candidates must qualify for admission to alternate programs by passing a Praxis specialty area exam. Secondary education candidates (grades 6-12) must pass a Praxis core subject area exam. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area.

2. - 4. ...

D. Practitioner License 3—issued to a candidate who is admitted to and enrolled in a state-approved master's degree alternate certification program.

1. - 1.b....

c. passing scores on Praxis core academic skills for educators and current Praxis content area exam(s). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program. Candidates possessing a graduate degree from a regionally accredited college or university will be exempted from the core academic skills for educators requirement.

NOTE: Special education mild/moderate certification candidates must qualify for admission to alternate programs by passing a Praxis specialty area exam. Secondary education candidates (grades 6-12) must pass a Praxis core subject area exam. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area.

2. - 4. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1800 (October 2006), amended LR 35:221 (February 2009), LR 38:1952 (August 2012), LR 40:280 (February 2014).

### Subchapter B. Nonstandard Teaching Authorizations

#### §323. Temporary Authority to Teach (TAT)

A. ...

B. An applicant must have a baccalaureate degree from a regionally accredited institution; passing scores on the Praxis core academic skills for educators in reading and writing examinations or appropriate scores on the ACT or SAT and at least a 2.20 GPA. Applicants who meet these eligibility requirements can apply for a TAT through their employing school district.

C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1803 (October 2006),

amended LR 36:2547 (November 2010), LR 40:280 (February 2014).

**§348. Math for Professionals Certificate**

A. - B.1.a.ii. ...

iii. successful passing of the Praxis Mathematics: Content Knowledge test (5161).

1.b. - 3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:220 (February 2009), amended LR 39:1463 (June 2013), LR 40:281 (February 2014).

**Chapter 6. Endorsements to Existing Certificates**

**Subchapter B. Special Education Level and Area Endorsements**

**§625. Requirements to add Early Interventionist Birth to Five Years**

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or an all-level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. passing score for Praxis exams: Principles of Learning and Teaching; Early Childhood (#0621 or 5621) and Special Education: Early Childhood (#0691);

2. - 3. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1817 (October 2006), amended LR 37:552 (February 2011), LR 37:1382 (May 2011), LR 37:3215 (November 2011), LR 40:281 (February 2014).

**§627. Requirements to add Hearing Impaired K-12**

A. - C.3. ...

D. Passing score for Praxis exams—Special Education: Core Content Knowledge and Applications (#0354 or 5354) Special Education: Education of Deaf and Hard of Hearing (#0272).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1817 (October 2006), amended LR 37:552 (February 2011), LR 40:281 (February 2014).

**§633. Requirements to add Visual Impairments/Blind K-12**

A. - A.2. ...

3. a passing score for Praxis Special Education: Core Knowledge and Applications (#0354 or 5354) and Special Education: Teaching Students with Visual Impairments (#0282).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1818 (October 2006), amended LR 37:556 (February 2011), LR 39:1465 (June 2013), LR 40:281 (February 2014).

**Subchapter C. All Other Teaching Endorsement Areas**

**§648. Algebra I**

A. - A.2.c. ...

3. Pass the Praxis Middle School Mathematics exam (5169).

4. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1386 (July 2008), amended LR 39:1465 (June 2013), LR 40:281 (February 2014).

Heather Cope  
Executive Director

1402#004

**RULE**

**Student Financial Assistance Commission  
Office of Student Financial Assistance**

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

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its scholarship/grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6). (SG1415OR).

**Title 28**

**EDUCATION**

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

**Chapter 3. Definitions**

**§301. Definitions**

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

\*\*\*

*Tuition—*

a. through the fall semester or term and winter quarter of the 2010-2011 award year, the fee charged each student by a post-secondary institution to cover the student's share of the cost of instruction, including all other mandatory enrollment fees charged to all students except for the technology fee authorized by Act 1450 of the 1997 Regular Session of the Legislature:

i. which were in effect as of January 1, 1998;

ii. any changes in the cost of instruction authorized by the legislature and implemented by the institution after that date; and

iii. for programs with alternative scheduling formats that are approved in writing by the Board of Regents after that date. Any payment for enrollment in one of these programs shall count towards the student's maximum eligibility for his award:

(a). up to the equivalent of eight full-time semesters of postsecondary education in full-time semesters for the TOPS Opportunity, Performance and Honors Award; or

(b). up to the equivalent of two years of postsecondary education in full-time semesters and summer sessions for the TOPS Tech Award.

b. beginning with the spring semester, quarter or term of the 2010-2011 award year and through the spring semester, quarter, or term of the 2012-2013 award year;

i. the tuition and mandatory fees authorized in Subparagraph a above; or

ii. the tuition fee amount published by the postsecondary institution, whichever is greater.

c. Beginning with the fall semester, quarter, or term of the 2013-2014 award year, the tuition amount as of August 1, 2013, published by the postsecondary institution for the 2013-2014 award year for paying students;

d. beginning with the fall semester, quarter, or term of the 2014-2015 award year, the tuition amount as of August 1, 2013, published by the postsecondary institution for the 2013-2014 award year for paying students, plus any increase authorized by the legislature which is not attributable to any fees. No fees or increases attributable to fees of any kind shall be included in the TOPS award amount. Stipends for TOPS Performance and Honors awards shall not be included in the TOPS award amount.

\*\*\*

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 40:281 (February 2014).

## **Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions**

### **§1903. Responsibilities of Post-Secondary Institutions**

A.1. - B.3. ...

4. annually, all institutions are required to provide LASFAC a current fee schedule. The schedule must include an itemized description of the composition of the mandatory fees listed on the fee schedule, including the tuition amount, as those fees will appear on a student's fee bill;

5. - 10.c. ...

11.a. Beginning with the spring semester of 2014, for a public college or university to be permitted to bill for a TOPS award amount under the provisions of Section 1903.B.6 of these rules, the college or university must include on the student fee bill line items entitled:

i. "Tuition Only" that equals the TOPS award amount listed on the fee bill;

ii. "TOPS Award Amount" as defined in Section 301; and

iii. "TOPS Stipends" for TOPS Honors and Performance Award stipends. These amounts shall not be included in the "Tuition Only" or "TOPS Award Amount" line items.

b. There shall be no reference to a tuition amount on a student's fee bill other than as provided herein.

C. - G.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111, 3114 (December 2005), LR 33:1340 (July 2007), LR 35:1233 (July 2009), LR 35:1490 (August 2009), LR 35:1491 (August 2009), LR 36:2857 (December 2010), LR 40:282 (February 2014).

George Badge Eldredge  
General Counsel

1402#025

## **RULE**

### **Department of Environmental Quality Office of the Secretary Legal Division**

Expanded Definition of Byproduct Material  
(LAC 33:XV.102, 304, 322, 324, 328, 399, 460, 465, 499, 717, 729, 731, 732, 735, and 1302)(RP055ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Radiation Protection regulations, LAC 33:XV.102, 304, 322, 324, 328, 399, 460, 465, 499, 717, 729, 731, 732, 735, and 1302 (Log #RP055ft).

This Rule is identical to federal regulations found in 10 CFR 20, 30, 31, 32, 35, 61 and 150, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule is promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule updates the state regulations to be compatible with changes in the federal regulations. This rule updates and adds several definitions to coincide with amendments in the federal regulations relating to requirements for the expanded definition of byproduct material. The changes in the state regulations are category B and C (must do) requirements for the state of Louisiana to remain an NRC agreement state. The basis and rationale for this Rule is to mirror the federal regulations and maintain an adequate agreement state program. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part XV. Radiation Protection**

**Chapter 1. General Provisions**

**§102. Definitions and Abbreviations**

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain Chapter may be found in that Chapter.

\* \* \*

*Accelerator-Produced Material*—Repealed.

*Accelerator-Produced Radioactive Material*—any material made radioactive by a particle accelerator.

\* \* \*

*Byproduct Material*—

1. any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

2. the tailings or wastes produced by the extraction or concentration of uranium or thorium (R.S. 30:2103) from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute byproduct material within this definition;

3. any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or

4. any material that has been made radioactive by use of a particle accelerator, and is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

5. any discrete source of naturally occurring radioactive material, other than source material that the commission, in consultation with the administrator of the Environmental Protection Agency, the secretary of Energy, the secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and before, on, or after August 8, 2005, is extracted or converted after extraction for the use in a commercial, medical, or research activity.

\* \* \*

*Consortium*—an association of medical use licensees and a *positron emission tomography (PET) radionuclide production facility* as defined in this Section located in the same geographical area. They shall jointly own or share in the operation and maintenance cost of the PET radionuclide production facility that produces PET radionuclides for use in producing radioactive drugs within the consortium for noncommercial distributions among its associated members for *medical use* as defined in this Section. The PET radionuclide production facility within the consortium shall be located at an educational institution, a federal facility, or a medical facility.

\* \* \*

*Discrete Source*—a radionuclide that has been processed so that its concentration within a material has been purposely

increased for use for commercial, medical or research activities.

\* \* \*

*Particle Accelerator*—any machine capable of accelerating electrons, protons, deuterons or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 megaelectron volt.

\* \* \*

*Positron Emission Tomography (PET) Radionuclide Production Facility*—a facility operating a cyclotron or accelerator for the purpose of producing PET radionuclides.

\* \* \*

*Waste*—those low-level radioactive wastes that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level waste has the same meaning as in the Low-Level Radioactive Waste Policy Act, P.L. 96-573, as amended by P.L. 99-240, effective January 15, 1986; that is, radioactive waste:

1. not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11.e.(2) of the Atomic Energy Act (uranium or thorium tailings and waste) and in the definition of *byproduct material* of this Section; and

2. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000), LR 26:2767 (December 2000), LR 30:1171, 1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:1064 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:811 (May 2006), LR 32:1853 (October 2006), LR 33:1016 (June 2007), LR 33:2175 (October 2007), LR 34:982 (June 2008), LR 36:1771 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2748 (November 2012), LR 40:283 (February 2014).

**Chapter 3. Licensing of Radioactive Material**  
**Subchapter A. Exemptions**

**§304. Radioactive Material Other Than Source Material**

A. - B.1. ...

2. Any person who possesses byproduct material received or acquired before September 25, 1971, under the general license, formerly provided in Section B.22, or under a similar general license is exempt from the requirements for a license set forth in this Chapter to the extent that such person possesses, uses, transfers, or owns such byproduct material. This exemption does not apply for radium-226.

3. - 4. ...

C. Exempt Items

1. Certain Items Containing Byproduct Material. Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory



requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Except for persons who apply radioactive material to, or persons who incorporate radioactive material into, the following products, any person is exempt from these regulations to the extent that he or she receives, possesses, uses, transfers, owns, or acquires the following products.

a. - a.vii.(c). ...

viii. 1 microcurie (0.037 MBq) of radium-226 per timepiece in intact timepieces manufactured prior to November 30, 2007.

1.b. - 2.b. ...

3. Gas and Aerosol Detectors Containing Byproduct Material

a. Except for persons who manufacture, process, produce, or initially transfer for sale or distribution gas and aerosol detectors containing byproduct material, any person is exempt from the requirements for a license in these regulations to the extent that such person receives, possesses, uses, transfers, owns, or acquires byproduct material in gas and aerosol detectors designed to protect health, safety, or property and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under 10 CFR 32.26, which license authorizes the initial transfer of the product for use under this Section. This exemption also covers gas and aerosol detectors manufactured or distributed before November 30, 2007, in accordance with a specific license issued by a state under comparable provisions to 10 CFR 32.26 authorizing distribution to persons exempt from regulatory requirements.

b. Any person who desires to manufacture, process, or produce gas and aerosol detectors containing byproduct material, or to initially transfer such products for use under LAC 33:XV.304.C.3.a shall apply for a license under 10 CFR 32.26 and for a certificate of registration in accordance with 10 CFR 32.210.

3.c. - 4.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2091 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1226 (August 2001), amended by the Office of the Secretary, Legal Division, LR 38:2746 (November 2012), LR 40:283 (February 2014).

### Subchapter C. General Licenses

#### §322. General Licenses: Radioactive Material Other Than Source Material

A. - A.2. ...

B. Antiquities, Timepieces, and Luminous Devices

1. A general license is hereby issued to any person to acquire, receive, possess, use, or transfer, in accordance with the provisions of Paragraphs B.1-4 of this Section, radium-226 contained in the following products manufactured prior to November 30, 2007:

a. Antiquities Originally Intended for Use by the General Public. For the purposes of this Paragraph, antiquities are products originally intended for use by the general public and distributed in the late nineteenth and twentieth centuries, (e.g., radium emanator jars, revigators,

radium water jars, radon generators, refrigerator cards, radium bath salts, and healing pads);

b. intact timepieces containing greater than 0.037 megabecquerel (1 microcurie), nonintact timepieces, and timepiece hands and dials no longer installed in timepieces;

c. luminous items installed in air, marine, or land vehicles;

d. all other luminous products, provided that no more than 100 items are used or stored at the same location at any one time; and

e. small radium sources containing no more than 0.037 megabecquerel (1 microcurie) of radium-226. [For the purposes of this Paragraph, small radium sources are: discrete survey instrument check sources, sources contained in radiation measuring instruments, sources used in educational demonstrations (e.g., cloud chambers and spinthariscopes), electron tubes, lightning rods, ionization sources, static eliminators, or as designated by the NRC.]

2. Persons who acquire, receive, possess, use, or transfer byproduct material under the general license issued under Paragraph B.1 of this Section are exempt from the provisions of LAC 33:XV.Chapters 3, 4, and 10, and specifically LAC 33:XV.341 and 342 to the extent that the receipt, possession, use, or transfer of byproduct material is within the terms of the general license; provided, however, that this exemption shall not be deemed to apply to any such person specifically licensed under this Chapter.

3. Any person who acquires, receives, possesses, uses, or transfers byproduct material in accordance with the general license in Paragraph B.1 of this Section shall:

a. notify the Office of Environmental Compliance within 30 days of possible damage to the product which may result in a loss of the radioactive material, including a brief description of the event and the remedial action taken;

b. not abandon products containing radium-226. The product, and any radioactive material from the product, may only be disposed of according to LAC 33:XV.499, Appendix D or by transfer to a person authorized by a specific license to receive the radium-226 in the product or as otherwise approved by another agreement state or the NRC;

c. not export products containing radium-226, except in accordance with 10 CFR 110;

d. dispose of products containing radium-226 at a disposal facility authorized to dispose of radioactive material in accordance with any federal or state solid or hazardous waste law. This includes the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005, by transfer to a person authorized to receive radium-226 by a specific license issued under LAC 33:XV.Chapter 3 of these regulations, equivalent regulations of an agreement state, or as approved by the NRC; and

e. respond to written requests from the department to provide information relating to the general license within 30 calendar days of the date of the request, or the time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request additional time to supply the information by providing the department with a written justification for the request.

4. The general license in Paragraph B.1 of this Section does not authorize the manufacture, assembly, disassembly,

repair, or import of products containing radium-226, except that timepieces may be disassembled and repaired.

C. Reserved.

D. Certain Detecting, Measuring, Gauging, and Controlling Devices

1. A general license is hereby issued to commercial and industrial firms and to research, educational, and medical institutions, individuals in the conduct of their business, and federal, state, or local government agencies to own, receive, acquire, possess, use, or transfer in accordance with the provisions of Paragraph D.2 of this Section, byproduct material contained in devices designed and manufactured for the purpose of detecting, measuring, gauging, or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.

2. The general license in Paragraph D.1 of this Section applies only to byproduct material contained in devices that have been manufactured or initially transferred and labeled in accordance with the specifications contained in a specific license issued by the administrative authority in accordance with LAC 33:XV.328.D or in accordance with the specifications contained in a specific license issued by the U.S. Nuclear Regulatory Commission, any other agreement state, or a licensing state that authorizes distribution of devices to persons generally licensed by the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state. Regulations under the Federal Food, Drug, and Cosmetic Act authorizing the use of radioactive control devices in food production require certain additional labeling thereon that is found in 21 CFR 179.21. The devices shall be received from one of the specific licensees described in this Paragraph or through a transfer made under Subparagraph D.3.h of this Section.

3. Any person who owns, receives, acquires, possesses, uses, or transfers byproduct material in a device pursuant to the general license in Paragraph D.1 of this Section shall do the following:

a. - b.ii. ...

c. assure that the tests required by Subparagraph D.3.b of this Section and other testing, installation, servicing, and removal from installation involving the radioactive material, its shielding, or containment are performed:

i. - ii. ...

d. maintain records showing compliance with the requirements of Subparagraphs D.3.b and c of this Section. The records shall show the results of tests. The records also shall show the dates of performance of, and the names of persons performing, testing, installation, servicing, and removal from installation of the radioactive material, its shielding, or containment. Records of tests for leakage of radioactive material required by Subparagraph D.3.b of this Section shall be retained for three years after the next required leak test is performed, or until the sealed source is transferred or disposed. Records of tests of the on-off mechanism and indicator required by Subparagraph D.3.b of this Section shall be maintained for three years after the next required test of the on-off mechanism and indicator is performed or until the sealed source is transferred or disposed. Records required by Subparagraph D.3.c of this

Section shall be maintained for a period of three years from the date of the recorded event or until the device is transferred or disposed;

e. upon the occurrence of a failure of or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 0.005 microcurie (185 bequerel) or more of removable radioactive material, immediately suspend operation of the device until it has been repaired by the manufacturer or other person holding an applicable specific license from the administrative authority, the U.S. Nuclear Regulatory Commission, or any other agreement state or licensing state to repair such devices, or disposed of by transfer to a person authorized by an applicable specific license to receive the radioactive material contained in the device and, within 30 days, furnish to the Office of Environmental Compliance a report containing a brief description of the event and the remedial action taken. In the case of detection of 0.005 microcurie or more of removable radioactive material or failure of or damage to a source likely to result in contamination of the premises or environs, a plan for ensuring that the premises and environs are acceptable for unrestricted use in accordance with LAC 33:XV.332.D shall be submitted to the Office of Environmental Compliance within 30 days of occurrence;

f. shall not abandon the device containing byproduct material;

g. except as provided in Subparagraph D.3.h of this Section, transfer or dispose of the device containing byproduct material only by export as provided in 10 CFR Part 110 or by transfer to a specific licensee of the department, the U.S. Nuclear Regulatory Commission, or any other agreement state or licensing state whose specific license authorizes him or her to receive the device and, within 30 days after transfer of a device to a specific licensee, except when the device is transferred to the specific licensee in order to obtain a replacement device, shall furnish to the Office of Environmental Compliance a report containing:

g.i. - k. ...

l. register, in accordance with the provisions in this Subparagraph, devices containing at least 370 MBq (10 mCi) of cesium-137, 3.7 MBq (0.1 mCi) of strontium-90, 37 MBq (1 mCi) of cobalt-60, 3.7 megabecquerels (01 millicurie) of radium-226, or 37 MBq (1 mCi) of americium-241 or any other transuranic (i.e., element with atomic number greater than uranium (92)), based on the activity indicated on the label. Each address for a location of use, as described in this Subparagraph, represents a separate general licensee and requires a separate registration and fee:

D.3.l.i. - J.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:1226 (August 2001), LR 30:1663 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2524 (October 2005), LR 32:811 (May

2006), LR 33:448 (March 2007), LR 33:2177 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:284 (February 2014).

#### **Subchapter D. Specific Licenses**

##### **§324. Filing Application for Specific Licenses**

A. - C. ...

D. An application for a license may include a request for a license authorizing one or more activities.

1. An application from a medical facility, educational institution, or a federal facility to produce positron emission tomography (PET) radioactive drugs for noncommercial transfer to licensees in its consortium authorized for medical use under Chapter 7 or the equivalent regulations in 10 CFR 35 of the U.S. Nuclear Regulatory Commission requirements shall include:

a. a request authorizing the production of PET radionuclides, or evidence of an existing license issued under LAC 33:XV.324 or 10 CFR 30 of the U.S. Nuclear Regulatory Commission requirements for a PET radionuclide production facility within its consortium from which it receives PET radionuclides;

b. evidence that the applicant is qualified to produce radioactive drugs for medical use by meeting one of the criteria in LAC 33:XV.328.J or 10 CFR 32.72(a)(2);

c. identification of the individual(s) authorized to prepare the PET radioactive drugs if the applicant is a pharmacy, and documentation that each individual meets the requirements of an authorized nuclear pharmacist as specified in LAC 33:XV.763.K or 10 CFR 32.72(b)(2); and

d. information submitted to members of its consortium for noncommercially transferred PET drugs on the radionuclide; the chemical and physical form; the maximum activity per vial, syringe, generator, or other container of the radioactive drug; and the shielding provided by the packaging to show it is appropriate for the safe handling and the storage of the radioactive drugs by medical use licensees.

2. Except as provided in Paragraphs D.3, 4, and 5 of this Section, an application for a specific license to use byproduct material in the form of a sealed source or in a device that contains the sealed source shall:

a. identify the source or device by manufacturer and model number as registered with the NRC under 10 CFR 32.210, with an agreement state, or for a source or a device containing radium-226 or accelerator-produced radioactive material with a state under provisions comparable to 10 CFR 32.210; or

b. contain the information identified in 10 CFR 32.210(c).

3. For sources or devices manufactured before October 23, 2012, that are not registered with the NRC under 10 CFR 32.210 or with an agreement state, and for which the applicant is unable to provide all categories of information specified in 10 CFR 32.210(c), the application shall include:

a. all available information identified in 10 CFR 32.210(c) concerning the source, and, if applicable, the device; and

b. sufficient additional information to demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. Such

information shall include a description of the source or device, a description of radiation safety features, the intended use and associated operating experience, and the results of a recent leak test.

4. For sealed sources and devices allowed to be distributed without registration of safety information in accordance with 10 CFR 32.210(g)(1), the applicant may supply the manufacturer, model number, radionuclide, and quantity.

5. If it is not feasible to identify each sealed source and device individually, the applicant may propose constraints on the number and type of sealed sources and devices to be used and the conditions under which they will be used, in lieu of identifying each sealed source and device.

E. - K. ...

<sup>1</sup>These reporting requirements do not supersede or release licensees of complying with requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other state or federal reporting requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 20:179 (February 1994), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:1227 (August 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2525 (October 2005), LR 33:2178 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:286 (February 2014).

##### **§328. Special Requirements for Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material**

A. - E.1.b. ...

F. Special Requirements for License to Manufacture or Initially Transfer Calibration or Reference Sources Containing Americium-241 or Radium-226 for Distribution to Persons Generally Licensed under LAC 33:XV.322.G

1. An application for a specific license to manufacture or initially transfer calibration or reference sources containing americium-241 or radium-226, for distribution to persons generally licensed under LAC 33:XV.322.G, will be approved subject to the following conditions:

a. ...

b. the applicant submits sufficient information regarding each type of calibration or reference source pertinent to evaluation of the potential radiation exposure, including:

i. chemical and physical form and maximum quantity of americium-241 or radium-226 in the source;

ii. details of construction and design;

iii. details of the method of incorporation and binding of the americium-241 or radium-226 in the source;

iv. procedures for and results of prototype testing of sources, which are designed to contain more than 0.005 microcurie of americium-241 or radium-226, to demonstrate that the americium-241 or radium-226 contained in each source will not be released or be removed from the source under normal conditions of use;

v. details of quality control procedures to be followed in the manufacture of the source;

vi. description of labeling to be affixed to the source or the storage container for the source; and

vii any additional information, including experimental studies and test, required by the department to facilitate a determination of the safety of the source.

c. Each source shall contain no more than 5 microcuries of americium-241 or radium-226.

d. The department determines, with respect to any type of source containing more than 0.005 microcurie of americium-241 or radium-226, that:

i. the method of incorporation and binding of the americium-241 or radium-226 in the source is such that the americium-241 will not be released or be removed from the source under normal conditions of use and handling of the source; and

ii. the source has been subjected to and has satisfactorily passed appropriate tests required by Subparagraph F.1.e of this Section.

e. The applicant shall subject at least five prototypes of each source that is designed to contain more than 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226 to tests as follows:

i. the initial quantity of radioactive material deposited on each source is measured by direct counting of the source;

ii. the sources are subjected to tests that adequately take into account the individual, aggregate, and cumulative effects of environmental conditions expected in service that could adversely affect the effective containment or binding of americium-241 or radium-226, such as physical handling, moisture, and water immersion;

iii. the sources are inspected for evidence of physical damage and for loss of americium-241 or radium-226, after each stage of testing, using methods of inspection adequate for determining compliance with the criteria in Clause F.1.e.iv of this Section; and

iv. source designs are rejected for which the following has been detected for any unit: removal of more than 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226 from the source or any other evidence of physical damage.

2. Each person licensed to manufacture or initially transfer calibration or reference sources shall affix to each source, or storage container for the source, a label which shall contain sufficient information relative to safe use and storage of the source and shall include the following statement or a substantially similar statement which contains the information called for in the following statement:<sup>1</sup>

a. the receipt, possession, use, and transfer of this source, Model \_\_\_\_, Serial No. \_\_\_\_, are subject to a general license and the regulations of the United States Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION—RADIOACTIVE MATERIAL—THIS SOURCE CONTAINS AMERICIUM-241 (or RADIUM-226). DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

(Name of Manufacturer or Initial Transferor)

3. Each person licensed to manufacture or initially transfer calibration or reference sources shall perform a dry wipe test upon each source containing more than 3.7 kilobecquerels (0.1 microcurie) of americium-241 or radium-226 before transferring the source to a general licensee under LAC 33:XV.322.G or equivalent regulations of the U. S. Nuclear Regulatory Commission, licensing state or any other agreement state. This test shall be performed by wiping the entire radioactive surface of the source with a filter paper with the application of moderate finger pressure. The radioactivity on the filter paper shall be measured using methods capable of detecting 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226. If a source has been shown to be leaking or losing more than 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226 by the methods described in this Paragraph, the source shall be rejected and shall not be transferred to a general licensee under LAC 33:XV.322.G or equivalent regulations of the U. S. Nuclear Regulatory Commission, licensing state, or any other agreement state.

G. Reserved.

H. Licensing the Manufacture and Distribution of Byproduct Material for Certain In Vitro Clinical or Laboratory Testing under a General License

1. An application for a specific license to manufacture or distribute byproduct material for use under an appropriate general license or equivalent will be approved subject to the following conditions:

a. ...

b. the byproduct material is to be prepared for distribution in prepackaged units of:

i. iodine-125 in units not exceeding 0.37 megabecquerel (10 microcuries) each;

ii. iodine-131 in units not exceeding 0.37 megabecquerel (10 microcuries) each;

iii. carbon-14 in units not exceeding 0.37 megabecquerel (10 microcuries) each;

iv. hydrogen-3 (tritium) in units not exceeding 1.85 megabecquerels (50 microcuries) each;

v. iron-59 in units not exceeding 0.74 megabecquerel (20 microcuries) each;

vi. cobalt-57 in units not exceeding 0.37 megabecquerel (10 microcuries) each;

vii. selenium-75 in units not exceeding 0.37 megabecquerel (10 microcuries) each; or

viii. mock iodine-125 in units not exceeding 1.85 kilobecquerels (0.05 microcurie) of iodine-129 and 0.185 kilobecquerel (0.005 microcurie) of americium-241 each; and

c. ...

i. identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 0.37 megabecquerel

(10 microcuries) of iodine-125, iodine-131, carbon-14, cobalt-57, or selenium-75; 1.85 megabecquerels (50 microcuries) of hydrogen-3 (tritium); or 0.74 megabecquerel (20 microcuries) of iron-59; or mock iodine-125 in units not exceeding 1.85 kilobecquerels (0.05 microcurie) of iodine-129 and 0.185 kilobecquerel (0.005 microcurie) of americium-241 each; and

ii. displaying the radiation caution symbol described in LAC 33:XV.450.A and the words, "CAUTION, RADIOACTIVE MATERIAL," and "Not for Internal or External Use in Humans or Animals."

H.1.d. - I.1.b. ...

J. Manufacture, Preparation, or Transfer for Commercial Distribution of Radioactive Drugs Containing Byproduct Material for Medical Use under LAC 33:XV.Chapter 7.

1. An application for a specific license to manufacture, prepare, or transfer for commercial distribution radioactive drugs containing byproduct material for use by persons authorized in accordance with LAC 33:XV.Chapter 7 shall be approved if the following conditions are met:

a. - b. ...

i. registered or licensed with the U.S. Food and Drug Administration (FDA) as the owner or operator of a drug establishment that engages in the manufacture, preparation, propagation, compounding, or processing of a drug under 21 CFR 207.20(a);

ii. ...

iii. licensed as a pharmacy by the Louisiana Board of Pharmacy;

iv. operating as a nuclear pharmacy within a federal medical institution; or

v. a positron emission tomography (PET) drug production facility licensed or registered with a state agency.

1.c. - 2....

a. may prepare radioactive drugs for *medical use*, as defined in LAC 33:XV.102, provided that the radioactive drug is prepared by either an authorized nuclear pharmacist, as specified in Subparagraphs J.2.b and d of this Section, or an individual under the supervision of an authorized nuclear pharmacist as specified in LAC 33:XV.709;

b. - b.ii. ...

iii. this individual is designated as an authorized nuclear pharmacist in accordance with Subparagraph J.2.d of this Section;

c. ...

d. may designate a *pharmacist* as defined in LAC 33:XV.102 as an authorized nuclear pharmacist if the individual is identified as of December 2, 1994, as an *authorized user* on a nuclear pharmacy license issued by the department under these regulations if:

i. the individual was a nuclear pharmacist preparing only radioactive drugs containing accelerator-produced radioactive material; and

ii. the individual practiced at a pharmacy at a government agency or a federally recognized Indian tribe before November 30, 2007, or at all other pharmacies before August 8, 2009, or at an earlier date as recognized by the Nuclear Regulatory Commission;

e. shall provide to the Office of Environmental Compliance:

i. a copy of each individual's certification by the Board of Pharmaceutical Specialties with the written

attestation signed by a preceptor as required by LAC 33:XV.763.K.2;

ii. the department, Nuclear Regulatory Commission, or agreement state license;

iii. Nuclear Regulatory Commission master materials licensee permit;

iv. the permit issued by a licensee or Nuclear Regulatory Commission master materials permittee of broad scope or the authorization from a commercial nuclear pharmacy authorized to list its own authorized nuclear pharmacist; or

v. documentation that only accelerator-produced radioactive materials were used in the practice of nuclear pharmacy at a government agency or federally recognized Indian tribe before November 30, 2007, or at all other locations of use before August 8, 2009, or at an earlier date as noticed by the NRC; and

vi. a copy of the state pharmacy licensure or registration, no later than 30 days after the date that the licensee allows the individual to work as an authorized nuclear pharmacist, in accordance with Clauses J.2.b.i and iii of this Section.

J.3. - M.4.g. ...

<sup>1</sup>Calibration and reference sources licensed under LAC 33:XV.322.G before January 19, 1975, may bear labels authorized by the regulations in effect on January 1, 1975.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2401(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 26:2768 (December 2000), LR 27:1228 (August 2001), LR 30:1664 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2526 (October 2005), LR 33:2179 (October 2007), LR 36:1771 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2746 (November 2012), LR 40:286 (February 2014).

**Subchapter Z. Appendices**

**§399. Schedules A and B and Appendices A, B, C, D, E, F, and G**

Schedule A - Footnotes to Schedule A:

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NOTE 1. - 4. ...

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Schedule B Exempt Quantities	
Byproduct Material	Microcuries
***	
[See Prior Text in Antimony 122 (Sb 122) - Cerium 144(Ce 144)]	
Cesium 129 (Cs 129)	100
***	
[See Prior Text in Cesium 134 (Cs 134) - Chromium 51 (Cr 51)]	
Cobalt 57 (Co 57)	100
***	
[See Prior Text in Cobalt 58m (Co 58m) - Gallium 72 (Ga 72)]	
Germanium 69 (Ge 69)	10
***	
[See Prior Text in Germanium 71 (Ge 71)]	

Schedule B Exempt Quantities	
Byproduct Material	Microcuries
Gold (Au 195)	10
*** [See Prior Text in Gold 198 (Au 198) - Hydrogen 3 (H 3)]	
Indium 111 (In 111)	100
*** [See Prior Text in Indium 113m (In 113m) - Indium 115 (In 115)]	
Iodine 123 (I 123)	100
*** [See Prior Text in Iodine 125 (I 125) - Iridium 194 (Ir 194)]	
Iron 52 (Fe 52)	10
*** [See Prior Text in Iron 55 (Fe 55) - Potassium 42 (K 42)]	
Potassium 43 (K 43)	10
*** [See Prior Text in Praseodymium 142 (Pr 142) - Rhodium 105 (Rh 105)]	
Rubidium 81 (Rb 81)	100
*** [See Prior Text in Rubidium 86 (Rb 86) - Silver 111 (Ag 111)]	
Sodium 22 (Na 22)	10
*** [See Prior Text in Sodium 24 (Na 24) - Ytterbium 175 (Yb 175)]	
Yttrium 87 (Y 87)	10
Yttrium 88 (Y 88)	10
*** [See Prior Text in Yttrium 90 (Y 90) - Zirconium 97 (Zr 97)]	
Any byproduct material not listed above other than alpha-emitting byproduct material.	0.1

Footnotes to Schedule B - Appendix B; E.4. ...

Appendix C Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release		
Radioactive Material <sup>1</sup>	Release Fraction	Quantity (curies)
*** [See Prior Text in Actinium-228 - Promethium-147]		
Radium-226	0.001	100
*** [See Prior Text in Ruthenium-106 - Packaged waste, alpha <sup>2</sup> ]		
Combinations of radioactive materials listed above <sup>1</sup>		

<sup>1</sup>For combinations of radioactive materials, consideration of the need for an emergency plan is required if the sum of the ratios of the quantity of each radioactive material authorized to the quantity listed for that material in Appendix E exceeds one.

<sup>2</sup>Waste packaged in Type B containers does not require an emergency plan.

Appendix D. - Appendix G. ...

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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 20:180 (February 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2574 (November 2000), LR 27:1228 (August

2001), amended by the Office of Environmental Assessment, LR 31:46 (January 2005), LR 31:1580 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2528 (October 2005), LR 32:820 (May 2006), LR 32:1853 (October 2006), LR 33:449 (March 2007), LR 33:1017 (June 2007), LR 33:2181 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:288 (February 2014).

#### Chapter 4. Standards for Protection against Radiation

##### Subchapter H. Waste Disposal

##### §460. General Requirements

A. - A.3. ...

4. as authorized in accordance with LAC 33:XV.461, 462, 463, or 464.

B. - B.3. ...

4. disposal at a land disposal facility licensed in accordance with LAC 33:XV.Chapters 3, 13, and 14; or

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended by the Office of the Secretary, Legal Division, LR 40:289 (February 2014).

##### §465. Transfer for Disposal and Manifests

A. - D. ...

E. Any licensee shipping byproduct material as defined in LAC 33:XV.102, *byproduct material*, 3, 4, and 5 intended for ultimate disposal at a licensed land disposal facility shall document the information required for the consignee in accordance with the requirements specified in LAC 33:XV.499, Appendix D.

F. Licensed material as defined in LAC 33:XV.102, *byproduct material*, 3, 4, and 5 may be disposed of in accordance with LAC 33:XV.Chapter 13, even though it is not defined as low level radioactive waste. Therefore, any licensed byproduct material being disposed of at a facility licensed under LAC 33:XV.Chapter 13 shall meet the requirements of Subsections A-E of this Section. A licensee may dispose of *byproduct material*, as defined in LAC 33:XV.102, *byproduct material*, 3, 4, and 5, at a disposal facility authorized to dispose of such material in accordance with any federal or state solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), amended LR 24:2096 (November 1998), amended by the Office of the Secretary, Legal Division, LR 40:289 (February 2014).

##### Subchapter Z. Appendices

##### §499. Appendices A, B, C, D, E

Appendix A - Appendix B, Table III "Releases to Sewers"

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Tables I, II, and III									
Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers	
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average Concentration ( Ci/ml)	
			Oral Ingestion ALI ( Ci)	Inhalation		Air ( Ci/ml)	Water ( Ci/ml)		
			ALI ( Ci)	DAC ( Ci/ml)					
*** [See Prior Text Atomic No. 1 Hydrogen -3- Atomic No. 6 Carbon 14]									
7	Nitrogen-13 <sup>2</sup>	Submersion <sup>1</sup>	-	-	4E-6	2E-8	-	-	
8	Oxygen-15 <sup>2</sup>	Submersion <sup>1</sup>	-	-	4E-6	2E-8	-	-	
*** [See Prior Text in Atomic No. 9 Fluorine-18 <sup>2</sup> - Atomic No. 101 Mendelevium-258]									
-	Any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life less than 2 hours	Submersion <sup>1</sup>	-	2E+2	1E-7	1E-9	-	-	
-	Any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life greater than 2 hours		-	2E-1	1E-10	1E-12	1E-8	1E-7	
-	Any single radionuclide not listed above that decays by alpha emission or spontaneous fission, or any mixture for which either the identity or the concentration of any radionuclide in the mixture is not known	-	-	4E-4	2E-13	1E-15	2E-9	2E-8	

ENDNOTES: 1. - 3. ...

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NOTE: 1. - 4. ...

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Appendix C. - Appendix E. ...

A. - C. ...

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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 20:653 (June 1994), LR 22:973 (October 1996), LR 24:2096 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2580 (November 2000), LR 28:1012 (May 2002), amended by the Office of Environmental Assessment, LR 31:48 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR

31:2530 (October 2005), LR 33:2183 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:289 (February 2014).

**Chapter 7. Use of Radionuclides in the Healing Arts §717. Assay of Radiopharmaceutical Dosages**

A. - B.2.a. ...

b. a U.S. Nuclear Regulatory Commission or agreement state licensee, for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA; or

c. a PET radioactive drug producer license as specified in LAC 33:XV.324.D, equivalent agreement state requirements or equivalent Nuclear Regulatory Commission requirements.

C. - C.2. ...

3. a combination of volumetric measurements and mathematical calculations, based on the measurement made by:

a. a manufacturer or preparer licensed under LAC 33:XV.328.J or equivalent agreement state requirements; or

b. a PET radioactive drug producer licensed under LAC 33:XV.324.D, equivalent agreement state requirements or Nuclear Regulatory Commission requirements.

D. - E.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2103 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1176 (June 2004), amended by the Office of the Secretary, Legal Division, LR 40:290 (February 2014).

**§729. Use of Radiopharmaceuticals for Uptake, Dilution, or Excretion Studies**

A. - B. ...

C. The radiopharmaceuticals specified in Subsection A of this Section shall be:

1. obtained from a manufacturer or preparer, or a PET radioactive drug producer, licensed in accordance with LAC 33:XV.328.J, equivalent Nuclear Regulatory Commission requirements, or agreement state requirements;

2. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1177 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:982 (June 2008), amended by the Office of the Secretary, Legal Division, LR 40:291 (February 2014).

**§731. Use of Radiopharmaceuticals, Generators, and Reagent Kits for Imaging and Localization Studies**

A. - F. ...

1. obtained from a manufacturer or preparer, or a PET radioactive drug producer, licensed in accordance with LAC 33:XV.328.K, equivalent Nuclear Regulatory Commission requirements, or agreement state requirements; or

F.2. - H.1. ...

a. obtained from a manufacturer or preparer, or a PET radioactive drug preparer, licensed under LAC 33:XV.328.J, equivalent Nuclear Regulatory Commission requirements, or equivalent agreement state requirements; or

b. - d. ...

I. A licensee may use the authorization under LAC 33:XV.328.K, Nuclear Regulatory Commission, or agreement state requirements to produce positron emission tomography (PET) radioactive drugs for noncommercial transfer to medical use licensees in its consortium. This does not relieve the licensee from complying with applicable FDA, other federal agencies, and agreement state requirements governing radioactive drugs.

J. Each licensee authorized under LAC 33:XV.328.K to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall:

1. satisfy the labeling requirements in this Chapter for each PET radioactive drug transport radiation shield and each syringe, vial, or other container used to hold a PET radioactive drug intended for noncommercial distribution to members of its consortium; and

2. possess and use instrumentation to measure the radioactivity of the PET radioactive drugs intended for noncommercial distribution to members of its consortium and meet the procedural, radioactivity measurement, instrument test, instrument check, and instrument adjustment requirements in this Chapter.

K. A licensee that is a pharmacy authorized under LAC 33:XV.328.K to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall require that any individual who prepares PET radioactive drugs shall be:

1. an *authorized nuclear pharmacist* as defined in LAC 33:XV.102 and meets the requirements of LAC 33:XV.763.K;

2. a physician who is an *authorized user* as defined in LAC 33:XV.102 and meets the requirements specified in LAC 33:XV.763.D or E; or

3. an individual who was trained under the supervision of an *authorized user* or an *authorized nuclear pharmacist* as specified in LAC 33:XV.709.A or B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), LR 27:1238 (August 2001), LR 30:1178 (June 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 34:982 (June 2008), amended by the Office of the Secretary, Legal Division, LR 40:291 (February 2014).

**§732. Permissible Molybdenum-99 Concentration**

A. A licensee shall not administer to humans a radiopharmaceutical containing:

1. more than 0.15 microcurie of molybdenum-99 per millicurie of technetium-99m (0.15 kilobecquerel of molybdenum-99 per megabecquerel of technetium-99m);

2. more than 0.02 kilobecquerel of strontium-82 per megabecquerel of rubidium-82 chloride injection (0.02 microcurie of strontium-82 per millicurie of rubidium-82 chloride); or

3. more than 0.2 kilobecquerel of strontium-85 per megabecquerel of rubidium-82 chloride injection (0.2 microcurie of strontium-85 per millicurie of rubidium-82).

B. A licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators or rubidium-82 from strontium-82/rubidium-82 generators shall measure the molybdenum-99 concentration or the rubidium-82 concentration in each eluate or extract.

C. A licensee who must measure molybdenum concentration shall retain a record of each measurement for three years. The record shall include, for each elution or extraction of technetium-99m, the measured activity of the technetium expressed in millicuries (megabecquerels), the



measured activity of molybdenum expressed in microcuries (kilobecquerels), the ratio of the measures expressed as microcuries of molybdenum per millicurie of technetium (kilobecquerels of molybdenum per megabecquerel of technetium), the date of the test, and the initials of the individual who performed the test.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2589 (November 2000), amended by the Office of the Secretary, Legal Division, LR 40:291 (February 2014).

### **§735. Use of Radiopharmaceuticals for Therapy**

A. - B. ...

1. obtained from a manufacturer, preparer, or a PET radioactive drug producer, licensed in accordance with LAC 33:XV.328.J or equivalent Nuclear Regulatory Commission or agreement state requirements; or

B.2. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2104 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 30:1178 (June 2004), amended by the Office of the Secretary, Legal Division, LR 40:292 (February 2014).

## **Chapter 13. Licensing Requirements for Land Disposal of Radioactive Waste**

### **Subchapter A. General Provisions**

#### **§1302. Definitions**

A. As used in this Chapter, the following definitions apply.

\* \* \*

*Waste*—those low-level radioactive wastes containing source, special nuclear, or byproduct material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level radioactive waste has the same meaning as in the Low-Level Radioactive Waste Policy Act, P.L. 96-573, that is radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11.e (2) of the Atomic Energy Act (uranium or thorium tailings and waste) and LAC 33:XV.102, *byproduct material*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104(B)1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 23:1140 (September 1997), amended by the Office of the Secretary, Legal Division, LR 40:292 (February 2014).

Herman Robinson, CPM  
Executive Counsel

1402#008

## **RULE**

### **Department of Environmental Quality Office of the Secretary Legal Division**

Solid Waste Financial Document Update  
(LAC 33:VII.301, 407, 513, 517, 519, 527, 709,  
717, 719, 1303, 1399, and 10313)(SW055)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Solid Waste regulations, LAC 33:VII.1399, Appendices C, D, I and J (SW055).

This Rule revises and updates the financial documents that cover financial assurance for liability, closure and post-closure at solid waste facilities in Louisiana. The requirements for financial assurance for liability, closure and post-closure at solid waste facilities were changed in a previous rulemaking. Certain appendices containing financial documents used to implement the financial assurance requirements need to be updated to match the previous changes. The basis and rationale of this rule are to allow the department to implement revised requirements for financial assurance for liability, closure and post-closure at solid waste facilities. The revised requirements will help ensure that funds are available for closure of solid waste facilities and for post-closure groundwater monitoring at those facilities. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

#### **Title 33**

#### **ENVIRONMENTAL QUALITY**

#### **Part VII. Solid Waste**

#### **Subpart 1. Solid Waste Regulations**

#### **Chapter 3. Scope and Mandatory Provisions of the Program**

#### **§303. Wastes Not Subject to the Permitting Requirements or Processing or Disposal Standards of These Regulations**

A. The following solid wastes, when processed or disposed of in facilities that are operated in an environmentally sound manner are not subject to the permitting requirements or processing or disposal standards of these regulations:

1. - 7. ...

8. agricultural wastes, including manures, that are removed from the site of generation by an individual for his own personal beneficial use on land owned or controlled by the individual. The amount of wastes covered by this exemption shall not exceed 10 tons per year (wet-weight) per individual per use location. To qualify for this exemption, records documenting the amount of wastes used for beneficial use on land owned or controlled by the generator shall be maintained. These records shall be kept for a minimum period of two years;

9. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2515 (November 2000), repromulgated LR 27:703 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2486 (October 2005), LR 33:1027 (June 2007), LR 33:2140 (October 2007), LR 37:3235 (November 2011), amended by the Office of the Secretary, Legal Division, LR 40:292 (February 2014).

#### **Chapter 4. Administration, Classifications, and Inspection Procedures for Solid Waste Management Systems**

##### **§407. Inspection Types and Procedures**

A. - C.3. ...

4. Within 15 working days after a new, existing, or modified facility has undergone an initial start-up inspection, or within 30 days of receipt of the construction certification, the administrative authority shall issue a notice of deficiency or an approval of the construction and/or upgrade, unless a longer time period is set by mutual agreement.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2517 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2487 (October 2005), LR 33:1032 (June 2007), LR 33:2142 (October 2007), LR 37:3235 (November 2011), repromulgated LR 37:3508 (December 2011), amended by the Office of the Secretary, Legal Division, LR 40:293 (February 2014).

#### **Chapter 5. Solid Waste Management System**

##### **Subchapter B. Permit Administration**

##### **§513. Permit Process for Existing Facilities and for Proposed Facilities**

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

b. Permit holders who have been issued an initial final permit prior to November 20, 2011, and have not been issued an order to commence prior to November 20, 2011, shall provide written confirmation from the appropriate municipal or parish governing authority where the facility will be located, dated within 180 days prior to receiving an order to commence, indicating that the facility is or will be in compliance with all existing local zoning and land use restrictions.

A.3. - B.2. ...

3. The prospective applicant shall file an emergency response plan, as defined in LAC 33:VII.115.A, with the Louisiana state fire marshal as a special structures plan, prior to submittal of a new or renewal application for a solid waste permit. The content of the plan shall be in accord with applicable sections of LAC 33:VII.Chapter 7. A copy of the plan shall also be sent to the Office of Environmental Services. Except as provided for in LAC 33:VII.513.B.4 or 5, no application for a permit to process or dispose of solid waste shall be filed with nor accepted by the administrative authority until the plan is approved by the Louisiana state fire marshal. The prospective applicant shall forward a copy

of the approval to the Office of Environmental Services. The approved emergency response plan shall be considered applicable to subsequent permit applications submitted by the same applicant, unless a revised plan is filed with the Louisiana state fire marshal.

4. Any emergency response plan approved by the fire marshal before June 20, 2011, must be revised and submitted to the Louisiana fire marshal as a special structures plan, prior to submittal of a permit application or permit renewal application for a solid waste permit. The content of the revised plan shall be in accord with applicable sections of LAC 33:VII.Chapter 7. A copy of the revised plan shall also be sent to the Office of Environmental Services. Except as provided for in LAC 33:VII.513.B.4 or 5, after June 20, 2011, no application for a permit to process or dispose of solid waste shall be filed with nor accepted by the administrative authority unless the plan has been approved by the Louisiana state fire marshal subsequent to June 20, 2011. The prospective applicant shall forward a copy of the approval to the Office of Environmental Services. Any revised emergency response plan approved after June 20, 2011, shall be considered applicable to subsequent permit applications submitted by the same applicant, unless a revised plan is filed with the Louisiana state fire marshal.

5. The requirements of Paragraph B.3 of this Section shall not apply if the prospective applicant can demonstrate that he has the ability to meet the emergency response requirements listed below. The prospective applicant shall provide this demonstration to the Office of Environmental Services and the Louisiana state fire marshal, at least 30 days prior to submittal of a new or renewal solid waste application.

a. Requirements for Demonstration

i. The prospective applicant shall describe arrangements (including contracts, where applicable) for providing his own emergency response services.

ii. The minimum qualification for firefighters/emergency responders shall be that of operations level responder from the National Fire Protection Association, Standard 472, or other appropriate requirement from an applicable National Fire Protection Association standard. At least one person trained to this level shall respond in any incident requiring activation of emergency response services.

iii. The demonstration shall include a list of all emergency equipment at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment.

6. The requirements of Paragraph B.3 of this Section shall not apply to permit modification requests, or to applications for permits (initial or renewal), deemed technically complete prior to June 20, 2011, except as directed by the administrative authority.

7. Pre-Application Public Notice

a. Prospective applicants shall publish a notice of intent to submit an application for a permit. This notice shall be published within 45 days prior to submission of the application to the Office of Environmental Services. The notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the state and a major local newspaper of

general circulation in the area where the facility is located. If the facility is in the same parish or area as the official journal of the state, a single classified advertisement in the legal or public notices section of the official journal of the state shall be the only public notice required.

b. The public notice shall be published in accordance with the form provided in LAC 33:VII.3001.Appendix A.

#### 8. Post-Application Public Notice

a. All applicants shall publish a notice of application submittal within 45 days after submitting the application to the Office of Environmental Services. This public notice shall be published one time as a single classified advertisement in the legal or public notices section of the official journal of the state and a major local newspaper of general circulation in the area where the facility is located. If the facility is in the same parish or area as the official journal of the state, a single classified advertisement in the legal or public notices section of the official journal of the state shall be the only public notice required.

b. The public notice shall be published in accordance with the form provided in LAC 33:VII.3003.Appendix B.

9. All prospective applicants are encouraged to meet with representatives of the Waste Permits Division prior to the preparation of a solid waste permit application to inform the department of the plans for the facility.

10. Applicants who are Type I only and who also do not propose to accept waste from off-site, other than off-site waste from affiliated persons, such as the applicant or any person controlling, controlled by, or under common control with, the applicant, are exempt from the requirements of LAC 33:VII.513.A.2.b and Paragraphs 1-2 of this Subsection.

11. Applicants for renewal or major modification of an existing permit are exempt from the requirements of Paragraphs 1-2 of this Subsection, provided that the application does not include changes that would constitute a physical expansion of the area(s) in which solid wastes are disposed beyond the facility's existing boundaries as set forth in the facility's existing permit.

12. Applicants for closure permits, applicants seeking authorization under a general permit, and minor modification requests are exempt from Paragraphs 1-5 of this Subsection.

13. Applicants whose types are I-A only or II-A only, or both I and I-A or both I-A and II-A are exempt from the requirements of Paragraphs 1 and 2 of this Subsection.

C.- G.5. ...

6. A copy of the draft permit decision shall be sent to the parish governing authority where the facility is located.

7. Closure permits based on closure plans or applications, if not received as part of a permit application for a standard permit, shall not follow the draft permit decision process. Once a closure plan or application is deemed adequate, the administrative authority shall issue a closure permit.

H. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2519 (November 2000), amended by the Office of Environmental Assessment, LR 30:2032 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2488 (October 2005), LR 33:1037 (June 2007), LR 33:2143 (October 2007), LR 37:1563 (June 2011), LR 37:3238 (November 2011), repromulgated LR 37:3510 (December 2011), amended by the Office of the Secretary, Legal Division, LR 40:293 (February 2014).

### Subchapter C. Permit System for Facilities Classified for Upgrade or Closure

#### §517. Modifications of Permits and Other Authorizations to Operate

A. - B.1.i. ...

2. Once an application for a permit modification that requires public notice has been determined by the Office of Environmental Services to be technically complete, the department shall proceed as follows:

a. For applications determined to be technically complete prior to November 20, 2011, the application shall be accepted for public review and the applicant shall provide additional copies as directed by the administrative authority. The department shall prepare a draft permit decision following the procedures in LAC 33:VII.513.G.2-6.

b. For applications determined to be technically complete on or after November 20, 2011, the department shall prepare a draft permit decision following the procedures of LAC 33:VII.513.G.1-6.

B.3. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2520 (November 2000), amended by the Office of Environmental Assessment, LR 30:2033 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2430, 2490 (October 2005), LR 33:1039 (June 2007), LR 33:2145 (October 2007), LR 37:3241 (November 2011), amended by the Office of the Secretary, Legal Division, LR 40:294 (February 2014).

### Subchapter D. Permit Application

#### §519. Permit Application Form(s)

A. - B.1.1.ii. ...

m. the zoning of the facility that exists at the time of the submittal of the permit application. (Note the zone classification and zoning authority, and include documentation stating that the proposed use does not violate existing land-use requirements.);

B.1.n. - C. ...

D. Incomplete applications will not be accepted for review. The administrative authority shall notify the applicant when the application is determined to be incomplete. If the applicant elects to continue with the permit application process, the applicant shall follow the requirements provided in the notice. These requirements may include submitting additional information in the form of an application addendum or submitting a new application.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1040 (June 2007), LR 33:2145 (October 2007), LR 37:3242 (November 2011), amended by the Office of the Secretary, Legal Division, LR 40:294 (February 2014).

### **Subchapter E. Permit Requirements**

#### **§527. Construction Schedules**

A. Final permits may allow or require the construction or upgrade of permitted units. If a permit allows or requires the construction or upgrading of a unit that is (or will be) directly involved in the processing or disposal of solid waste, the facility shall submit reports, on a schedule specified in the permit, describing the completed and current activities at the site from the beginning of the construction period until the construction certification required by LAC 33:VII.407.C is submitted to the Office of Environmental Services. The reports shall be submitted to the Office of Environmental Services and the appropriate DEQ Regional Office. These reports shall include, at a minimum, the following information:

1. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 37:3247 (November 2011), amended by the Office of the Secretary, Legal Division, LR 40:295 (February 2014).

### **Chapter 7. Solid Waste Standards**

#### **Subchapter A. Landfills, Surface Impoundments, Landfarms**

#### **§709. Standards Governing Type I and II Solid Waste Disposal Facilities**

A. - B.2.d. ...

3. Buffer Zones

a. Buffer zones of not less than 200 feet shall be provided between the facility and the property line. Buffer zones of not less than 300 feet shall be provided between the facility and the property line when the property line is adjacent to a structure currently being used as a church and having been used as a church prior to the submittal of a permit application. The requirement for a 300 foot buffer zone between the facility and a church shall not apply to any landfill or disposal facility existing prior to April 1, 2010, to any portion of such facility that has been closed or that has ceased operations, or to future expansions of the permitted disposal area of any such facility. A reduction in this requirement shall be allowed only with permission, in the form of a notarized affidavit, from all landowners having an ownership interest in property located less than 200 feet from the facility (or 300 feet for a church). The facility's owner or operator shall enter a copy of the notarized affidavit(s) in the mortgage and conveyance records of the parish or parishes in which the landowners' properties are located. Buffer zone requirements may be waived or modified by the administrative authority for areas of landfills that have been closed in accordance with these regulations and for existing facilities.

B.3.b. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), repromulgated LR 19:1315 (October 1993), amended by the Office of the Secretary, LR 24:2250 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2521 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2490 (October 2005), LR 33:1045 (June 2007), LR 34:613 (April 2008), LR 35:925 (May 2009), LR 37:3248 (November 2011), amended by the Office of the Secretary, Legal Division, LR 40:295 (February 2014).

### **Subchapter B. Solid Waste Processors**

#### **§717. Standards Governing All Type I-A and Type II-A Solid Waste Processors**

A. - B.2.d. ...

3. Buffer Zones

a. Buffer zones of not less than 200 feet shall be provided between the facility and the property line. Buffer zones of not less than 300 feet shall be provided between the facility and the property line when the property line is adjacent to a structure currently being used as a church and having been used as a church prior to the submittal of a permit application. The requirement for a 300 foot buffer zone between the facility and a church shall not apply to any processing facility existing prior to April 1, 2010, to any portion of such facility that has been closed or that has ceased operations, or to future expansions of the permitted processing area of any such facility. A reduction in this requirement shall be allowed only with permission, in the form of a notarized affidavit, from all landowners having an ownership interest in property located less than 200 feet from the facility (or 300 feet for a church). The facility's owner or operator shall enter a copy of the notarized affidavit(s) in the mortgage and conveyance records of the parish or parishes in which the landowners' properties are located. Buffer zone requirements may be waived or modified by the administrative authority for areas of processing facilities that have been closed in accordance with these regulations and for existing facilities.

B.3.b. - I.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 24:2252 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2526, 2610 (November 2000), repromulgated LR 27:704 (May 2001), amended by the Office of Environmental Assessment, LR 30:2025 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2494 (October 2005), LR 33:1061 (June 2007), LR 33:2148 (October 2007), LR 34:613 (April 2008), LR 35:926 (May 2009), LR 37:1566 (June 2011), LR 37:3252 (November 2011), amended by the Office of the Secretary, Legal Division, LR 40:295 (February 2014).

### **Subchapter C. Minor Processing and Disposal Facilities**

#### **§719. Standards Governing All Type III Processing and Disposal Facilities**

A. - B.2.d. ...

3. Buffer Zones

a. Buffer zones of not less than 50 feet shall be provided between the facility and the property line. Buffer zones of not less than 200 feet shall be provided between the facility and the property line for any new facility. The requirement for a 200 foot buffer zone between the facility and the property line shall not apply to any facility existing

on November 20, 2011, to any portion of such facility that has been closed or that has ceased operations, or to future expansions of the permitted disposal area of any such facility. Buffer zones of not less than 300 feet shall be provided between the facility and the property line when the property line is adjacent to a structure currently being used as a church and having been used as a church prior to the submittal of a permit application. The requirement for a 300 foot buffer zone between the facility and a church shall not apply to any landfill or disposal facility existing prior to April 1, 2010, to any portion of such facility that has been closed or that has ceased operations, or to future expansions of the permitted disposal area of any such facility. A reduction in this requirement shall be allowed only with permission, in the form of a notarized affidavit, from all landowners having an ownership interest in property located less than 50 feet from the facility (for facilities existing on November 20, 2011), less than 200 feet from the facility (for facilities constructed after November 20, 2011), or less than 300 feet from the facility (for facilities located less than 300 feet from a church). The facility's owner or operator shall enter a copy of the notarized affidavit(s) in the mortgage and conveyance records of the parish or parishes in which the landowners' properties are located. Buffer zone requirements may be waived or modified by the administrative authority for areas of woodwaste/construction/demolition-debris landfills that have been closed in accordance with these regulations and for existing facilities. Notwithstanding this Paragraph, Type III air curtain destructors and composting facilities that receive putrescible, residential, or commercial waste shall meet the buffer zone requirements in LAC 33:VII.717.B.3. In addition, air curtain destructors shall maintain at least a 1,000-foot buffer from any dwelling other than a dwelling or structure located on the property on which the burning is conducted (unless the appropriate notarized affidavit waivers are obtained).

B.3.b. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2527 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2495 (October 2005), LR 33:1065 (June 2007), LR 33:2149 (October 2007), LR 34:613 (April 2008), LR 35:926 (May 2009), LR 37:3252 (November 2011), repromulgated LR 37:3511 (December 2011), amended by the Office of the Secretary, Legal Division, LR 40:295 (February 2014).

### **Chapter 13. Financial Assurance for All Processors and Disposers of Solid Waste**

#### **§1303. Financial Responsibility for Closure and Post-Closure Care**

A. - A.5. ...

B. Financial Assurance Mechanisms. The financial assurance mechanism must be one or a combination of the following: a trust fund, a financial guarantee bond, a performance bond, a letter of credit, an insurance policy, or a financial test and/or corporate guarantee. The financial assurance mechanism is subject to the approval of the administrative authority and must fulfill the following criteria.

1. - 5.d. ...

6. A financial assurance mechanism may be cancelled or terminated only if alternate financial assurance is substituted as specified in the appropriate Section or if the permit holder or applicant is no longer required to demonstrate financial assurance in accordance with these regulations.

C. - C.4. ...

5. The permit holder or applicant may accelerate payments into the trust fund or deposit the full amount of the current closure cost estimate at the time the fund is established. The permit holder or applicant must, however, maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in Subparagraph A.3.d of this Section.

C.6. - F.2. ...

3. The letter of credit must be accompanied by a letter from the permit holder or applicant referring to the letter of credit by number, issuing institution, and date, and providing the following information:

- a. - c. ...
- d. facility name; and
- e. facility permit number.

F.4. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30: 2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1090 (June 2007), amended LR 33:2154 (October 2007), LR 36:2555 (November 2010), LR 37:3254 (November 2011), amended by the Office of the Secretary, Legal Division, LR 40:296 (February 2014).

#### **§1399. Financial Documents—Appendices A, B, C, D, E, F, G, H, I, and J**

- A. - B. Reserved.
- C. Repealed.
- D. Appendix D

#### **SOLID WASTE FACILITY TRUST AGREEMENT/STANDBY TRUST AGREEMENT**

[Facility name, agency interest number, and permit number]

This Trust Agreement, the "Agreement," is entered into as of [date] by and between [name of permit holder or applicant], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the state of" or "a national bank" or "a state bank"], the "Trustee."

WHEREAS, the Department of Environmental Quality of the State of Louisiana, an agency of the state of Louisiana, has established certain regulations applicable to the Grantor, requiring that a permit holder or applicant for a permit of a solid waste processing or disposal facility shall provide assurance that funds will be available when needed for [closure and/or post-closure] care of the facility;

WHEREAS, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facility identified herein;

WHEREAS, the Grantor, acting through its duly authorized officers, has selected [the Trustee] to be the trustee under this Agreement, and [the Trustee] is willing to act as trustee.

NOW, THEREFORE, the Grantor and the Trustee agree as follows:

## SECTION 1. DEFINITIONS

As used in this Agreement:

(a). The term Grantor means the permit holder or applicant who enters into this Agreement and any successors or assigns of the Grantor.

(b). The term Trustee means the Trustee who enters into this Agreement and any successor trustee.

(c). The term Secretary means the Secretary of the Louisiana Department of Environmental Quality.

(d). The term Administrative Authority means the Secretary or his designee or the appropriate assistant secretary or his designee.

## SECTION 2. IDENTIFICATION OF FACILITIES AND COST ESTIMATES

This Agreement pertains to the facilities and cost estimates identified on attached Schedule A. [On Schedule A, list the site identification number, site name, facility name, facility permit number, and the annual aggregate amount of current closure and/or post-closure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement.]

## SECTION 3. ESTABLISHMENT OF FUND

The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Louisiana Department of Environmental Quality. The Grantor and the Trustee intend that no third party shall have access to the Fund, except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. [Note: Standby Trust Agreements need not be funded at the time of execution. In the case of Standby Trust Agreements, Schedule B should be blank except for a statement that the Agreement is not presently funded, but shall be funded by the financial assurance document used by the Grantor in accordance with the terms of that document.] Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, in trust, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the administrative authority.

## SECTION 4. PAYMENT FOR CLOSURE AND/OR POST-CLOSURE CARE

The Trustee shall make payments from the Fund as the administrative authority shall direct, in writing, to provide for the payment of the costs of [closure and/or post-closure] care of the facility covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the administrative authority from the Fund for [closure and/or post-closure] expenditures in such amounts as the administrative authority shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the administrative authority specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

## SECTION 5. PAYMENTS COMPRISED BY THE FUND

Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

## SECTION 6. TRUSTEE MANAGEMENT

The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines, which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing that persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims, except that:

(a). Securities or other obligations of the Grantor, or any owner of the [facility or facilities] or any of their affiliates, as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the federal or a state government;

(b). The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

(c). The Trustee is authorized to hold cash awaiting investment or distribution, uninvested for a reasonable time and without liability for the payment of interest thereon.

## SECTION 7. COMMINGLING AND INVESTMENT

The Trustee is expressly authorized, at its discretion:

(a). To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b). To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, or underwritten, or one to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares at its discretion.

## SECTION 8. EXPRESS POWERS OF TRUSTEE

Without in any way limiting the powers and discretion conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a). To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b). To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c). To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with

certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all securities are part of the Fund;

(d). To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

(e). To compromise or otherwise adjust all claims in favor of, or against, the Fund.

#### SECTION 9. TAXES AND EXPENSES

All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and other proper charges and disbursements of the Trustee, shall be paid from the Fund.

#### SECTION 10. ANNUAL VALUATION

The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the administrative authority a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee, within 90 days after the statement has been furnished to the Grantor and the administrative authority, shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

#### SECTION 11. ADVICE OF COUNSEL

The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any questions arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

#### SECTION 12. TRUSTEE COMPENSATION

The Trustee shall be entitled to reasonable compensation for its services, as agreed upon in writing from time to time with the Grantor.

#### SECTION 13. SUCCESSOR TRUSTEE

The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent

jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall, in writing, specify to the Grantor, the administrative authority, and the present Trustee, by certified mail 10 days before such change becomes effective, the date on which it assumes administration of the trust. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

#### SECTION 14. INSTRUCTIONS TO THE TRUSTEE

All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by the persons designated in the attached Exhibit A or such other persons as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the administrative authority to the Trustee shall be in writing and signed by the administrative authority. The Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or termination of the authority of any person to act on behalf of the Grantor or administrative authority hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or administrative authority, except as provided for herein.

#### SECTION 15. NOTICE OF NONPAYMENT

The Trustee shall notify the Grantor and the administrative authority, by certified mail, within 10 days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

#### SECTION 16. AMENDMENT OF AGREEMENT

This Agreement may be amended by an instrument, in writing, executed by the Grantor, the Trustee, and the administrative authority, or by the Trustee and the administrative authority, if the Grantor ceases to exist.

#### SECTION 17. IRREVOCABILITY AND TERMINATION

Subject to the right of the parties to amend this Agreement, as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the administrative authority, or by the Trustee and the administrative authority, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

#### SECTION 18. IMMUNITY AND INDEMNIFICATION

The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any direction by the Grantor or the administrative authority issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all reasonable expenses incurred in its defense in the event that the Grantor fails to provide such defense.

#### SECTION 19. CHOICE OF LAW

This Agreement shall be administered, construed, and enforced according to the laws of the state of Louisiana.

SECTION 20. INTERPRETATION

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers duly authorized [and their corporate seals to be hereunto affixed] and attested to as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in LAC 33:VII.1399.Appendix D, on the date first written above.

WITNESSES: GRANTOR:  
 \_\_\_\_\_  
 \_\_\_\_\_ By: \_\_\_\_\_  
 Its: \_\_\_\_\_  
 [Seal]  
 TRUSTEE:  
 \_\_\_\_\_  
 By: \_\_\_\_\_  
 Its: \_\_\_\_\_  
 [Seal]

THUS DONE AND PASSED in my office in \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, in the presence of \_\_\_\_\_ and \_\_\_\_\_, competent witnesses, who hereunto sign their names with the said appearers and me, Notary, after reading the whole.

\_\_\_\_\_  
 Notary Public

[Example of Formal Certification of Acknowledgement]

STATE OF LOUISIANA  
 PARISH OF \_\_\_\_\_

BE IT KNOWN, that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned Notary Public, duly commissioned and qualified within the State and Parish aforesaid, and in the presence of the witnesses hereinafter named and undersigned, personally came and appeared \_\_\_\_\_, to me well known, who declared and acknowledged that he had signed and executed the foregoing instrument as his act and deed, and as the act and deed of the \_\_\_\_\_, a corporation, for the consideration, uses, and purposes and on terms and conditions therein set forth.

And the said appearer, being by me first duly sworn, did depose and say that he is the \_\_\_\_\_ of said corporation and that he signed and executed said instrument in his said capacity, and under authority of the Board of Directors of said corporation.

Thus done and passed in the State and Parish aforesaid, on the day and date first hereinabove written, and in the presence of \_\_\_\_\_ and \_\_\_\_\_, competent witnesses, who have hereunto subscribed their names as such, together with said appearer and me, said authority, after due reading of the whole.

WITNESSES:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 NOTARY PUBLIC:  
 \_\_\_\_\_

E. - H. ...

\* \* \*

I. Appendix I

SOLID WASTE FACILITY  
 LETTER FROM THE CHIEF FINANCIAL OFFICER  
 (Closure and/or Post-Closure)

Secretary  
 Louisiana Department of Environmental Quality  
 Post Office Box 4313  
 Baton Rouge, Louisiana 70821-4313  
 Attention: Office of Environmental Services,  
 Waste Permits Division  
 RE: [Facility name, agency interest number, and permit number]  
 Dear Sir:

I am the chief financial officer of [name and address of firm, which may be the permit holder, applicant, or parent corporation of the permit holder or applicant]. This letter is in support of this firm's use of the financial test to demonstrate financial responsibility for [insert "closure," and/or "post-closure," as applicable] as specified in LAC 33:VII.1303.

[Fill out the following three paragraphs regarding facilities and associated closure and post-closure cost estimates. If your firm does not have facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, list the facility name, site name, agency interest number, site identification number, and facility permit number.]

1. The firm identified above is the [insert "permit holder," "applicant for a standard permit," or "parent corporation of the permit holder or applicant for a standard permit"] of the following facilities, whether in Louisiana or not, for which financial assurance for [insert "closure," "post-closure," or "closure and post-closure"] is guaranteed and demonstrated through a financial test similar to that specified in LAC 33:VII.1303 or other forms of self-insurance. The current [insert "closure," "post-closure," or "closure and post-closure"] cost estimates covered by the test are shown for each facility:

2. This firm guarantees through a corporate guarantee similar to that specified in LAC 33:VII.1303, for [insert "closure care," "post-closure care," or "closure and post-closure care"] of the following facilities, whether in Louisiana or not, of which [insert the name of the permit holder or applicant] are/is a subsidiary of this firm. The amount of annual aggregate liability coverage covered by the guarantee for each facility and/or the current cost estimates for the closure and/or post-closure care so guaranteed is shown for each facility:

3. This firm is the permit holder or applicant of the following facilities, whether in Louisiana or not, for which financial assurance for closure and/or post-closure care is not demonstrated either to the U.S. Environmental Protection Agency or to a state through a financial test or any other financial assurance mechanism similar to those specified in LAC 33:VII.1303. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility.

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed year, ended [date].

Closure and/or Post-Closure [Fill in Alternative I if the criteria of LAC 33:VII.1303.H.1.a are used.]	
<b>Alternative I</b>	
1. Sum of current closure and/or post-closure estimate (total all cost estimates shown above)	\$
*2. Tangible net worth	\$
*3. Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.)	\$



	YES	NO
4. Is line 2 at least \$10 million?		
5. Is line 2 at least 6 times line 1?		
*6. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 7.		
7. Is line 3 at least 6 times line 1?		

(The following is to be completed by all firms providing the financial test.)

I hereby certify that the wording of this letter is identical to the wording specified in LAC 33:VII.1399.Appendix I.

[Signature of Chief Financial Officer for the Firm]  
[Typed Name of Chief Financial Officer]

[Title]  
[Date]

#### J. Appendix J

**SOLID WASTE FACILITY  
CORPORATE GUARANTEE FOR  
CLOSURE  
AND/OR POST-CLOSURE CARE**

[Facility name, agency interest number, and permit number]

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the state of [insert name of state], hereinafter referred to as guarantor, to the Louisiana Department of Environmental Quality, obligee, on behalf of our subsidiary [insert the name of the permit holder or applicant] of [business address].

#### Recitals

1. The guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in LAC 33:VII.1303.H.9.

2. [Subsidiary] is the [insert "permit holder," or "applicant for a permit"] hereinafter referred to as [insert "permit holder" or "applicant"] for the following facility covered by this guarantee: [List the facility name, site name, agency interest number, site identification number, and facility permit number. Indicate for each facility whether guarantee is for closure and/or post-closure, and the amount of annual aggregate closure and/or post-closure costs covered by the guarantee.]

[Fill in Paragraphs 3 and 4 below if the guarantee is for closure and/or post closure.]

3. Closure plans, as used below, refers to the plans maintained as required by LAC 33:Part.VII, for the closure and/or post-closure care of the facility identified in Paragraph 2 above.

4. For value received from [insert "permit holder" or "applicant"], guarantor guarantees to the Louisiana Department of Environmental Quality that in the event that [insert "permit holder" or "applicant"] fails to perform [insert "closure," "post-closure care," or "closure and post-closure care"] of the above facility in accordance with the closure plan and other permit requirements whenever required to do so, the guarantor shall do so or shall establish a trust fund as specified in LAC 33:VII.1303.C, as applicable, in the name of [insert "permit holder" or "applicant"] in the amount of the current closure and/or post-closure estimates, as specified in LAC 33:VII.1303.

5. The guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the administrative authority and to [insert "permit holder" or "applicant"] that he intends to provide alternative financial assurance as specified in [insert "LAC 33:VII.1301 " and/or "LAC 33:VII.1303"], as applicable, in the name of the [insert "permit holder" or "applicant"], within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless [insert "permit holder" or "applicant"] has done so.

[Fill in Alternative II if the criteria of LAC 33:VII.1303.H.1.b are used.]

Alternative II		
1. Sum of current closure and/or post-closure estimate (total all cost estimates shown above)	\$	
*2. Tangible net worth	\$	
*3. Net worth	\$	
*4. Current liabilities	\$	
*5. Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.)	\$	
	YES	NO
6. Is line 4 divided by line 3 less than 1.5?		
7. Is line 2 at least \$10 million?		
*8. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 9.		
9. Is line 5 at least 6 times line 1?		

[Fill in Alternative III if the criteria of LAC 33:VII.1303.H.1.c are used.]

Alternative III		
1. Sum of current closure and post-closure cost estimates (total of all cost estimates shown above)	\$	
2. Current bond rating of most recent issuance of this firm and name of rating service		
3. Date of issuance of bond		
4. Date of maturity of bond		
*5. Tangible net worth (If any portion of the closure and/or post-closure cost estimate is included in "total liabilities" on your firm's financial statement, you may add the amount of that portion to this line.)	\$	
*6. Total assets in U.S. (required only if less than 90 percent of the firm's assets are located in the U.S.)	\$	
	YES	NO
7. Is line 5 at least \$10 million?		
8. Is line 5 at least 6 times line 1?		
9. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 10.		
10. Is line 6 at least 6 times line 1?		

[Fill in Alternative IV if the criteria of LAC 33:VII.1303.H.1.d are used.]

Alternative IV		
1. Sum of current closure and/or post-closure estimate (total all cost estimates shown above)	\$	
*2. Tangible net worth	\$	
*3. Current liabilities	\$	
*4. The sum of net income plus depreciation, depletion, and amortization	\$	
5. Line 4 minus \$10 million	\$	
*6. Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.)	\$	
	YES	NO
7. Is line 5 divided by line 3 greater than 0.10?		
8. Is line 2 at least \$10 million?		
*9. Are at least 90 percent of the firm's assets located in the U.S.? If not, complete line 10.		
10. Is line 6 at least 6 times line 1?		

6. The guarantor agrees to notify the administrative authority, by certified mail, of a voluntary or involuntary proceeding under Title 11 (bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

7. The guarantor agrees that within 30 days after being notified by the administrative authority of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure and/or post-closure care he shall establish alternate financial assurance as specified in LAC 33:VII.1303, in the name of [insert "permit holder" or "applicant"], unless [insert "permit holder" or "applicant"] has done so.

8. The guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: [if the guarantee is for closure and post-closure insert "amendment or modification of the closure and/or post-closure care, the extension or reduction of the time of performance of closure and/or post-closure"] or any other modification or alteration of an obligation of the [insert "permit holder" or "applicant"] pursuant to LAC 33:Part.VII.

9. The guarantor agrees to remain bound under this guarantee for as long as the [insert "permit holder" or "applicant"] must comply with the applicable financial assurance requirements of [insert "LAC 33:VII.1301" and/or "LAC 33:VII.1303"] for the above-listed facility, except that guarantor may cancel this guarantee by sending notice by certified mail, to the administrative authority and to the [insert "permit holder" or "applicant"], such cancellation to become effective no earlier than 90 days after receipt of such notice by both the administrative authority and the [insert "permit holder" or "applicant"], as evidenced by the return receipts.

10. The guarantor agrees that if the [insert "permit holder" or "applicant"] fails to provide alternative financial assurance as specified in [insert "LAC 33:VII.1301" and/or "LAC 33:VII.1303"], as applicable, and obtain written approval of such assurance from the administrative authority within 60 days after a notice of cancellation by the guarantor is received by the administrative authority from guarantor, guarantor shall provide such alternate financial assurance in the name of the [insert "permit holder" or "applicant"].

11. The guarantor expressly waives notice of acceptance of this guarantee by the administrative authority or by the [insert "permit holder" or "applicant"]. Guarantor expressly waives notice of amendments or modifications of the closure and/or post-closure plan and of amendments or modifications of the facility permit(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in LAC 33:VII.1399.Appendix J, effective on the date first above written.

Effective date: \_\_\_\_\_

[Name of Guarantor]  
[Authorized signature for guarantor]  
[Typed name and title of person signing]  
Thus sworn and signed before me this [date].

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:1098 (June 2007), amended LR 37:3258 (November 2011), amended by the Office of the Secretary, Legal Division, LR 40:296 (February 2014).

**Subpart 2. Recycling**  
**Chapter 103. Recycling and Waste Reduction Rules**  
**§10313. Standards Governing the Accumulation of Recyclable Materials**

A. The speculative accumulation of recyclable materials is prohibited. Recyclable materials subject to the speculative accumulation prohibition are those materials that:

1. - 3. ...

B. A recyclable material is not speculatively accumulated, however, if:

1. the person or entity accumulating the material can demonstrate that the material is potentially recyclable, recoverable, and/or reclaimable and has a feasible means of being recycled, recovered, and/or reclaimed; and that—during the calendar year (commencing on January 1)—the amount of material that is recycled, recovered, and/or reclaimed on-site and/or sent off-site for recycling equals at least 50 percent by weight or volume of the amount of the material accumulated at the beginning of the period. In calculating the percentage of turnover, the 50 percent requirement shall be applied to only material of the same type and that is recycled and in the same manner;

2. the administrative authority approves storage of the recyclable material for a period in excess of one year, even though the requirements of Paragraph 1 of this Subsection are not met; or

3. the administrative authority otherwise exempts the recyclable material from the standards provided in this Section.

C. - C.1. ...

2. maintain records (e.g., manifests/trip tickets for disposal; bills of sale for materials) specifying the quantities of recyclable materials generated, accumulated and/or transported prior to use, reuse, or recycling; and

C.3. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 37:3260 (November 2011), amended by the Office of the Secretary, Legal Division, LR 40:301 (February 2014).

Herman Robinson, CPM  
Executive Counsel

1402#007

**RULE**

**Department of Health and Hospitals**  
**Board of Examiners in Dietetics and Nutrition**

Licensure (LAC 46:LXIX.101, 103, and 109)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:3085(2), the Louisiana Board of Examiners in Dietetics and Nutrition has updated the definition of Louisiana Association to reference the Academy of Nutrition and Dietetics, formerly known as the American Dietetic Association. The board revised the

qualifications to reflect 900 hours rather than 1200 hours to mirror the language in the Practice Act, although CADE requires 1200 hours. The board promulgates a Rule regarding the expedited licensing of military personnel and the spouses of military personnel in response to Act 276 of the 2012 Legislative Session. The board amended its rules regarding Consent Agreement and Orders offered to individuals practicing without a license which will make the Consent Agreement and Order disciplinary action. The board is adopting one "housekeeping" type amendment to revise language, but not the intent of the Rule regarding applicants for licensure.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part LXIX. Registered Dietitians**

**Chapter 1. Dietitians/Nutritionists**

**§101. Definitions**

A. ...

\* \* \*

*Louisiana Association*—the Louisiana Dietetic Association, an affiliate of the Academy of Nutrition and Dietetics (AND).

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 25:1094 (June 1999), LR 37:2152 (July 2011), LR 40:302 (February 2014).

**§103. Qualifications for Licensure**

A. - B.1. ...

2. An applicant for licensure shall submit to the board evidence of having successfully completed a planned continuous supervised practice component in dietetic practice of not less than 900 hours under the supervision of a registered dietitian or a licensed dietitian/nutritionist. The experience must be completed in the United States or its territories. Supervised dietetic practice accredited by CADE of the Academy of Nutrition and Dietetics will be accepted in lieu of the board-approved plan.

C. - D.2. ...

E. Licensing of Qualified Military-trained Applicants and Spouses of Military Personnel

1. A military-trained dietitian/nutritionist is eligible for licensure as a dietitian/nutritionist as provided for in Subsections A-D of this Section provided the applicant:

a. has completed a military program of training in dietetics and nutrition and has been awarded a military occupational specialty or similar official designation as a dietitian/nutritionists with qualifications which are substantially equivalent to or exceed the requirements of the applicable license (including the provisional license authorized by R.S. 37:3087) which is the subject of the application;

b. has performed dietetics and nutritionist services in active practice at a level that is substantially equivalent to or exceeds the requirements of the applicable license which is the subject of the application;

c. has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal,

suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed; and,

d. has not received a dishonorable discharge from military service.

2. A military-trained dietitian/nutritionist, who has not been awarded a military occupational specialty or other official designation as a dietitian/nutritionist, who nevertheless holds a current license as a dietitian or nutritionist in another state, District of Columbia or territory of the United States, which jurisdiction's requirements are substantially equivalent to or exceed the requirements for the license for which he or she is applying, is eligible for licensure, by reciprocity or endorsement pursuant to §105 provided the applicant:

a. has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed; and,

b. has not received a dishonorable discharge from military service.

3. A spouse of a member of the active-duty military forces or a spouse of a former member of the military forces who has not received a dishonorable discharge and who holds a current license as a dietitian or nutritionist in another state, District of Columbia or territory of the United States, which jurisdiction's requirements are substantially equivalent to or exceed the requirements for the applicable license for which he or she is applying, is eligible for licensure by reciprocity or endorsement pursuant to §105 provided the applicant:

a. has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed; and,

b. is in good standing and has not been disciplined by the agency that issued the license.

4. The procedures governing the applications of military-trained applicants and applicants who are spouses of military personnel, including the issuance and duration of temporary practice permits and priority processing of applications, are provided for in §109.J.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 37:2152 (July 2011), LR 40:302 (February 2014).

**§109. Application for Licensure**

A. - H. ...

I. An applicant who meets all the requirements of R.S. 41:37:3086 or 3087 and who has worked more than 30 days as a dietitian/nutritionist in the state of Louisiana and who has not otherwise violated any part of R.S. 41:3081-3094 or its rules and regulations, may be offered the following options in the form of a consent order and agreement to resolve the situation:

1. - 3. ...

4. the consent agreement and order shall be considered disciplinary action, and will be published by LBEDN.

J. Procedures for Applications of Military-trained Applicants or Spouses of Military Personnel, Issuance of Temporary Practice Permits and Priority Processing of Applications

1. In addition to the application procedures otherwise required by this Section, a military-trained dietitian/nutritionist, as specified in §103.E.1, applying for licensure, shall submit with the application:

a. a copy of the applicant's military report of transfer or discharge which shows the applicant's honorable discharge from military service;

b. the official military document showing the award of a military occupational specialty in dietetics and nutrition and a transcript of all military course work, training and examinations in the field of dietetics and nutrition;

c. documentation showing the applicant's performance of dietetics/nutritionist services, including dates of service in active practice, at a level which is substantially equivalent to or exceeds the requirements of the license which is the subject of the application;

d. an affidavit from the applicant certifying that he or she has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed.

2. In addition to the application procedures otherwise required by this Section, a military-trained dietitian/nutritionist, as specified in §103.E.2, applying for licensure, shall submit with the application:

a. a copy of the applicant's military report of transfer or discharge which shows the applicant's honorable discharge from military service;

b. the completion of all forms and presentation of all documentation required for an application pursuant to §105;

c. an affidavit from the applicant certifying that he or she has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed.

3. In addition to the application procedures otherwise required by this Section, a spouse of a member of the active-duty military forces or a spouse of a former member of the military forces as specified in §103.E.3, applying for licensure, shall submit with the application:

a. a copy of the current military orders of the military spouse of the applicant and the applicant's military identification card or a copy of the military report of transfer or discharge of the military spouse of the applicant which shows an honorable discharge from military service;

b. a copy of the applicant's marriage license and an affidavit from the applicant certifying that he or she is still married to a military spouse or former military spouse;

c. the completion of all forms and presentation of all documentation required for an application pursuant to §105;

d. an affidavit from the applicant certifying that he or she has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice dietetics/nutrition in this state at the time the act was committed and is in good standing and has not been disciplined by the agency that issued the license.

e. documentation demonstrating competency in dietetics/nutritionist practice at the level which is the subject of the application and/or completion of appropriate continuing education units;

4. Applicants who present completed applications and the supporting documentation required by this Rule are eligible for a temporary practice permit as a dietitian/nutritionist or provisional dietitian/nutritionist, whichever is the subject of the application. The board, through its staff, will give priority processing to such applications and, subject to verification of applications and supporting documentation, issue the appropriate temporary practice permit not later than 21 days after the completed application is submitted. The temporary practice permit authorizes the applicant to practice dietetics/nutrition at the designated level, consistent with the verified application and supporting documentation for a period of 60 days from the date of issuance.

5. As soon as practicable, but not longer than the duration of the applicant's temporary practice permit, the board will grant the application for the applicable license which is the subject of the application or notify the applicant of its denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3081-3093; R.S. 36:259(Q).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 10:12 (January 1984), repromulgated by the Department of Health and Hospitals, Board of Examiners in Dietetics and Nutrition, LR 14:435 (July 1988), amended LR 37:2153 (July 2011), LR 40:302 (February 2014).

Emily Efferson  
Administrator

1402#077

**RULE**

**Department of Health and Hospitals  
Board of Social Work Examiners**

General Requirements  
(LAC 46:XXV.117, 119, 307, 315,  
319, 703, 705, 905, 907, and 911)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:2705.C.1, the Louisiana state Board of Social Work Examiners promulgates rules that require social workers to report arrests or charges within seven days of the incident; and to report diagnosis of substance abuse/dependency and/or inpatient mental health treatment to the board within seven days of the occurrence. The board also promulgates a Rule that requires social workers to report a change of address within ten business days. In

response to Act 276 of the 2012 Legislative Session, the board promulgates a Rule regarding the expedited licensing of military personnel and the spouses of military personnel. Changes to §§307, 315 and 319 are to address current practices and the current name of the examinations accepted by the board. The board amended §§703 and 705 to clarify the intention and purpose of the Impaired Professional Program, as well as address the retention of IPP files. The board amended §§905, 907, and 911 in response to Act 625 of the 2012 Legislative Session which exempted the board from the limitations of R.S. 37:21.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XXV. Credentialed Social Workers**

##### **Chapter 1. Standards of Practice**

##### **§117. Conduct**

A. - D. ...

E. A social worker shall notify the Louisiana state Board of Social Work Examiners within seven business days of any arrests or charges, to include DWI and DUI, regardless of final disposition. Minor traffic offenses such as speeding and parking tickets do not need to be reported.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:299 (February 2000), amended LR 29:2382 (November 2003), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 40:304 (February 2014).

##### **§119. Representation to the Public**

A. - D. ...

E. Mailing Address. A social worker shall file a change of address with the board within 15 business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:299 (February 2000), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 40:304 (February 2014).

##### **Chapter 3. General Provisions**

##### **§305. Qualifications for Registration, Certification, Licensure**

A. - D.6. ...

E. Licensing of Qualified Military-trained Applicants and Spouses of Military Personnel

1. A military-trained social worker is eligible for registration, certification or licensure as an RSW, LMSW, CSW or LCSW (applicable social work credential) as provided for in Subsections A-D of this Section provided the applicant:

a. has completed a military program of training in social work and has been awarded a military occupational specialty or similar official designation as a social worker with qualifications which are substantially equivalent to or exceed the requirements of the applicable social work credential which is the subject of the application;

b. has performed social work services in active practice at a level that is substantially equivalent to or exceeds the requirements of the applicable social work credential which is the subject of the application;

c. has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice social work in this state at the time the act was committed; and

d. has not received a dishonorable discharge from military service.

2. A military-trained social worker, who has not been awarded a military occupational specialty or other official designation as a social worker, who nevertheless holds a current license, certification or registration for the practice of social work from another jurisdiction, which jurisdiction's requirements are substantially equivalent to or exceed the requirements for the applicable social work credential for which he or she is applying, is eligible for licensure, certification or registration by reciprocity or endorsement pursuant to §319 provided the applicant:

a. has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice social work in this state at the time the act was committed; and

b. has not received a dishonorable discharge from military service.

3. A spouse of a member of the active-duty military forces or a spouse of a former member of the military forces who has not received a dishonorable discharge and who holds a current license, certification or registration for the practice of social work from another jurisdiction, which jurisdiction's requirements are substantially equivalent to or exceed the requirements for the applicable social work credential for which he or she is applying, is eligible for licensure, certification or registration by reciprocity or endorsement pursuant to §319 provided the applicant:

a. has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice social work in this state at the time the act was committed; and

b. is in good standing and has not been disciplined by the agency that issued the license, certification, or permit.

4. The procedures governing the applications of military-trained applicants and applicants who are spouses of military personnel, including the issuance and duration of temporary practice permits and priority processing of applications, are provided for in Subsection §309 R.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:301 (February 2000), amended LR 29:2383 (November 2003), LR 34:1401 (July 2008), LR 37:2616 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 40:304 (February 2014).

##### **§307. Administration of Examination**

A. - A.2. ...

3. Examination Pass Point. The board shall administer and grade a written examination or employ a national recognized testing firm to do the same. Whichever method is used, the board will consistently strive to improve reciprocity with other states having licensure comparable to Louisiana. A pass score of 70 will be used to grade the examination for the licensed clinical social worker and the licensed master social worker.

B. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:302 (February 2000), repromulgated LR 29:2383 (November 2003), amended LR 37:2616 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 40:304 (February 2014).

### §309. Application Procedure

A. - Q.2. ...

R. Procedures for Applications of Military-trained Applicants or Spouses of Military Personnel, Issuance of Temporary Practice Permits and Priority Processing of Applications

1. In addition to the application procedures otherwise required by this Section, a military-trained social worker, as specified in §305.E.1, applying for registration, certification or licensure, shall submit with the application:

a. a copy of the applicant's military report of transfer or discharge which shows the applicant's honorable discharge from military service;

b. the official military document showing the award of a military occupational specialty in social work and a transcript of all military course work, training and examinations in the field of social work;

c. documentation showing the applicant's performance of social work services, including dates of service in active practice, at a level which is substantially equivalent to or exceeds the requirements of the social work credential which is the subject of the application;

d. for applicants seeking LCSW licensure, documentation showing the accumulated supervised experience in social work practice or out-of-state accumulated social work employment as specified by §309.J and K;

e. an affidavit from the applicant certifying that he or she has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice social work in this state at the time the act was committed.

2. In addition to the application procedures otherwise required by this Rule, a military-trained social worker, as specified in §305.E.2, applying for registration, certification or licensure, shall submit with the application:

a. a copy of the applicant's military report of transfer or discharge which shows the applicant's honorable discharge from military service;

b. the completion of all forms and presentation of all documentation required for an application pursuant to §319;

c. for applicants seeking LCSW licensure, documentation showing the accumulated supervised experience in social work practice or out-of-state accumulated social work employment as specified by §309.J and K;

d. an affidavit from the applicant certifying that he or she has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice social work in this state at the time the act was committed.

3. In addition to the application procedures otherwise required by this Rule, a spouse of a member of the active-duty military forces or a spouse of a former member of the

military forces as specified in §305.E.3, applying for registration, certification or licensure, shall submit with the application:

a. a copy of the current military orders of the military spouse of the applicant and the applicant's military identification card or a copy of the military report of transfer or discharge of the military spouse of the applicant which shows an honorable discharge from military service;

b. a copy of the applicant's marriage license and an affidavit from the applicant certifying that he or she is still married to a military spouse or former military spouse;

c. the completion of all forms and presentation of all documentation required for an application pursuant to §319;

d. for applicants seeking LCSW licensure, documentation showing the accumulated supervised experience in social work practice or out-of-state accumulated social work employment as specified by §309.J and K;

e. an affidavit from the applicant certifying that he or she has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice social work in this state at the time the act was committed and is in good standing and has not been disciplined by the agency that issued the license, certification, or permit.

f. documentation demonstrating competency in social work practice at the level which is the subject of the application and/or completion of appropriate continuing education units;

4. Applicants who present completed applications and the supporting documentation required by this Rule are eligible for a temporary social work practice permit at the level of the applicable social work credential which is the subject of the application. The board, through its staff, will give priority processing to such applications and, subject to verification of applications and supporting documentation, issue the appropriate temporary practice permit not later than 21 days after the completed application is submitted. The temporary social work practice permit authorizes the applicant to practice social work at the designated level of the social work credential, consistent with the verified application and supporting documentation for a period of 90 days from the date of issuance.

5. As soon as practicable, but not longer than the duration of the applicant's temporary social work practice permit, the board will grant the application for the applicable social work credential which is the subject of the application or notify the applicant of its denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:302 (February 2000), amended LR 29:2383 (November 2003), LR 34:1402 (July 2008), LR 37:2617 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR LR 40:305 (February 2014).

### §315. Board Members

A. - B. ...

C. Meetings

1. The board shall schedule meetings for the following calendar year during the last quarter of the current year.

2. A schedule of meeting dates shall be published.

C.3. - D.4. ...

E. Vacancies. The board shall notify all social workers and professional social work organizations of vacancies on the board, the qualifications required to serve, and the process for nominations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:304 (February 2000), amended LR 29:2385 (November 2003), LR 34:248 (February 2008), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 40:305 (February 2014).

### **§319. Reciprocity and Endorsement**

A. - C.2. ...

3. The applicant has passed the examination of the Association of Social Work Boards, or equivalent examination, in order to secure current social work license or certification in the state of Louisiana. The applicant shall request that the ASWB forward the official score report to the Louisiana board.

4. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:306 (February 2000), amended LR 34:249 (February 2008), LR 37:2619 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 40:306 (February 2014).

## **Chapter 5. Minimum Supervision Requirements**

### **§503. LMSWs Seeking the LCSW Credential**

A. - R. ...

S. The supervision agreement/plan of supervision will be reviewed and revisions may be required. Revisions shall be submitted to the board office within 30 days of receipt by the supervisee/supervisor. The supervisee and supervisor will be mailed a letter confirming board approval of the supervision agreement/plan of supervision, as well as the beginning date of supervision credit.

T. - Y. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 26:307 (February 2000), amended LR 29:2387 (November 2003), LR 34:1402 (July 2008), LR 37:2620 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 40:306 (February 2014).

## **Chapter 7. Impaired Professional Program Authority**

### **§703. Purpose**

A. The goal of the Social Work Impaired Professional Program is to provide for public protection through monitoring and a remediative course of action applicable to social workers who are physically or mentally impaired due to mental illness or addiction to drugs or alcohol. Impairments include, but are not limited to mental, physical, and addictive disorders or other conditions. The program also supports recovery through preventive measures and allows entrance into the program before harm occurs.

B. A social worker who meets the requirements of R.S. 37:2706, 2707, 2708, or 2724 may enter the program subsequent to self-disclosure of impairment via an initial or renewal application for a credential. Entrance into the

program may also occur by determination of the board, following involuntary disclosure of impairment in accordance with R.S. 37:2717(A)(2) or R.S. 37:2717(B)(4), or by other circumstances deemed appropriate by the board. Participation in the program may hence be required as a prerequisite to continued social work practice in accordance with the conditions of any consent order, compliance or adjudication hearing. A social worker who enters the program may be allowed to maintain his/her social work credential while in compliance with the requirements of their program.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2389 (November 2003), amended LR 34:249 (February 2008), LR 37:2620 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 40:306 (February 2014).

### **§705. Program Implementation**

A. - A.14. ...

B. The records of the IPP, including participation agreements and all information concerning participants, including assessments, evaluations, physical, mental or substance abuse evaluations and/or therapy and treatment records, monitoring logs, substance abuse/drug screens, attendance logs and any other information received by the IPP in connection with a social worker's participation in the program are within the custody and control of the Louisiana state Board of Social Work Examiners. Consistent with §705.A.14, such records shall be maintained by the board on a confidential basis during the term of the social worker's participation agreement and thereafter retained by the board for a period of not less than five years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2389 (November 2003), amended LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 40:306 (February 2014).

## **Chapter 9. Procedural Rules**

### **§905. Investigation Procedures**

A. - E. ...

F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2391 (November 2003), amended LR 34:1405 (July 2008), LR 37:2621 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 40:306 (February 2014).

### **§907. Disposition of Investigation**

A. - C. ...

D. If the investigation report contains a determination that there is probable cause to believe that the involved social worker has engaged or is engaging in conduct, acts, or omissions constituting legal cause under the law, these rules and regulations, or ethical standards for any form of disciplinary action as specified in R.S. 37:2717, then the administrator shall promptly notify the attorney general or

**RULE**

**Department of Health and Hospitals  
Board of Veterinary Medicine**

Licensure Procedures, Veterinary Practice,  
Registered Veterinary Technicians, Professional Conduct,  
Preceptorship Program, Certified Animal Euthanasia  
Technicians (LAC 46:LXXXV. 301, 303, 307,  
700, 702, 801, 803, 816, 1103, 1200, 1201)

the assistant attorney general assigned to prosecute such matters on behalf of the state pursuant to R.S. 37:2717(C). The notice shall deliver to the assistant attorney general all investigative reports, statements, notes, recordings, court records, and other data obtained in the course of the investigation. It will also request the preparation of a draft of an administrative complaint regarding any violations which are disclosed in or suggested by the investigation. The assistant attorney general prosecuting the matter may request and obtain other information from the board's administrator, including access to consultants to assess the results of the investigation and prepare a draft of the administrative complaint. The draft of the administrative complaint shall identify the involved social worker and be prepared in the same form and content as the administrative complaint specified in §909.B of these rules. The draft of the administrative complaint shall be signed by the assistant attorney general and delivered to the board's administrator within 30 days of the notice and delivery to the assistant attorney general of the investigation, report and specified materials. The board's administrator is authorized to extend the time for the submission of the draft of the administrative complaint for a reasonable time as requested by the assistant attorney general.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2391 (November 2003), amended LR 37:2621 (September 2011), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 40:306 (February 2014).

**§911. Notice of Administrative Complaint and Hearing Scheduling**

A. Upon the docketing of the administrative complaint, the board should schedule the complaint for a hearing before a hearing panel of the board. This hearing shall take place not less than 30 days nor more than 150 days of the docketing of the complaint, provided that the time for the hearing may be lengthened as the board deems necessary or appropriate, or upon good cause shown by motion of the attorney general or respondent.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2705.C.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Certified Social Work Examiners, LR 29:2393 (November 2003), amended by the Department of Health and Hospitals, Board of Social Work Examiners, LR 40:307 (February 2014).

Emily Efferson  
Administrator

1402#078

The Louisiana Board of Veterinary Medicine has amended and adopted LAC 46:LXXXV.301, 303, 307, 700, 702, 801, 803, 816, 1103, 1200, and 1201 in accordance with the provisions of the Administrative Procedure Act, L.R.S. 49:953 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518A(9).

The rules have been amended and adopted to specify the time for an application to remain open for a Veterinarian, Registered Veterinary Technician (RVT), and Certified Animal Euthanasia Technician (CAET); clarify and define the definition of full-time private practice employment for waiver of the national veterinary medical licensing examination (NAVLE) for a qualified veterinarian; establish requirements for expedited licensure for an applicant with military qualifications and his qualified spouse in compliance with Act 276 of the 2012 Regular Legislative Session (R.S. 37:3650); clarify and establish general definitions regarding boarding versus non-boarding animal, and unlicensed veterinarian; identify the proper entity which now prepares and administers the National Veterinary Technician Examination (VTNE) for the board; establish a five time limit a qualified RVT applicant is eligible to take the national veterinary technician examination in Louisiana which is the standard in a growing number of states and as requested by the national examination agency used by all US states; clarify and establish RVT disciplinary sanctions and a Code of Ethics; clarifies that a preceptee in the preceptorship program is not to be represented as a licensed veterinarian; clarify that a veterinarian, RVT, and CAET may legally perform pre-euthanasia chemical restraint and/or chemical euthanasia; and clarify and establish that a CAET is limited to perform pre-euthanasia chemical restraint and/or chemical euthanasia only at the facility site of his employment, which may include an animal shelter's mobile vehicle, and that there may be only one lead CAET per animal control shelter or facility.

The Rule regarding the limited number of five times an RVT applicant is eligible to take the national veterinary technician examination shall become effective upon promulgation with the exception of any pending application submitted to the board prior to such promulgation date.



**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part LXXXV. Veterinarians**

**Chapter 3. Licensure Procedures**

**§301. Applications for Licensure**

A. - E. ...

F. An application shall become stale if not completed by issuance of a license within two years from the initial date of submission to the board. Once stale, the entire application process, including the payment of applicable fees, shall begin anew.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982), amended LR 10:464 (June 1984), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:223 (March 1990), LR 19:343 (March 1993); LR 23:964 (August 1997), LR 25:2231 (November 1999), LR 28:1982 (September 2002), LR 40:308 (February 2013).

**§303. Examinations**

A. - B.3. ...

4. The requirement for taking the national examinations may be waived when an applicant:

a. holds a currently valid license in good standing in another state, district, or territory of the United States; and

b. has been employed as a licensed veterinarian in a full-time private practice or its equivalent as determined by a majority vote of the board for the five years immediately preceding his application. Full-time shall be defined as a minimum of 32 hours worked per week.

5. ...

6. An applicant whose scores are greater than five years old and who cannot demonstrate eligibility for a waiver of the national examination pursuant to §303.B.4, shall be required to successfully pass the national examination in order to be eligible for a license.

B.7. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982), amended LR 8:144 (March 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:343 (March 1993), LR 19:1327 (October 1993), LR 23:964 (August 1997), LR 25:2232 (November 1999), LR 28:1982 (September 2002), LR 38:1592 (July 2012), LR 40:308 (February 2013).

**§307 Expedited License/Military Qualifications**

A. Pursuant to, and in compliance with, Act 276 of the 2012 Regular Legislative Session (R.S. 37:3650), a qualified military-trained applicant licensed as a veterinarian in another state, or having been awarded a military occupational specialty which is equivalent to or exceeds the requirements for licensure, or a military spouse licensed as a veterinarian in another state, both of whom having also actively practiced such discipline for the 90 day period immediately prior to submission of the application to the board, may be issued an expedited license to practice veterinary medicine pending good faith completion of all requirements for licensure in Louisiana set forth in the board's rules.

B. To ensure public health and safety, in the event the applicant has not actively practiced such discipline for the 90 day period immediately prior to submission of the application to the board, the applicant will be required to satisfy the preceptorship program requirement prior to the issuance of an expedited license.

C. In order for the expedited license to remain in effect, the applicant must successfully pass the next available national examination after initial application, or qualify for waiver granted by the board for the national examination pursuant to established rule.

D. In order for the expedited license to remain in effect, the applicant must successfully pass the next available state board examination after initial application. The successful passage of the state board examination is required of all applicants for licensure.

E. The board shall expedite the processing of the license to an individual who timely and properly submits information necessary to comply with the application protocol, the board's rules, and the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 8:66 (February 1982), amended by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 23:965 (August 1997), LR 40:308 (February 2013).

**Chapter 7. Veterinary Practice**

**§700. Definitions**

\* \* \*

*Boarding Animal*—an animal which is housed at a veterinary facility and is not actively undergoing diagnosis or treatment for illness, disease, or injury, and/or is not actively receiving veterinary care to promote good health. An animal which becomes ill, diseased, or sustains an injury while in a veterinary facility ceases to be a boarding animal under this definition.

\* \* \*

*Direct Supervision*—Unless otherwise specifically defined in a provision, the supervision of those tasks or procedures that do not require the presence of a licensed, supervising veterinarian in the room where performed, but which require the presence of a licensed, supervising veterinarian on the premises and his availability for prompt consultation and treatment.

\* \* \*

*Non-Boarding Animal*—an animal which is actively undergoing diagnosis or treatment for illness, disease, or injury, and/or is actively receiving veterinary care to promote good health. A non-boarding animal may, or may not, be housed at a veterinary facility.

\* \* \*

*Unlicensed Veterinarians*—individuals who have completed an approved, accredited program of instruction and have received a degree as a Doctor of Veterinary Medicine, or if foreign educated have completed the Educational Commission for Foreign Veterinary Graduates (ECFVG) or the Program for the Assessment of Veterinary Education Equivalence (PAVE) program through the American Association of Veterinary State Boards (AAVSB), but who have not been issued a license by the board to practice veterinary medicine in the state of Louisiana.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1328 (October 1993), amended LR 20:666 (June 1994), LR 20:1381 (December 1994), LR 24:940 and 941 (May 1998), LR 24:1932 (October 1998), LR 24:2257 (December 1998), LR 27:51 (January 2001), LR 27:543 (April 2001), LR 31:3162 (December 2005), LR 33:2424 (November 2007), LR 35:244 (February 2009); LR 40:308 (February 2013).

#### **§702. Direct Supervision**

A. - D.2.f. ...

E. *Unlicensed veterinarians*, as defined in §700, shall not practice veterinary medicine until such time as they are licensed by the state of Louisiana. An unlicensed veterinarian may only function as a veterinary assistant under direct supervision. However, Chapter 11 governing the preceptorship program shall apply to a qualified preceptee as defined in §1103.

F. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:225 (March 1990), amended LR 19:1329 (October 1993), LR 24:940 (May 1998), LR 40:309 (February 2013).

#### **Chapter 8. Registered Veterinary Technician**

##### **§801. Applications for Certificate of Approval**

A. - E. ...

F. An application shall become stale if not completed by issuance of a certificate within two years from the initial date of submission to the board. Once stale, the entire application process, including the payment of applicable fees, shall begin anew.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:226 (March 1990), LR 40:309 (February 2013).

##### **§803. Examinations**

A. The Louisiana Board of Veterinary Medicine hereby adopts the examination prepared by the American Association of Veterinary State Boards (AAVSB) (hereafter referred to as the "veterinary technician national examination" or VTNE), and hereby requires that all applicants for licensure to practice as registered veterinary technicians in the state of Louisiana shall pass this national examination in addition to any and all state examinations (herein defined as such written examinations, oral interviews, and/or practical demonstrations as the board may request or require).

B. - C. ...

D. The administration of the VTNE shall be in accordance with rules, practices, policies or procedures prescribed by the AAVSB or by any person or persons with whom the AAVSB may have contracted to administer said exam. The VTNE may be administered by members of the Louisiana Board of Veterinary Medicine or any of the agents, employees, or designees of the board.

E. - G. ...

H. An applicant for certification may only sit for the national examination a maximum of five times. Thereafter, the applicant will no longer be eligible for certification in Louisiana and any application will be rejected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1549.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:226 (March 1990), amended LR 20:1380 (December 1994), LR 40:309 (February 2013).

#### **§816. Disciplinary Proceedings**

A. ...

B. The board may deny a person's application for a certificate of approval, or revoke, suspend, place on probation, restrict, and/or reprimand a registered veterinary technician, and/or assess a fine not to exceed \$1,000 for each separate offense, when it finds noncompliance with or a violation of the provisions of the Veterinary Practice Act and/or the board's rules. The sanction shall issue after compliance with notice and a hearing as required by law.

C. The Code(s) of Ethics of the AVMA and the NAVTA regarding veterinary technicians registered by the board are hereby adopted as standards of conduct by reference. In the event, the subject Code(s) of Ethics contradict the Veterinary Practice Act and/or the board's rules, the latter shall govern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 25:2226 (November 1999), LR 40:309 (February 2013).

#### **Chapter 11. Preceptorship Program**

##### **§1103. Definitions**

\*\*\*

*Preceptee*—an applicant for the preceptorship program. The preceptee is not to be considered a substitute employee and shall not be represented as a licensed veterinarian

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 19:208 (February 1993), LR 23:968 (August 1997), LR 24:1293 (July 1998), LR 27:543 (April 2001), LR 28:1208 (June 2002), LR 38:357 (February 2012), LR 40:309 (February 2013).

#### **Chapter 12. Certified Animal Euthanasia Technicians**

##### **§1200. Definitions**

A. All definitions used in this chapter shall have the meaning assigned to them in R.S. 37:1552. In addition, the following definitions shall be applied:

\*\*\*

*Certified Animal Euthanasia Technician*—a person who is instructed in a board approved program in the proper methods of humanely euthanizing animals by injecting legal drugs in accordance with rules adopted by the board, in proper security precautions, in proper record keeping, and related skills, and who has been issued a certificate by the board. Only a certified animal euthanasia technician, registered veterinary technician (RVT), or veterinarian licensed by the board may legally perform pre-euthanasia chemical restraint and/or chemical euthanasia. Pre-euthanasia chemical restraint and/or chemical euthanasia cannot be delegated to another person who is not a certified animal euthanasia technician, registered veterinary technician (RVT), or veterinarian licensed by the board.

*Full Certification*—a certificate of approval granted to an applicant who has fulfilled all requirements of this Chapter. Such certificates shall expire annually. The

certificate shall entitle the CAET to perform pre-euthanasia chemical restraint and/or chemical euthanasia only at the facility site of the certificate holder's employment, which may include an animal control shelter's mobile vehicle, and only one certificate shall be issued to a certificate holder at any one time.

*Lead Certified Animal Euthanasia Technician or Lead CAET*—a CAET who also meets the requirements of R.S. 37:1552(4). There shall be only one Lead CAET per animal control shelter or facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:317 (February 2000), LR 38:357 (February 2012), LR 40:309 (February 2013).

#### **§1201 Applications for Certificate of Approval**

A. - C. ...

D. An application shall become stale if not completed by issuance of a certificate within two years from the initial date of submission to the board. Once stale, the entire application process, including the payment of applicable fees, shall begin anew.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 26:317 (February 2000), LR 38:357 (February 2012), LR 40:310 (February 2013).

Wendy D. Parrish  
Executive Director

1402#019

### **RULE**

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

Coordinated Care Network  
(LAC 50:I.Chapter 31, 3303, and 3307)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:I.Chapter 31, §3303, and §3307 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### **Title 50**

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

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

#### **Subpart 3. Medicaid Coordinated Care**

#### **Chapter 31. Coordinated Care Network**

#### **§3103. Recipient Participation**

A. - B.1.b.v. ...

NOTE. Repealed.

C. - D.1.i. ...

j. are enrolled in the Louisiana Health Insurance Premium Payment (LaHIPP) Program.

k. Repealed.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1573 (June 2011), amended LR 40:310 (February 2014).

#### **§3105. Enrollment Process**

A. - D.1. ...

2. The CCN and its providers shall be required to register all births through the Louisiana Electronic Event Registration System (LEERS) administered by DHH/Vital Records Registry and complete any other Medicaid enrollment form required by DHH.

E. - E.1. ...

2. New recipients, excluding those whose Medicaid eligibility is predicated upon determination of pregnancy, shall be given no less than 30 calendar days from the postmark date of an enrollment form mailed by the enrollment broker to select a CCN and primary care provider (PCP).

a. ...

3. Pregnant recipients with Medicaid eligibility limited to prenatal, delivery, and post-partum services will immediately be automatically assigned to a CCN by the enrollment broker.

a. - d. Repealed.

4. The following provisions will be applicable for recipients who are mandatory or voluntary participants.

a. If there are two or more CCNs in a department designated service area in which the recipient resides, they shall select one.

b. If there is only one CCN in a department designated service area where the recipient resides, the recipient must choose either the CCN, Medicaid fee-for-service or an alternative Medicaid managed care program that coordinates care and which the department makes available in accordance with the promulgation of administrative Rules.

c. Recipients who fail to make a selection will be automatically assigned to a participating CCN in their area.

d. Recipients may request to transfer out of the CCN for cause and the effective date of enrollment shall be no later than the first day of the second month following the calendar month that the request for disenrollment is filed.

F. Automatic Assignment Process

1. The following participants shall be automatically assigned to a CCN by the enrollment broker in accordance with the department's algorithm/formula and the provisions of §3105.E:

a. mandatory CCN participants that fail to select CCN and voluntary participants that do not exercise their option not to participate in the CCN program within the minimum 30 day window;

b. pregnant women with Medicaid eligibility limited to prenatal care, delivery, and post-partum services; and

c. other recipients as determined by the department.

d. - e. Repealed.

2. CCN automatic assignments shall take into consideration factors including, but not limited to:

a. the potential enrollee's geographic parish of residence;

b. assigning members of family units to the same CCN;

c. previous relationships with a Medicaid provider;

- d. CCN capacity; and
- e. CCN performance outcome indicators (when available).

3. Neither the MCO model nor the shared savings model will be given preference in making automatic assignments.

4. CCN automatic assignment methodology shall be available to recipients upon request to the enrollment broker prior to enrollment.

G. - G.2.a. ...

b. selects a PCP within the CCN that has reached their maximum physician/patient ratio;

c. selects a PCP within the CCN that has restrictions/limitations (e.g. pediatric only practice); or

d. has been automatically assigned to the CCN due to eligibility limited to pregnancy-related services.

3. Members who do not proactively choose a PCP with a CCN will be automatically assigned to a PCP by the CCN. The PCP automatically assigned to the member shall be located within geographic access standards of the member's home and/or best meets the needs of the member. Members for whom a CCN is the secondary payor will not be assigned to a PCP by the CCN, unless the members request that the CCN do so.

G.4. - H.1. ...

2. The 90-day option to change is not applicable to CCN linkages as a result of open enrollment.

I. Annual Open Enrollment

1. The department will provide an opportunity for all CCN members to retain or select a new CCN during an annual open enrollment period. Notification will be sent to each CCN member at least 60 days prior to the effective date of the annual open enrollment. Each CCN member shall receive information and the offer of assistance with making informed choices about CCNs in their area and the availability of choice counseling.

2. ...

3. During the open enrollment period, each Medicaid enrollee shall be given the option to either remain in their existing CCN or select a new CCN.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1574 (June 2011), amended LR 40:310 (February 2014).

**§3107. Disenrollment and Change of Coordinated Care Network**

A. - F.1.j. ...

k. member enrolls in the Louisiana Health Insurance Premium Payment (LaHIPP) Program.

G. - G.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1575 (June 2011), amended LR 40:311 (February 2014).

**§3109. Member Rights and Responsibilities**

A. - A.11. ...

B. Members shall have the freedom to exercise the rights described herein without any adverse effect on the member's treatment by the department or the CCN, or its contractors or providers.

C. - C.8. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1576 (June 2011), amended LR 40:311 (February 2014).

**Chapter 33. Coordinated Care Network Shared Savings Model**

**§3303. Shared Savings Model Responsibilities**

A. - R.4. ...

a. immediately notifying the department if he or she has a Workman's Compensation claim, a pending personal injury or medical malpractice law suit, or has been involved in an auto accident;

R.4.b. - T.3. ...

U. - U.1. Reserved.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1578 (June 2011), amended LR 40:311 (February 2014).

**§3307. Reimbursement Methodology**

A. - C. ...

1. The CCN-S may reimburse the PCP a monthly base case management fee for each enrollee assigned to the PCP.

2. ...

3. - 3.b. Repealed.

D. - F. ...

1. The reconciliation shall compare the actual aggregate cost of authorized/preprocessed services as specified in the contract and include the enhanced primary care case management fee for dates of services in the reconciliation period, to the aggregate Per Capita Prepaid Benchmark (PCPB).

2. - 3.n. ...

o. Reserved.

4. - 5.c. ...

6. In the event the CCN-S exceeds the PCPB in the aggregate (for the entire CCN-S enrollment) as calculated in the final reconciliation, the CCN-S will be required to refund up to 50 percent of the total amount of the enhanced primary care case management fees paid to the CCN-S during the period being reconciled.

7. ...

a. Due to federally mandated limitations under the Medicaid State Plan, shared savings will be limited to five percent of the actual aggregate costs including the enhanced primary care case management fees paid. Such amounts shall be determined in the aggregate and not for separate enrollment types.

b. Repealed.

8. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1581 (June 2011), amended LR 40:311 (February 2014).

Kathy H. Kliebert  
Secretary

1402#071

**RULE**

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

Inpatient Hospital Services  
Non-Rural, Non-State Hospitals  
Reimbursement Rate Reductions  
(LAC 50:V.Chapter 9)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V.Chapter 9 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part V. Hospital Services**

**Subpart 1. Inpatient Hospital Services**

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

**Subchapter B. Reimbursement Methodology**

**§953. Acute Care Hospitals**

- A. - H.2....
- 3. - 5. Reserved.
- I. - I.2. ...
- 3. - 5. Reserved.
- J. - N.2.b. ...
- 3. - 6. Reserved.
- O. - Q.1....

R. Effective for dates of service on or after August 1, 2012, the inpatient per diem rate paid to acute care hospitals shall be reduced by 3.7 percent of the per diem rate on file as of July 31, 2012.

S. Effective for dates of service on or after February 1, 2013, the inpatient per diem rate paid to acute care hospitals shall be reduced by 1 percent of the per diem rate on file as of January 31, 2013.

T. Reserved.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1552(July 2010), LR 36:2561 (November, 2010), LR 37:2161 (July 2011), LR 40:312 (February 2014).

**§955. Long Term Hospitals**

- A. - H. ...
- I. Effective for dates of service on or after August 1, 2012, the inpatient per diem rate paid to long term hospitals shall be reduced by 3.7 percent of the per diem rate on file as of July 31, 2012.
- J. Effective for dates of service on or after February 1, 2013, the inpatient per diem rate paid to long term hospitals shall be reduced by 1 percent of the per diem rate on file as of January 31, 2013.

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

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

Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November, 2010), LR 37:2162 (July 2011), LR 40:312 (February 2014).

**§967. Children’s Specialty Hospitals**

- A. - H. ...
- I. Reserved.
- J. Effective for dates of service on or after August 1, 2012, the per diem rates as calculated per §967.A.-C above shall be reduced by 3.7 percent. Final payment shall be the lesser of allowable inpatient acute care and psychiatric costs as determined by the cost report or the Medicaid discharges or days as specified per §967.A.-C for the period, multiplied by 85.53 percent of the target rate per discharge or per diem limitation as specified per §967.A.-C for the period.
- K. Effective for dates of service on or after February 1, 2013, the per diem rates as calculated per §967.A.-C above shall be reduced by 1 percent. Final payment shall be the lesser of allowable inpatient acute care and psychiatric costs as determined by the cost report or the Medicaid discharges or days as specified per §967.A.-C for the period, multiplied by 84.67 percent of the target rate per discharge or per diem limitation as specified per §967.A.-C for the period.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, amended LR 36:2562 (November, 2010), LR 37:2162 (July 2011), LR 40:312 (February 2014).

Kathy H. Kliebert  
Secretary

1402#072

**RULE**

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

Inpatient Hospital Services  
State Hospitals  
Reimbursement Rate Reductions  
(LAC 50:V.551)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V. 551 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part V. Hospital Services**

**Subpart 1. Inpatient Hospital Services**

**Chapter 5. State Hospitals**

**Subchapter B. Reimbursement Methodology**

**§551. Acute Care Hospitals**

- A. - D. ...
- E. Effective for dates of service on or after August 1, 2012, the inpatient per diem rate paid to state-owned acute care hospitals, excluding Villa Feliciana and inpatient psychiatric services, shall be reduced by 10 percent of the per diem rate on file as of July 31, 2012.

1. The Medicaid payments to state-owned hospitals that qualify for the supplemental payments, excluding Villa Feliciana and inpatient psychiatric services, shall be reimbursed at 90 percent of allowable costs and shall not be subject to per discharge or per diem limits.

2. The Medicaid payments to state-owned hospitals that do not qualify for the supplemental payments shall be reimbursed at 54 percent of allowable costs.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1241 (May 2012), amended LR 40:312 (February 2014).

Kathy H. Kliebert  
Secretary

1402#073

## RULE

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

Outpatient Hospital Services  
Non-Rural, Non-State Hospitals  
and Children's Specialty Hospitals  
Reimbursement Rate Reductions  
(LAC:V.5313, 5317, 5513, 5517,  
5713, 5719, 6115 and 6119)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V.5313, §5317, §5513, §5517, §5713, §5719, §6115 and §6119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part V. Hospitals

##### Subpart 5. Outpatient Hospitals

#### Chapter 53. Outpatient Surgery

##### Subchapter B. Reimbursement Methodology

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

A. - F.1. ...

G. Effective for dates of service on or after August 1, 2012, the reimbursement rates paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 3.7 percent of the fee schedule on file as of July 31, 2012.

H. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to non-rural, non-state hospitals for outpatient surgery shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), LR 36:2041 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014).

###### §5317. Children's Specialty Hospitals

A. - D.1. ...

E. Effective for dates of service on or after August 1, 2012, the reimbursement rates paid to children's specialty hospitals for outpatient surgery shall be reduced by 3.7 percent of the fee schedule on file as of July 31, 2012.

F. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to children's specialty hospitals for outpatient surgery shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 40:313 (February 2014).

#### Chapter 55. Clinic Services

##### Subchapter B. Reimbursement Methodology

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

A. - F.1. ...

G. Effective for dates of service on or after August 1, 2012, the reimbursement rates paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 3.7 percent of the fee schedule on file as of July 31, 2012.

H. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to non-rural, non-state hospitals for outpatient clinic services shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014).

###### §5517. Children's Specialty Hospitals

A. - D. ...

E. Effective for dates of service on or after August 1, 2012, the reimbursement rates paid to children's specialty hospitals for outpatient hospital clinic services shall be reduced by 3.7 percent of the fee schedule on file as of July 31, 2012.

F. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to children's specialty hospitals for outpatient hospital clinic services shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 40:313 (February 2014).

#### Chapter 57. Laboratory Services

##### Subchapter B. Reimbursement Methodology

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

A. - F.1. ...

G. Effective for dates of service on or after August 1, 2012, the reimbursement rates paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 3.7 percent of the fee schedule on file as of July 31, 2012.

H. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to non-rural, non-state hospitals for outpatient laboratory services shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014).

#### **§5719. Children's Specialty Hospitals**

A. - D. ...

E. Effective for dates of service on or after August 1, 2012, the reimbursement rates paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be reduced by 3.7 percent of the fee schedule on file as of July 31, 2012.

F. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be reduced by 1 percent of the fee schedule on file as of January 31, 2013.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2043 (September 2010), amended LR 37:3267 (November 2011), LR 40:314 (February 2014).

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

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

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

A. - F.1. ...

G. Effective for dates of service on or after August 1, 2012, the reimbursement rates paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 3.7 percent of the rates in effect on July 31, 2012. Final reimbursement shall be at 67.13 percent of allowable cost through the cost settlement process.

H. Effective for dates of service on or after February 1, 2013, the reimbursement rates paid to non-rural, non-state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 1 percent of the rates in effect on January 31, 2013. Final reimbursement shall be at 66.46 percent of allowable cost through the cost settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:2043 (September 2010), LR 37:3267 (November 2011), LR 40:314 (February 2014).

#### **§6119. Children's Specialty Hospitals**

A. - D.1. ...

E. Effective for dates of service on or after August 1, 2012, the reimbursement fees paid to children's specialty hospitals for outpatient hospital services other than rehabilitation services and outpatient hospital facility fees shall be reduced by 3.7 percent of the rates in effect on July 31, 2012. Final reimbursement shall be 82.96 percent of allowable cost as calculated through the cost report settlement process.

F. Effective for dates of service on or after February 1, 2013, the reimbursement fees paid to children's specialty hospitals for outpatient hospital services other than rehabilitation services and outpatient hospital facility fees shall be reduced by 1 percent of the rates in effect on January 31, 2013. Final reimbursement shall be 82.13 percent of allowable cost as calculated through the cost report settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2044 (September 2010), amended LR 37:3267 (November 2011), LR 40:314 (February 2014).

Kathy H. Kliebert  
Secretary

1402#074

### **RULE**

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

Outpatient Hospital Services  
State-Owned Hospitals  
Reimbursement Rate Reduction  
(LAC 50:V.5319, 5519, 5715 and 6127)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V.5319, §5519, §5715, and §6127 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

### **Title 50**

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

#### **Part V. Hospital Services**

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

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

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

#### **§5319. State-Owned Hospitals**

A. - A.2. ...

B. Effective for dates of service on or after August 1, 2012, the reimbursement rates paid to state-owned hospitals for outpatient surgery shall be reduced by 10 percent of the fee schedule on file as of July 31, 2012.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Service Financing, LR 38:2773 (November 2012), amended LR 40:314 (February 2014).

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

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

#### **§5519. State-Owned Hospitals**

A. - A.2. ...

B. Effective for dates of service on or after August 1, 2012, the reimbursement rates paid to state-owned hospitals for outpatient clinic services shall be reduced by 10 percent of the of the fee schedule on file as of July 31, 2012.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2774 (November 2012), amended LR 40:314 (February 2014).

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

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

###### **§5715. State-Owned Hospitals**

A. ...

B. Effective for dates of service on or after August 1, 2012, the reimbursement rates paid to state-owned hospitals for outpatient laboratory services shall be reduced by 10 percent of the fee schedule on file as of July 31, 2012.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Service Financing, LR 35:956 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:315 (February 2014).

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

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

###### **§6127. State-Owned Hospitals**

A. - B.2. ...

C. Effective for dates of service on or after August 1, 2012, the reimbursement rates paid to state hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be reduced by 10 percent of the rates in effect on July 31, 2012. Final reimbursement shall be at 90 percent of allowable cost through the cost settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:957 (May 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:2774 (November 2012), LR 40:315 (February 2014).

Kathy H. Kliebert  
Secretary

1402#075

#### **RULE**

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

Professional Services Program  
Fluoride Varnish Applications  
(LAC 50:IX.Chapter 9 and 15105)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:IX.Chapter 9 and §15105 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

## **Title 50**

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

#### **Part IX. Professional Services Program**

##### **Subpart 1. General Provisions**

#### **Chapter 9. Fluoride Varnish Application Services**

##### **§901. General Provisions**

A. Effective for dates of service on or after December 1, 2011, the department shall provide Medicaid coverage of fluoride varnish application services to recipients from six months through five years of age.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:315 (February 2014).

##### **§903. Scope of Services**

A. Fluoride varnish application services performed in a physician office setting shall be reimbursed by the Medicaid program when rendered by the appropriate professional services providers.

B. Fluoride varnish applications may be covered once every six months per Medicaid recipient.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:315 (February 2014).

##### **§905. Provider Participation**

A. The entity seeking reimbursement for fluoride varnish application services must be an enrolled Medicaid provider in the Professional Services Program. The following Medicaid enrolled providers may receive reimbursement for fluoride varnish applications:

1. physicians;
2. nurse practitioners; and
3. physician assistants.

B. The following providers who have been deemed as competent to perform the service by the certified physician may perform fluoride varnish application services in a physician office setting:

1. the appropriate dental providers;
2. physicians;
3. physician assistants;
4. nurse practitioners;
5. registered nurses; or
6. licensed practical nurses.

C. Professional service providers shall review the Smiles for Life training module for fluoride varnish and successfully pass the post assessment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:315 (February 2014).

##### **Subpart 15. Reimbursement**

#### **Chapter 151. Reimbursement Methodology**

##### **Subchapter A. General Provisions**

###### **§15105. Fluoride Varnish Application Services**

A. Effective for dates of service on or after December 1, 2011, the Medicaid Program shall provide reimbursement



for fluoride varnish application services rendered by qualified health care professionals in a physician office setting.

B. Reimbursement for fluoride varnish application services shall be a flat fee based on the appropriate HCPCS code.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:315 (February 2014).

Kathy H. Kliebert  
Secretary

1402#076

## RULE

### Department of Natural Resources Office of Conservation

#### Class III (Solution-Mining) Injection Wells (LAC 43:XVII.Chapter 33)

Editor's Note: A hearing was not held pursuant to R.S. 49:968(H)(2) to incorporate the changes in this Rule. The original language of this Rule can be viewed on pages 2875-2902 of the October 20, 2013 edition of the *Louisiana Register*.

The Department of Natural Resources, Office of Conservation has adopted LAC 43:XVII.Chapter 33 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The action adopts Statewide Order No. 29-M-3, which provides comprehensive regulations for class III (solution-mining) injection wells, as enacted by Act 368 and Act 369 of the 2013 Legislative Session.

#### Title 43

#### NATURAL RESOURCES

#### Part XVII. Office of Conservation—Injection and Mining

#### Subpart 5. Statewide Order No. 29-M-3

#### Chapter 33. Class III (Solution-Mining) Injection Wells

#### §3301. Definitions

*Act*—Part I, Chapter 1 of Title 30 of the Louisiana Revised Statutes.

*Active Cavern Well*—a solution-mining well that is actively being used, or capable of being used, to mine minerals, including standby wells. The term does not include an inactive cavern well.

*Application*—the filing on the appropriate Office of Conservation form(s), including any additions, revisions, modifications, or required attachments to the form(s), for a permit to operate a solution-mining well or parts thereof.

*Aquifer*—a geologic formation, groups of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

*Blanket Material*—sometimes referred to as a "pad." The blanket material is a fluid placed within a cavern that is lighter than the water in the cavern and will not dissolve the salt or any mineral impurities that may be contained within

the salt. The function of the blanket is to prevent unwanted leaching of the cavern roof, prevent leaching of salt from around the cemented casing, and to protect the cemented casing from internal corrosion. Blanket material typically consists of crude oil, diesel, mineral oil, or some fluid possessing similar noncorrosive, nonsoluble, low density properties. The blanket material is placed between the cavern's outermost hanging string and innermost cemented casing.

*Brine*—water within a salt cavern that is completely or partially saturated with salt.

*Cap Rock*—the porous and permeable strata immediately overlying all or part of the salt stock of some salt structures typically composed of anhydrite, gypsum, limestone, and occasionally sulfur.

*Casing*—metallic pipe placed and cemented in the wellbore for the purpose of supporting the sides of the wellbore and to act as a barrier preventing subsurface migration of fluids out of or into the wellbore.

*Catastrophic Collapse*—the sudden or utter failure of the overlying strata caused by the removal or otherwise weakening of underlying sediments.

*Cavern Roof*—the uppermost part of a cavern being just below the neck of the wellbore. The shape of the salt cavern roof may be flat or domed.

*Cavern Well*—a well extending into the salt stock to facilitate the injection of fluids into a cavern.

*Cementing*—the operation (either primary, secondary, or squeeze) whereby a cement slurry is pumped into a drilled hole and/or forced behind the casing.

*Closed Cavern Well*—a solution-mining well that is no longer used, or capable of being used, to solution mine minerals and is thus subject to the closure and post-closure requirements of §3337. The term does not include an inactive well or a previously closed cavern well.

*Circulate to the Surface*—the observing of actual cement returns to the surface during the primary cementing operation.

*Commissioner*—the commissioner of conservation for the state of Louisiana.

*Contamination*—the introduction of substances or contaminants into a groundwater aquifer, a USDW or soil in such quantities as to render them unusable for their intended purposes.

*Discharge*—the placing, releasing, spilling, percolating, draining, pumping, leaking, mixing, migrating, seeping, emitting, disposing, by-passing, or other escaping of pollutants on or into the air, ground, or waters of the state. A discharge shall not include that which is allowed through a federal or state permit.

*Dual-Bore Mining*—for the purposes of these rules, dual bore mining shall be defined as the solution mining process whereby fluid injection and brine extraction are accomplished through different permitted wells.

*Effective Date*—the date of final promulgation of these rules and regulations.

*Emergency Shutdown Valve*—for the purposes of these rules, a valve that closes to isolate a solution-mining well from surface piping in the event of a specified condition that, if uncontrolled, may cause an emergency.

*Exempted Aquifer*—an aquifer or its portion that meets the criteria of the definition of underground source of drinking

water but which has been exempted according to the procedures set forth in §3303.E.2.

*Existing Solution-Mining Well or Project*—a well, salt cavern, or project permitted to solution-mine prior to the effective date of these regulations.

*Facility or Activity*—any facility or activity, including land or appurtenances thereto, that is subject to these regulations

*Fluid*—any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas or any other form or state.

*Ground Subsidence*—the downward settling of the Earth's surface with little or no horizontal motion in response to natural or manmade subsurface actions.

*Groundwater Aquifer*—water in the saturated zone beneath the land surface that contains less than 10,000 mg/l total dissolved solids.

*Groundwater Contamination*—the degradation of naturally occurring groundwater quality either directly or indirectly as a result of human activities.

*Hanging String*—casing whose weight is supported at the wellhead and hangs vertically in a larger cemented casing or another larger hanging string.

*Improved Sinkhole*—a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

*Inactive Cavern Well*—a solution-mining well that is capable of being used to mine minerals but is not being so used, as evidenced by the filing of a written notice with the Office of Conservation in accordance with §3309.I.3.

*Injection and Mining Division*—the Injection and Mining Division of the Louisiana Office of Conservation within the Department of Natural Resources.

*Injection Well*—a well into which fluids are being injected other than fluids associated with active drilling operations.

*Injection Zone*—a geological formation, group of formations or part of a formation receiving fluids through a well.

*Leaching*—the process whereby an undersaturated fluid is introduced into a cavern thereby dissolving additional salt and increasing the volume of the salt cavern.

*Mechanical integrity*—an injection well has mechanical integrity if there is no significant leak in the casing, tubing, or packer and there is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore.

*Migrating*—any movement of fluids by leaching, spilling, discharging, or any other uncontained or uncontrolled manner, except as allowed by law, regulation, or permit.

*New Cavern Well*—a solution-mining well permitted by the Office of Conservation after the effective date of these rules.

*Office of Conservation*—the Louisiana Office of Conservation within the Department of Natural Resources.

*Open Borehole*—that portion of a well below the production casing and above the solution-mining cavern.

*Operator*—the person recognized by the Office of Conservation as being responsible for the physical operation of the facility or activity subject to regulatory authority under these rules and regulations.

*Owner*—the person recognized by the Office of Conservation as owning the facility or activity subject to regulatory authority under these rules and regulations.

*Permanent Conclusion*—no additional solution-mining activities will be conducted in the cavern. This term will not apply to caverns that are being converted to hydrocarbon storage.

*Permit*—an authorization, license, or equivalent control document issued by the commissioner to implement the requirements of these regulations. Permit includes, but is not limited to, area permits and emergency permits. Permit does not include UIC authorization by rule or any permit which has not yet been the subject of final agency action, such as a draft permit.

*Person*—an individual, association, partnership, public or private corporation, firm, municipality, state or federal agency and any agent or employee thereof, or any other juridical person.

*Previously Closed Cavern Well*—a solution-mining well that is no longer used, or capable of being used, to solution mine minerals and was closed prior to the effective date of these regulations.

*Produced Water*—liquids and suspended particulate matter that is obtained by processing fluids brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations, with underground storage of hydrocarbons, or with solution mining for brine.

*Public Water System*—a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals. Such term includes:

1. any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and
2. any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

*Release*—the accidental or intentional spilling, pumping, leaking, pouring, emitting, leaching, escaping, or dumping of pollutants into or on any air, land, groundwater, or waters of the state. A release shall not include that which is allowed through a federal or state permit.

*Salt Dome*—a diapiric, typically circular structure that penetrates, uplifts, and deforms overlying sediments as a result of the upward movement of a salt stock in the subsurface. Collectively, the salt dome includes the salt stock and any overlying uplifted sediments.

*Salt Stock*—a typically cylindrical formation composed chiefly of an evaporite mineral that forms the core of a salt dome. The most common form of the evaporite mineral is halite known chemically as sodium chloride (NaCl). Cap rock shall not be considered a part of the salt stock.

*Schedule of Compliance*—a schedule or remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the act and these regulations.

*Site*—the land or water area where any facility or activity is physically located or conducted including adjacent land used in connection with the facility or activity.

*Solution-Mined Cavern*—a cavity created within the salt stock by dissolution with water.

*Solution-Mining Well*—a Class III well; a well which injects fluids for extraction of minerals or energy.

*State*—the state of Louisiana.

*Subsidence*—see *ground subsidence*.

*Surface Casing*—the first string of casing installed in a well, excluding conductor casing.

*UIC*—the Louisiana State Underground Injection Control Program.

*Unauthorized Discharge*—a continuous, intermittent, or one-time discharge, whether intentional or unintentional, anticipated or unanticipated, from any permitted or unpermitted source which is in contravention of any provision of the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.) or of any permit or license terms and conditions, or of any applicable regulation, compliance schedule, variance, or exception of the Commissioner of Conservation.

*Underground Source of Drinking Water*—an aquifer or its portion:

1. which supplies any public water system; or
2. which contains a sufficient quantity of groundwater to supply a public water system; and
  - a. currently supplies drinking water for human consumption; or
  - b. contains fewer than 10,000 mg/1 total dissolved solids; and which is not an exempted aquifer.

*USDW*—see underground source of drinking water.

*Waters of the State*—both surface and underground waters within the state of Louisiana including all rivers, streams, lakes, groundwaters, and all other water courses and waters within the confines of the state, and all bordering waters, and the Gulf of Mexico.

*Well*—a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or an improved sinkhole; or, a subsurface fluid distribution system.

*Well Plug*—a fluid-tight seal installed in a borehole or well to prevent movement of fluids.

*Well Stimulation*—several processes used to clean the well bore, enlarge channels, and increase pore space in the interval to be injected thus making it possible for injection fluids to move more readily into the formation, and includes:

1. surging;
2. jetting;
3. blasting;
4. acidizing; or
5. hydraulic fracturing.

*Workover*—to perform one or more of a variety of remedial operations on an injection well, such as cleaning, perforation, changing tubing, deepening, squeezing, plugging back, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:316 (February 2014).

### §3303. General Provisions

#### A. Applicability

1. These rules and regulations shall apply to all applicants, owners and/or operators of solution-mining wells in the state of Louisiana.

2. Rules governing the permitting, drilling, constructing, operating, and maintaining of Class III solution-mining wells previously codified in applicable sections of Statewide Order No. 29-N-1 (LAC 43:XVII, Subpart 1) or successor documents are now codified in Statewide Order No. 29-M-3 (LAC 43:XVII, Subpart 5) or successor documents.

3. An applicant, owner, and operator of a solution-mining well should become familiar with these rules and regulations to assure that the well and cavern shall comply with these rules and regulations.

#### B. Prohibition of Unauthorized Injection

1. Construction, conversion, or operation of a solution-mining well without obtaining a permit from the Office of Conservation is a violation of these rules and regulations and applicable laws of the state of Louisiana.

2. For existing solution-mining wells that are in compliance with Statewide Order No. 29-N-1, but not in compliance with Statewide Order No. 29-M-3 as of the effective date of these rules, they may continue to operate for one year under Statewide Order No. 29-N-1. Within that year, the owner or operator must submit an alternate means of compliance or a request for a variance pursuant to §3303.F and/or present a corrective action plan to meet the requirements of Statewide Order No. 29-M-3. During the review period of the request until a final determination is made regarding the alternate means of compliance or variance and/or corrective action plan, the affected solution-mining well may continue to operate in compliance with Statewide Order No. 29-N-1 in effect as of the effective date of these regulations.

3. By no later than one year after the effective date of these rules the owner or operator shall provide for review documentation of any variance previously authorized by the Office of Conservation. Based on that review, the commissioner may terminate, modify, or revoke and reissue the existing permit with the variance if it is determined that continued operations cannot be conducted in a way that is protective of the environment, or the health, safety, and welfare of the public. The process for terminating, modifying, or revoking and reissuing the permit with the variance is set forth in 3311.K. During the review period the affected solution-mining well may continue to operate in compliance with such variance. If the commissioner does not terminate, modify, or revoke and reissue the existing permit, the affected solution-mining well may continue to operate in compliance with such variance.

#### C. Prohibition on Movement of Fluids into Underground Sources of Drinking Water

1. No authorization by permit shall allow the movement of injected fluids into underground sources of drinking water or outside the salt stock. The owner or operator of the solution-mining well shall have the burden of showing that this requirement is met.

2. The Office of Conservation may take emergency action upon receiving information that injected fluids are present in or likely to enter an underground source of drinking water or may present an imminent and substantial endangerment to the environment, or the health, safety and welfare of the public.

D. Prohibition of Surface Discharges. The intentional, accidental, or otherwise unauthorized discharge of fluids, wastes, or process materials into manmade or natural drainage systems or directly into waters of the state is strictly prohibited.

E. Identification of Underground Sources of Drinking Water and Exempted Aquifers

1. The Office of Conservation may identify (by narrative description, illustrations, maps, or other means) and shall protect as an underground source of drinking water, except where exempted under §3303.E.2 all aquifers or parts of aquifers that meet the definition of an underground source of drinking water. Even if an aquifer has not been specifically identified by the Office of Conservation, it is an underground source of drinking water if it meets the definition.

2. After notice and opportunity for a public hearing, the Office of Conservation may identify (by narrative description, illustrations, maps, or other means) and describe in geographic and/or geometric terms (such as vertical and lateral limits and gradient) that are clear and definite, all aquifers or parts thereof that the Office of Conservation proposes to denote as exempted aquifers if they meet the following criteria:

a. the aquifer does not currently serve as a source of drinking water; and

b. the aquifer cannot now and shall not in the future serve as a source of drinking water because:

i. it is mineral, hydrocarbon, or geothermal energy producing or can be demonstrated to contain minerals or hydrocarbons that when considering their quantity and location are expected to be commercially producible;

ii. it is situated at a depth or location that makes recovery of water for drinking water purposes economically or technologically impractical;

iii. it is so contaminated that it would be economically or technologically impractical to render said water fit for human consumption; or

iv. it is located in an area subject to severe subsidence or catastrophic collapse; or

c. the total dissolved solids content of the groundwater is more than 3,000 mg/l and less than 10,000 mg/l and it is not reasonably expected to supply a public water system.

F. Exceptions/Variations/Alternative Means of Compliance

1. Except where noted in specific provisions of these rules and regulations, the Office of Conservation may allow, on a case-by-case basis, exceptions or variances to these rules and regulations. It shall be the obligation of the applicant, owner, or operator to show that the requested exception or variance and any associated mitigating measures shall not result in an unacceptable increase of endangerment to the environment, or the health, safety and welfare of the public. The applicant, owner, or operator shall submit a written request to the Office of Conservation

detailing the reason for the requested exception or variance. No deviation from the requirements of these rules or regulations shall be undertaken by the applicant, owner, or operator without prior written authorization from the Office of Conservation.

a. When injection does not occur into, through, or above an underground source of drinking water, the commissioner may authorize a Class III well or project with less stringent requirements for area of review, construction, mechanical integrity, operation, monitoring, and reporting than required in this Subpart to the extent that the reduction in requirements will not result in an increased risk of movements of fluids into an underground source of drinking water.

b. When reducing requirements under this Section the commissioner shall issue an order explaining the reasons for the action.

2. Granting of exceptions or variances to these rules and regulations shall only be considered upon proper showing by the applicant, owner, or operator at a public hearing that such exception or variance is reasonable, justified by the particular circumstances, and consistent with the intent of these rules and regulations regarding physical and environmental safety and the prevention of waste. The requester of the exception or variance shall be responsible for all costs associated with a public hearing.

3. Solution-mining caverns in existence as of the effective date of these rules or solution-mining wells and/or caverns with approved applications containing information submitted pursuant to Subsection 3307.F may operate in accordance with alternative means of compliance approved by the Commissioner of Conservation. Alternative means of compliance shall mean operations that are capable of demonstrating a level of performance, which meets or exceeds the standards contemplated by these regulations. Owners or operators of caverns existing at the time of these rules may submit alternative means of compliance to be approved by the Commissioner of Conservation. The commissioner may review and approve upon finding that the alternative means of compliance meet, ensure, and comply with the purpose of the rules and regulations set forth herein provided the proposed alternative means of compliance ensures comparable or greater safety of personnel and property, protection of the environment and public, quality of operations and maintenance, and protection of the USDW.

G. Additional Requirements. The commissioner may prescribe additional requirements for Class III wells or projects in order to protect USDWs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:318 (February 2014).

### §3305. Permit Requirements

A. Applicability. No person shall construct, convert, or operate a solution-mining well without first obtaining written authorization (permit) from the Office of Conservation.

B. Application Required. Applicants for a solution-mining well, permittees with expiring permits, or any person required to have a permit shall complete, sign, and submit one original application form with required attachments and

documentation and an electronic copy of the same to the Office of Conservation. The commissioner may request additional paper copies of the application if it is determined that they are necessary. The complete application shall contain all information necessary to show compliance with applicable state laws and these regulations.

C. Who Applies. It is the duty of the owner or proposed owner of a facility or activity to submit a permit application and obtain a permit. When a facility or activity is owned by one person and operated by another, it is the duty of the operator to file and obtain a permit.

D. Signature Requirements. All permit applications shall be signed as follows.

1. Corporations. By a principal executive officer of at least the level of vice-president, or duly authorized representative of that person if the representative performs similar policy making functions for the corporation. A person is a duly authorized representative only if:

a. the authorization is made in writing by a principle executive officer of at least the level of vice-president;

b. the authorization specifies either an individual or position having responsibility for the overall operation of a solution-mining well, such as the position of plant manager, superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. the written authorization is submitted to the Office of Conservation.

2. Limited Liability Company (LLC). By a member if the LLC is member-managed, by a manager if the LLC is manager-managed, or by a duly authorized representative only if:

a. the authorization is made in writing by an individual who would otherwise have signature authority as outlined in §3305.D.2 above;

b. the authorization specifies either an individual or position having responsibility for the overall operation of a solution-mining well, such as the position of plant manager, superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. the written authorization is submitted to the Office of Conservation.

3. Partnership or Sole Proprietorship. By a general partner or proprietor, respectively; or

4. Public Agency. By either a principal executive officer or a ranking elected official of a municipality, state, federal, or other public agency.

E. Signature Reauthorization. If an authorization under §3305.D is no longer accurate because a different individual or position has responsibility for the overall operation of a solution-mining well, a new authorization satisfying the signature requirements must be submitted to the Office of Conservation before or concurrent with any reports, information, or applications required to be signed by an authorized representative.

F. Certification. Any person signing a document under §3305.D shall make the following certification on the application:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and/or imprisonment."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:319 (February 2014).

### §3307. Application Content

A. The following minimum information required in §3307 shall be submitted in a permit application for a solution-mining well. The applicant shall also refer to the appropriate application form for any additional information that may be required.

B. Administrative information:

1. all required state application form(s);

2. the nonrefundable application fee(s) as per LAC 43:XIX.Chapter 7 or successor document;

3. the name and mailing address of the applicant and the physical address of the solution-mining well facility;

4. the operator's name, address, telephone number, and e-mail address;

5. ownership status as federal, state, private, public, or other entity;

6. a brief description of the nature of the business associated with the activity;

7. the activity or activities conducted by the applicant which require the applicant to obtain a permit under these regulations;

8. up to four SIC Codes which best reflect the principal products or services provided by the facility;

9. a listing of all permits or construction approvals that the applicant has received or applied for under any of the following programs and which specifically affect the legal or technical ability of the applicant to undertake the activity or activities to be conducted by the applicant under the permit being sought:

a. the Louisiana Hazardous Waste Management;

b. this or any other Underground Injection Control Program;

c. NPDES Program under the Clean Water Act;

d. Prevention of Significant Deterioration (PSD) Program under the Clean Air Act;

e. Nonattainment Program under the Clean Air Act;

f. National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;

g. Ocean Dumping Permit under the Marine Protection Research and Sanctuaries Act;

h. dredge or fill permits under Section 404 of the Clean Water Act; and

i. other relevant environmental permits including, but not limited to any state permits issued under the Louisiana Coastal Resources Program, the Louisiana Surface Mining Program or the Louisiana Natural and Scenic Streams System;

10. acknowledgment as to whether the facility is located on Indian lands or other lands under the jurisdiction

or protection of the federal government, or whether the facility is located on state water bottoms or other lands owned by or under the jurisdiction or protection of the state of Louisiana;

11. documentation of financial responsibility or documentation of the method by which proof of financial responsibility will be provided as required in §3309.B. Before making a final permit decision, final (official) documentation of financial responsibility must be submitted to and approved by the Office of Conservation;

12. names and addresses of all property owners within the area of review of the solution-mined cavern.

#### C. Maps and Related Information

1. a location plat of the solution-mining well prepared and certified by a registered civil engineer or registered land surveyor. The location plat shall be prepared according to standards of the Office of Conservation;

2. a topographic or other map extending at least one mile beyond the property boundaries of the facility in which the solution-mining well is located depicting the facility and each well where fluids are injected underground, and those wells, springs, or surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area;

3. the section, township and range of the area in which the solution-mining well is located and any parish, city or municipality boundary lines within one mile of the facility location;

4. a map showing the solution-mining well for which the permit is sought, the project area or property boundaries of the facility in which the solution-mining well is located, and the applicable area of review. Within the area of review, the map shall show the number, name, and location of all existing producing wells, injection wells, abandoned wells and dry holes, public water systems and water wells. The map shall also show surface bodies of water, mines (surface and subsurface), quarries, and other pertinent surface features including residences and roads, and faults if known or projected. Only information of public record and pertinent information known to the applicant is required to be included on this map;

5. maps and cross-sections indicating the vertical limits of all underground sources of drinking water within the area of review, their position relative to the injection formation, and the direction of water movement, where known, in every underground source of drinking water which may be affected by the proposed injection;

6. generalized maps and cross-sections illustrating the regional geologic setting;

7. structure contour mapping of the salt stock on a scale no smaller than 1 inch to 500 feet;

8. maps and vertical cross-sections detailing the geologic structure of the local area. The cross-sections shall be structural (as opposed to stratigraphic cross-sections), be referenced to sea level, show the solution-mining well and the cavern being permitted, all surrounding salt caverns regardless of use and current status, conventional (room and pillar) mines, and all other bore holes and wells that penetrate the salt stock. Cross-sections should be oriented to indicate the closest approach to surrounding caverns, bore holes, wells, periphery of the salt stock, etc., and shall extend at least one mile beyond the edge of the salt stock

unless the edge of the salt stock and any existing oil and gas production can be demonstrated in a shorter distance and is administratively approved by the Office of Conservation. Salt caverns shall be depicted on the cross sections using data from the most recent salt cavern sonar. Known faulting in the area shall be illustrated on the cross sections such that the displacement of subsurface formations is accurately depicted;

9. sufficient information, including data and maps, to enable the Office of Conservation to identify oil and gas activity in the vicinity of the salt dome, and any potential effects upon the proposed well; and

10. any other information required by the Office of Conservation to evaluate the solution-mining well, cavern, project, and related surface facility.

D. Area of Review Information. Refer to §3313.E for area of review boundaries and exceptions. Only information of public record or otherwise known to the applicant need be researched or submitted with the application, however, a diligent effort must be made to identify all wells and other manmade structures that penetrate the salt stock in response to the area of review requirements. The applicant shall provide the following information on all wells or structures within the defined area of review:

1. a discussion of the protocol used by the applicant to identify wells and manmade structures that penetrate the salt stock in the defined area of review;

2. a tabular listing of all known water wells in the area of review to include the name of the operator, well location, well depth, well use (domestic, irrigation, public, etc.), and current well status (active, abandoned, etc.);

3. a tabular listing of all known wells (excluding water wells) in the area of review with penetrations into the cap rock or salt stock to include at a minimum:

a. operator name, well name and number, state serial number (if assigned), and well location;

b. well type and current well status (producing, disposal, storage, solution-mining, shut-in, plugged and abandoned), date the well was drilled, and the date the current well status was assigned;

c. well depth, construction, completion (including completion depths), plug and abandonment data; and

d. any additional information the commissioner may require.

4. the following information shall be provided on manmade structures within the salt stock regardless of use, depth of penetration, or distance to the solution-mining well or cavern being the subject of the application:

a. a tabular listing of all caverns to include:

i. operator name, well name and number, state serial number, and well location;

ii. current or previous use of the cavern (waste disposal, hydrocarbon storage, solution-mining), current status of the cavern (active, shut-in, plugged and abandoned), date the solution-mining well was drilled, and the date the current solution-mining well status was assigned;

iii. cavern depth, construction, completion (including completion depths), plug and abandonment data;

b. a tabular listing of all conventional (dry or room and pillar) mining activities, whether active or abandoned. The listing shall include the following minimum items:

- i. owner or operator name and address;
- ii. current mine status (active, abandoned);
- iii. depth and boundaries of mined levels; and
- iv. the closest distance of the mine in any direction to the solution-mining well and cavern.

E. Technical Information. The applicant shall submit, as an attachment to the application form, the following minimum information in technical report format:

1. for existing caverns the results of a current cavern sonar survey and mechanical integrity pressure and leak tests;

2. corrective action plan required by §3313.F for wells or other manmade structures within the area of review that penetrate the salt stock but are not properly constructed, completed or plugged and abandoned;

3. plans for performing the geological and hydrogeological studies of §3313.B, C, and D. If such studies have already been done, submit the results obtained along with an interpretation of the results;

4. properly labeled schematic of the surface construction details of the solution-mining well to include the wellhead, gauges, flowlines, and any other pertinent details;

5. properly labeled schematic of the subsurface construction and completion details of the solution-mining well and cavern, if applicable, to include borehole diameters (bit size or calipered); all cemented casings with cement specifications, casing specifications (size, depths, etc.); all hanging strings showing sizes and depths set; total depth of well; top, bottom, and diameter of cavern; and any other pertinent details;

6. surface site diagram(s) of the facility in which the solution-mining well is located including but not limited to surface pumps, piping and instrumentation, controlled access roads, fenced boundaries, field offices, monitoring and safety equipment and location of such equipment, required curbed or other retaining wall heights would any of this be required, etc.;

7. a proposed formation testing program to obtain the information required below:

a. where the injection zone is a water bearing formation, the following information concerning the injection zone shall be determined or calculated for new Class III wells or projects:

- i. fluid pressure;
- ii. fracture pressure; and
- iii. physical and chemical characteristics of the formation fluids.

b. where the injection formation is not a water bearing formation, the information in §3307.E.7.a.ii;

8. a proposed stimulation program, if applicable;

9. proposed injection and withdrawal procedures;

10. expected changes in pressure, native fluid displacement, and direction of movement of injection fluid;

11. detailed plans and procedures to operate the solution-mining well, cavern, and related surface facilities in accordance with the following requirements:

a. for new wells, the following minimum proposed operating data should also be provided. If the information is proprietary an applicant may, in lieu of the ranges in concentrations, choose to submit maximum concentrations which shall not be exceeded. In such a case the applicant

shall retain records of the undisclosed concentrations and provide them upon request to the commissioner as part of any enforcement investigation;

i. average and maximum daily rate and volume of fluid to be injected;

ii. average and maximum injection pressure; and

iii. qualitative analysis and ranges in concentrations of all constituents of injected fluids. The applicant may request confidentiality.

b. the cavern and surface facility design requirements of §3315, including, but not limited to cavern spacing requirements and cavern coalescence;

c. the well construction and completion requirements of §3317, including, but not limited to open borehole surveys, casing and cementing, casing and casing seat tests, cased borehole surveys, hanging strings, and wellhead components and related connections;

d. the operating requirements of §3319, including, but not limited to cavern roof restrictions, blanket material, remedial work, well recompletion, multiple well caverns, cavern allowable operating pressure and rates, and extracted cavern fluid management.

e. the safety requirements of §3321, including, but not limited to an emergency action plan, controlled site access, facility identification, personnel, wellhead protection and identification, valves and flowlines, alarm systems, emergency shutdown valves, systems test and inspections, and surface facility retaining walls and spill containment, as well as contingency plans to cope with all shut-ins or well failures to prevent the migration of contaminating fluids into underground sources of drinking water;

f. the monitoring requirements of §3323, including, but not limited to equipment requirements such as pressure gauges, pressure sensors and flow sensors, continuous recording instruments, and subsidence monitoring, as well as a description of methods that will be undertaken to monitor cavern growth due to undersaturated fluid injection;

g. the pre-operating requirements of §3325, specifically the submission of a completion report, and the information required therein;

h. the mechanical integrity pressure and leak test requirements of §3327, including, but not limited to frequency of tests, test methods, submission of pressure and leak test results, and notification of test failures;

i. the cavern configuration and capacity measurement procedures of §3329, including, but not limited to sonar caliper surveys, frequency of surveys, and submission of survey results;

j. the requirements for inactive caverns in §3331;

k. the reporting requirements of §3333, including, but not limited to the information required in quarterly operation reports;

l. the record retention requirements of §3335;

m. the closure and post-closure requirements of §3337, including, but not limited to closure plan requirements, notice of intent to close, standards for closure, and post-closure requirements; and

n. any other information pertinent to operation of the solution-mining well, including, but not limited to any waiver for surface siting, monitoring equipment and safety procedures.

F. If an alternative means of compliance has previously been approved by the Commissioner of Conservation within an approved Area Permit, applicants may submit the alternative means of compliance for new applications for wells within the same Area Permit in order to meet the requirements of E.11.d, e, and f of this Section.

G. Confidentiality of Information. In accordance with R.S. 44.1 et seq., any information submitted to the Office of Conservation pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application for, or instructions, or in the case of other submissions, by stamping the words "Confidential Business Information" on each page containing such information. If no claim is made at the time of submission, the Office of Conservation may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in R.S. 44.1 et seq. (Public Information).

1. Claims of confidentiality for the following information will be denied:

a. the name and address of any permit applicant or permittee; and

b. information which deals with the existence, absence, or level of contaminants in drinking water or zones other than the approved injection zone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:320 (February 2014).

### **§3309. Legal Permit Conditions**

A. Signatories. All reports required by permit or regulation and other information requested by the Office of Conservation shall be signed as in applications by a person described in §3305.D or §3305.E.

#### **B. Financial Responsibility**

1. Closure and Post-Closure. The owner or operator of a solution-mining well shall maintain financial responsibility and the resources to close, plug and abandon and, where necessary, post-closure care of the solution-mining well, cavern, and related facility as prescribed by the Office of Conservation. Evidence of financial responsibility shall be by submission of a surety bond, a letter of credit, certificate of deposit, or other instruments acceptable to the Office of Conservation. The amount of funds available shall be no less than the amount identified in the cost estimate of the closure plan of §3337.A and, if required, post-closure plan of §3337.B. Any financial instrument filed in satisfaction of these financial responsibility requirements shall be issued by and drawn on a bank or other financial institution authorized under state or federal law to operate in the state of Louisiana. In the event that an operator has previously provided financial security pursuant to LAC 43: XVII.3309, such operator shall provide increased financial security if required to remain in compliance with this Section, within 30 days after notice from the commissioner.

2. Renewal of Financial Responsibility. Any approved instrument of financial responsibility coverage shall be renewed yearly. Financial security shall remain in effect until release thereof is granted by the commissioner pursuant to written request by the operator. Such release shall only be

granted after plugging and abandonment and associated site restoration is completed and inspection thereof indicates compliance with applicable regulations or upon transfer of such well.

C. Duty to Comply. The operator must comply with all conditions of a permit. Any permit noncompliance is a violation of the act, the permit and these rules and regulations and is grounds for enforcement action, permit termination, revocation and possible reissuance, modification, or denial of any future permit renewal applications if the commissioner determines that such noncompliance endangers underground sources of drinking water. If the commissioner determines that such noncompliance is likely to endanger underground sources of drinking water, it shall be the duty of the operator to prove that continued operation of the solution-mining well shall not endanger the environment, or the health, safety and welfare of the public.

D. Duty to Halt or Reduce Activity. It shall not be a defense for an owner or operator in an enforcement action to claim it would have been necessary to halt or reduce the permitted activity to maintain compliance with the conditions of the permit.

E. Duty to Mitigate. The owner or operator shall take all reasonable steps to minimize or correct any adverse impact on the environment such as the contamination of underground sources of drinking water resulting from a noncompliance with the permit or these rules and regulations.

#### **F. Proper Operation and Maintenance**

1. The operator shall always properly operate and maintain all facilities and systems of injection, withdrawal, and control (and related appurtenances) installed or used to achieve compliance with the permit or these rules and regulations. Proper operation and maintenance include effective performance (including well/cavern mechanical integrity), adequate funding, adequate operation, staffing and training, and adequate laboratory process controls including appropriate quality assurance procedures. This provision requires the operation of back-up, auxiliary facilities, or similar systems when necessary to achieve compliance with the conditions of the permit or these rules and regulations.

2. The operator shall address any unauthorized escape, discharge, or release of any material from the solution-mining well, cavern, and related facility, or parts thereof that is in violation of any state or federal permit or which is not incidental to normal operations, with a corrective action plan. The plan shall address the cause, delineate the extent, and determine the overall effects on the environment resulting from the escape, discharge, or release. The Office of Conservation shall require the operator to formulate a plan to remediate the escaped, discharged, or released material if the material is thought to have entered or has the possibility of entering an underground source of drinking water.

3. The operator shall agree to provide the following:

a. Assistance to residents of areas deemed to be at immediate potential risk in the event of a sinkhole developing or other incident that requires an evacuation if the potential risk or evacuation is associated with the operation of the solution-mining well or cavern.



b. Reimbursement to the state or any political subdivision of the state for reasonable and extraordinary costs incurred in responding to or mitigating a disaster or emergency due to a violation of this Chapter or any rule, regulation or order promulgated or issued pursuant to this Chapter. Such costs shall be subject to approval by the director of the Governor's Office of Homeland Security and Emergency Preparedness prior to being submitted to the permittee for reimbursement. Such payments shall not be construed as an admission of responsibility or liability for the emergency or disaster.

4. The Office of Conservation may immediately prohibit further operations if it determines that continued operations at a solution-mining well, cavern, and related facility, or parts thereof, may cause unsafe operating conditions, or endanger the environment, or the health, safety and welfare of the public. The prohibition shall remain in effect until it is determined that continued operations can and shall be conducted safely. It shall be the duty of the operator to prove that continued operation of the solution-mining well, or part thereof, shall not endanger the environment, or the health, safety and welfare of the public.

G. Inspection and Entry. Inspection and entry at a solution-mining well facility by Office of Conservation personnel shall be allowed as prescribed in R.S. of 1950, Title 30, Section 4.

H. Property Rights. The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege or servitude.

I. Notification Requirements. The operator shall give written, and where required, verbal notice to the Office of Conservation concerning activities indicated in this Subsection.

1. Any change in the principal officers, management, owner or operator of the solution-mining well shall be reported to the Office of Conservation in writing within 10 days of the change.

2. Planned physical alterations or additions to the solution-mining well, cavern, surface facility or parts thereof that may constitute a modification or amendment of the permit. No mechanical integrity tests, sonar caliper surveys, remedial work, well or cavern abandonment, or any test or work on a well or cavern (excluding an interface survey not associated with a mechanical integrity test) shall be performed without prior authorization from the Office of Conservation. The operator must submit the appropriate work permit request form (Form UIC-17 or subsequent document) for approval.

3. Whenever there has been no injection into a cavern for one year or more the operator shall notify the Office of Conservation in writing within seven days following the three hundred and sixty-fifth day of the cavern becoming inactive (out of service). The notification shall include the date on which the cavern was removed from service, the reason for taking the cavern out of service, and the expected date that the cavern shall be returned to service. See §3331 for additional requirements for inactive caverns.

4. The operator of a new or converted solution-mining well shall not begin mining operations until the Office of Conservation has been notified of the following:

a. well construction or conversion is complete, including submission of a notice of completion, a

completion report, and all supporting information (e.g., as-built diagrams, records, sampling and testing results, well and cavern tests, logs, etc.) required in §3325;

b. a representative of the commissioner has inspected the well and/or facility within 10 working days of the notice of completion required in 3309.I.4.a and finds it is in compliance with the conditions of the permit; and

c. the operator has received written approval from the Office of Conservation clearly stating solution-mining operations may begin.

5. Noncompliance or anticipated noncompliance (which may result from any planned changes in the permitted facility or activity) with the permit or applicable regulations including a failed mechanical integrity pressure and leak test of §3327.

6. Permit Transfer. A permit is not transferable to any person except after giving written notice to and receiving written approval from the Office of Conservation clearly stating that the permit has been transferred. This action may require modification or revocation and re-issuance of the permit (see §3311.K) to change the name of the operator and incorporate other requirements as may be necessary, including but not limited to financial responsibility.

7. Compliance Schedules. Report of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule in these regulations shall be submitted to the commissioner no later than 14 days following each schedule date.

8. Twenty-Four Hour Reporting

a. The operator shall report any noncompliance that may endanger the environment, or the health, safety and welfare of the public. Any information pertinent to the noncompliance shall be reported to the Office of Conservation by telephone at (225) 342-5515 within 24 hours from when the operator becomes aware of the circumstances. A written submission shall also be provided within five days from when the operator becomes aware of the circumstances. The written notification shall contain a description of the noncompliance and its cause, the periods of noncompliance including exact times and dates, and if the noncompliance has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance.

b. The following additional information must also be reported within the 24-hour period:

i. monitoring or other information (including a failed mechanical integrity test of §3327) that suggests the solution-mining operations may cause an endangerment to underground sources of drinking waters, oil, gas, other commercial mineral deposits (excluding the salt), neighboring salt operations of any kind, or movement outside the salt stock or cavern;

ii. any noncompliance with a regulatory or permit condition or malfunction of the injection/withdrawal system (including a failed mechanical integrity test of §3327) that may cause fluid migration into or between underground sources of drinking waters or outside the salt stock or cavern.

9. The operator shall give written notification to the Office of Conservation upon permanent conclusion of solution-mining operations. Notification shall be given

within seven days after concluding operations. The notification shall include the date on which mining activities were concluded, the reason for concluding the mining activities, and a plan to meet the minimum requirements as per §3331. See §3337.A.5 for additional requirements to be conducted after concluding mining activities but before closing the solution-mining well or cavern.

10. The operator shall give written notification before abandonment (closure) of the solution-mining well, related surface facility, or in the case of area permits before closure of the project. Abandonment (closure) shall not begin before receiving written authorization from the Office of Conservation.

11. When the operator becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or in any report to the Office of Conservation, the operator shall promptly submit such facts and information.

#### J. Duration of Permits

1. Authorization to Operate. Authorization by permit to operate a solution-mining well shall be valid for the life of the well, unless suspended, modified, revoked and reissued, or terminated for cause as described in §3311.K. The commissioner may issue, for cause, any permit for a duration that is less than the full allowable term under this Section.

2. Authorization to Drill, Construct, or Convert. Authorization by permit to drill, construct or convert a new solution-mining well shall be valid for two years from the effective date of the permit. If drilling or conversion is not begun in that time, the permit shall be null and void and the operator must obtain a new permit.

3. Extensions. The operator shall submit to the Office of Conservation a written request for an extension of the time of §3309.J.2; however, the Office of Conservation shall approve the request for one year only for just cause and only if the permitting conditions have not changed. The operator shall have the burden of proving claims of just cause.

K. Compliance Review. The commissioner shall review each issued solution-mining well or area permit at least once every five years to determine whether it should be modified, revoked and reissued, terminated, or if a minor modification needs to be made. Commencement of the permit review process for each facility shall proceed as authorized by the Commissioner of Conservation.

1. As a part of the five-year permit review, the operator shall submit to the Office of Conservation updated maps and cross-sections based upon best available information depicting the locations of its own caverns and proposed caverns in relation to each other, in relation to the periphery of the salt stock, and in relation to other operator's salt caverns (including solution mining caverns, disposal caverns, storage caverns) in the salt stock. Also, refer to §3313 and §3315.

2. As a part of the five-year permit review, the well operator shall review the closure and post-closure plan and associated cost estimates of §3337 to determine if the conditions for closure are still applicable to the actual conditions.

L. Schedules of Compliance. The permit may, when appropriate, specify a schedule of compliance leading to compliance with the act and these regulations.

1. Time for Compliance. Any schedules of compliance under this Section shall require compliance as soon as possible but not later than three years after the effective date of the permit.

2. Interim Dates. Except as provided in §3309.L.2.b, if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

a. The time between interim dates shall not exceed one year.

b. If the time necessary for completion of any interim requirements (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

3. The permit shall be written to require that progress reports be submitted no later than 30 days following each interim date and the final date of compliance.

#### M. Area or Project Permit Authorization

1. The commissioner may issue a permit on an area basis, rather than for each well individually, provided that the permit is for injection wells:

a. described and identified by location in permit application(s) if they are existing wells, except that the commissioner may accept a single description of wells with substantially the same characteristics;

b. within the same well field, facility site, reservoir, project, or similar unit in the state; and

c. operated by a single owner or operator.

2. Area permits shall specify:

a. the area within which underground injections are authorized; and

b. the requirements for construction, monitoring, reporting, operation, and abandonment, for all wells authorized by the permit.

3. The area permit may authorize the operator to construct and operate, convert, or plug and abandon wells within the permit area provided:

a. the operator notifies the commissioner at such time as the permit requires;

b. the additional well satisfies the criteria in §3309.M.1 and meets the requirements specified in the permit under §3309.M.2; and

c. the cumulative effects of drilling and operation of additional injection wells are considered by the commissioner during evaluation of the area permit application and are acceptable to the commissioner.

4. If the commissioner determines that any well constructed pursuant to §3309.M.3 does not satisfy any of the requirements of §3309.M.3.a and b, the commissioner may modify the permit under §3311.K.3, terminate under §3311.K.6, or take enforcement action. If the commissioner determines that cumulative effects are unacceptable, the permit may be modified under §3311.K.3.

N. Recordation of Notice of Existing Solution-Mining Wells. The owner or operator of a solution-mining well shall record a certified survey plat of the well location in the mortgage and conveyance records of the parish in which the property is located. Such notice shall be recorded no later

than six months after the effective date of these rules and the owner or operator shall furnish a date/file stamped copy of the recorded notice to the Office of Conservation within 15 days of its recording. If an owner or operator fails or refuses to record such notice, the commissioner may, if he determines that the public interest requires, and after due notice and an opportunity for a hearing has been given to the owner and operator, cause such notice to be recorded.

O. Additional Conditions. The Office of Conservation shall, on a case-by-case basis, impose any additional conditions or requirements as are necessary to protect the environment, the health, safety and welfare of the public, underground sources of drinking waters, oil, gas, or other mineral deposits (excluding the salt), and preserve the integrity of the salt dome.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:323 (February 2014).

### **§3311. Permitting Process**

A. Applicability. This Section contains procedures for issuing and transferring permits to operate a solution-mining well. Any person required to have a permit shall apply to the Office of Conservation as stipulated in §3305. The Office of Conservation shall not issue a permit before receiving an application form and any required supplemental information showing compliance with these rules and regulations and that is administratively and technically completed to the satisfaction of the Office of Conservation.

#### **B. Notice of Intent to File Application**

1. The applicant shall make public notice that a permit application is to be filed with the Office of Conservation. A notice of intent shall be published at least 30 days but not more than 120 days before filing the permit application with the Office of Conservation. The applicant shall publish a new notice of intent if the application is not received by the Office of Conservation within the filing period.

2. The notice shall be published once in the official state journal and the official journal of the parish of the proposed project location. The cost for publishing the notice of intent shall be the responsibility of the applicant and shall contain the following minimum information:

- a. name and address of the permit applicant and, if different, the facility to be regulated by the permit;
- b. the geographic location of the proposed project;
- c. name and address of the regulatory agency to process the permit action where interested persons may obtain information concerning the application or permit action; and
- d. a brief description of the business conducted at the facility or activity described in the permit application.

3. The applicant shall submit the proof of publication of the notice of intent before the application will be deemed complete.

#### **C. Application Submission and Review**

1. The applicant shall complete, sign, and submit one original application form, with required attachments and documentation, and an electronic copy of the same to the Office of Conservation. The commissioner may request additional paper copies of the application if it is determined that they are necessary. The complete application shall

contain all information to show compliance with applicable state laws and these rules and regulations.

2. The applicant shall be notified if a representative of the Office of Conservation decides that a site visit is necessary for any reason in conjunction with the processing of the application. Notification may be either oral or written and shall state the reason for the visit.

3. If the Office of Conservation deems an application to be incomplete, deficient of information, or requires additional data, a notice of application deficiency indicating the information necessary to make the application complete shall be transmitted to the applicant.

4. The Office of Conservation shall deny an application if an applicant fails, refuses, is unable to respond adequately to the notice of application deficiency, or if the Office of Conservation determines that the proposed activity cannot be conducted safely. The Office of Conservation shall notify the applicant by certified mail of the decision denying the application.

D. Public Hearing Requirements. A public hearing may be requested for new applications and shall not be scheduled until administrative and technical review of an application has been completed to the satisfaction of the Office of Conservation.

#### **1. Public Notice of Permit Actions**

a. Upon acceptance of a permit application as complete and meeting the administrative and technical requirements of these rules and regulations, the commissioner shall give public notice that the following actions have occurred:

i. a draft permit has been prepared under §3311.E; and

ii. a hearing has been scheduled under §3311.D.

b. No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied under §3311.K.

#### **2. Notice by Applicant**

a. Public notice of a hearing shall be published by the Office of Conservation in the legal ad section of the official state journal and the official journal of the parish of the proposed project location not less than 30 days before the scheduled hearing.

b. The applicant shall file at least one copy of the complete permit application with the local governing authority of the parish of the proposed project location at least 30 days before the scheduled public hearing to be available for public review.

c. One additional copy of the complete permit application shall be filed by the applicant in a public library in the parish of the proposed project location.

3. Contents. Public notices shall contain the following minimum information:

a. name and address of the permit applicant and, if different, the facility or activity regulated by the permit;

b. name and address of the regulatory agency processing the permit action;

c. name, address, and phone number of a person within the regulatory agency where interested persons may obtain information concerning the application or permit action;

d. a brief description of the business conducted at the facility or activity described in the permit application;

e. a statement that a draft permit has been prepared under §3311.E;

f. a brief description of the public comment procedures;

g. a brief statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision;

h. the time, place, and a brief description of the nature and purpose of the public hearing, if one has already been scheduled;

i. a reference to the date of any previous public notices relating to the permit;

j. any additional information considered necessary or proper by the commissioner.

#### E. Draft Permit

1. Once an application is complete, the Office of Conservation shall prepare a draft permit (Order) or deny the application. Draft permits shall be accompanied by a fact sheet, be publicly noticed, and made available for public comment.

2. The applicant may appeal the decision to deny the application in a letter to the commissioner who may then call a public hearing through §3311.D.

3. If the commissioner prepares a draft permit, it shall contain the following information where appropriate:

a. all conditions under §3307 and §3309;

b. all compliance schedules under §3309.L; and

c. all monitoring requirements under applicable Paragraphs in §3323.

F. Fact Sheet. The Office of Conservation shall prepare a fact sheet for every draft permit. It shall briefly set forth principal facts and significant factual, legal, and policy questions considered in preparing the draft permit.

1. The fact sheet shall include, when applicable:

a. a brief description of the type of facility or activity that is the subject of the draft permit or application;

b. the type and proposed quantity of material to be injected;

c. a brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provision;

d. a description of the procedures for reaching a final decision on the draft permit or application including the beginning and ending date of the public comment period of §3311.H, the address where comments shall be received, and any other procedures whereby the public may participate in the final decision. The public notice shall allow 30 days for public comment;

e. reasons why any requested variances or alternative to required standards do or do not appear justified;

f. procedures for requesting a hearing and the nature of that hearing; and

g. the name and telephone number of a person within the permitting agency to contact for additional information;

h. that due consideration has been given to alternative sources of water for the leaching of cavities.

2. The fact sheet shall be distributed to the permit applicant, all persons identified in §3311.G.2, and, on request, to any interested person.

#### G. Public Hearing

1. If a public hearing has been requested, the Office of Conservation shall fix a time, date, and location for a public hearing. The public hearing shall be held in the parish of the proposed project location. The cost of the public hearing shall be set by LAC 43:XIX.Chapter 7 (Fees, as amended) and is the responsibility of the applicant.

2. The Office of Conservation shall provide notice of a scheduled hearing by forwarding a copy of the notice to the applicant, property owners immediately adjacent to the proposed project, operators of existing projects located on or within the salt stock of the proposed project; United States Environmental Protection Agency; Louisiana Department of Wildlife and Fisheries; Louisiana Department of Environmental Quality; Louisiana Office of Coastal Management; Louisiana Office of Conservation, Pipeline Division, Louisiana Department of Culture, Recreation and Tourism, Division of Archaeology; the governing authority for the parish of the proposed project; and any other interested parties.

3. The public hearing shall be fact finding in nature and not subject to the procedural requirements of the Louisiana Administrative Procedure Act. All public hearings shall be publicly noticed as required by these rules and regulations.

4. At the hearing, any person may make oral statements or submit written statements and data concerning the application or permit action being the basis of the hearing. Reasonable limits may be set upon the time allowed for oral statements; therefore, submission of written statements may be required. The hearing officer may extend the comment period by so stating before the close of the hearing.

5. A transcript shall be made of the hearing and such transcript shall be available for public review.

#### H. Public Comments, Response to Comments, and Permit Issuance

1. Any interested person may submit written comments concerning the permitting activity during the public comment period. All comments pertinent and significant to the permitting activity shall be considered in making the final permit decision.

2. The Office of Conservation shall issue a response to all pertinent and significant comments as an attachment to and at the time of the final permit decision. The final permit with response to comments shall be made available to the public. The response shall:

a. specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

b. briefly describe and respond to all significant comments on the draft permit or the permit application raised during the public comment period, or during any hearing.

3. The Office of Conservation may issue a final permit decision within 30 days following the close of the public comment period; however, this time may be extended due to the nature, complexity, and volume of public comments received.

4. A final permit decision shall be effective on the date of issuance.

5. The owner or operator of a solution-mined cavern shall record a certified survey plat and final permit in the mortgage and conveyance records of the parish in which the property is located. A date/file stamped copy of the plat and final permit is to be furnished to the Office of Conservation within 15 days of its recording. If an owner or operator fails or refuses to record such notice, the commissioner may, if he determines that the public interest requires, and after due notice and an opportunity for a hearing has been given to the owner and operator, cause such notice to be recorded.

6. Approval or the granting of a permit to construct or convert a solution-mining well shall be valid for a period of two years and if not begun in that time, the permit shall be null and void. The permittee may request an extension of this two year requirement; however, the commissioner shall approve the request for one year only for just cause and only if the conditions existing at the time the permit was issued have not changed. The permittee shall have the burden of proving claims of just cause.

#### I. Permit Application Denial

1. The Office of Conservation may refuse to issue, reissue, or reinstate a permit or authorization if an applicant or operator has delinquent, finally determined violations of the Office of Conservation or unpaid penalties or fees, or if a history of past violations demonstrates the applicant's or operator's unwillingness to comply with permit or regulatory requirements.

2. If a permit application is denied, the applicant may request a review of the Office of Conservation's decision to deny the permit application. Such request shall be made in writing and shall contain facts or reasons supporting the request for review.

3. Grounds for permit application denial review shall be limited to the following reasons:

a. the decision is contrary to the laws of the state, applicable regulations, or evidence presented in or as a supplement to the permit application;

b. the applicant has discovered since the permit application public hearing or permit denial, evidence important to the issues that the applicant could not with due diligence have obtained before or during the initial permit application review;

c. there is a showing that issues not previously considered should be examined so as to dispose of the matter; or

d. there is other good ground for further consideration of the issues and evidence in the public interest.

#### J. Permit Transfer

1. Applicability. A permit may be transferred to a new owner or operator only upon written approval from the Office of Conservation. Written approval must clearly read that the permit has been transferred. It is a violation of these rules and regulations to operate a solution-mining well without a permit or other authorization if a person attempting to acquire a permit transfer allows operation of the solution-mining well before receiving written approval from the Office of Conservation.

##### 2. Procedures

a. The proposed new owner or operator must apply for and receive an operator code by submitting a completed

Organization Report (Form OR-1), or subsequent form, to the Office of Conservation.

b. The current operator shall submit an application for permit transfer at least 30 days before the proposed permit transfer date. The application shall contain the following:

i. name and address of the proposed new owner or operator;

ii. date of proposed permit transfer; and

iii. a written agreement between the existing and new owner or operator containing a specific date for transfer of permit responsibility, financial responsibility, and liability between them.

c. If no agreement described in §3311.J.2.b.iii above is provided, responsibility for compliance with the terms and conditions of the permit and liability for any violation will shift from the existing operator to the new operator on the date the transfer is approved.

d. The new operator shall submit an application for a change of operator using Form MD-10-R-A, or subsequent form, to the Office of Conservation containing the signatories of §3305.D and E along with the appropriate filing fee.

e. The new operator shall submit evidence of financial responsibility under §3309.B.

f. If a person attempting to acquire a permit causes or allows operation of the facility before approval by the commissioner, it shall be considered a violation of these rules for operating without a permit or other authorization.

g. If the commissioner does not notify the existing operator and the proposed new owner or operator of his intent to modify or revoke and reissue the permit under §3309.K.3.b the transfer is effective on the date specified in the agreement mentioned in §3311.J.2.b.iii.

h. Any additional information as may be required to be submitted by these regulations or the Office of Conservation.

K. Permit Suspension, Modification, Revocation and Reissuance, Termination. This subsection sets forth the standards and requirements for applications and actions concerning suspension, modification, revocation and reissuance, termination, and renewal of permits. A draft permit must be prepared and other applicable procedures must be followed if a permit modification satisfies the criteria of this subsection. A draft permit, public notification, or public participation is not required for minor permit modifications defined in §3311.K.6.

#### 1. Permit Actions

a. The permit may be suspended, modified, revoked and reissued, or terminated for cause.

b. The operator shall furnish the Office of Conservation within 30 days any information that the Office of Conservation may request to determine whether cause exists for suspending, modifying, revoking and reissuing, or terminating a permit, or to determine compliance with the permit. Upon request, the operator shall furnish the Office of Conservation with copies of records required to be kept by the permit.

c. The Office of Conservation may, upon its own initiative or at the request of any interested person, review any permit to determine if cause exists to suspend, modify, revoke and reissue, or terminate the permit for the reasons

specified in §3311.K.2, 3, 4, 5, and 6. All requests shall be in writing and shall contain facts or reasons supporting the request.

d. If the Office of Conservation decides the request is not justified, the person making the request shall be sent a brief written response giving a reason for the decision. Denials of requests for suspension, modification, revocation and reissuance, or termination are not subject to public notice, public comment, or public hearings.

e. If the Office of Conservation decides to suspend, modify, or revoke and reissue a permit under §3311.K.2, 3, 4, 5, and 6, additional information may be requested and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the Office of Conservation shall require the submission of a new application.

f. The suitability of an existing solution-mining well location shall not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate continued operation at the site endangers the environment, or the health, safety and welfare of the public which was unknown at the time of permit issuance. If the solution-mining well location is no longer suitable for its intended purpose, it shall be closed according to applicable sections of these rules and regulations.

2. Suspension of Permit. The Office of Conservation may suspend the operator's right to solution-mine until violations are corrected. If violations are corrected, the Office of Conservation may lift the suspension. Suspension of a permit and/or subsequent corrections of the causes for the suspension by the operator shall not preclude the Office of Conservation from terminating the permit, if necessary. The Office of Conservation shall issue a Notice of Violation (NOV) to the operator of violations of the permit or these regulations that list the specific violations. If the operator fails to comply with the NOV by correcting the cited violations within the date specified in the NOV, the Office of Conservation shall issue a Compliance Order requiring the violations to be corrected within a specified time and may include an assessment of civil penalties. If the operator fails to take corrective action within the time specified in the Compliance Order, the Office of Conservation shall assess a civil penalty, and shall suspend, revoke, or terminate the permit.

3. Modification or Revocation and Reissuance of Permits. The following are causes for modification and may be causes for revocation and reissuance of permits.

a. Alterations. There are materials and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

b. Information. The Office of Conservation has received information pertinent to the permit. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. Cause shall include any information indicating that cumulative effects on the

environment, or the health, safety and welfare of the public are unacceptable.

c. New Regulations

i. The standards or regulations on which the permit was based have been changed by promulgation of new or amended standards or regulations or by judicial decision after the permit was issued and conformance with the changed standards or regulations is necessary for the protection of the environment, or the health, safety and welfare of the public. Permits may be modified during their terms when:

(a) the permit condition to be modified was based on a promulgated regulation or guideline;

(b) there has been a revision, withdrawal, or modification of that portion of the regulation or guideline on which the permit condition was based; or

(c) an operator requests modification within 90 days after *Louisiana Register* notice of the action on which the request is based.

ii. The permit may be modified as a minor modification without providing for public comment when standards or regulations on which the permit was based have been changed by withdrawal of standards or regulations or by promulgation of amended standards or regulations which impose less stringent requirements on the permitted activity or facility and the operator requests to have permit conditions based on the withdrawn or revised standards or regulations deleted from his permit.

iii. For judicial decisions, a court of competent jurisdiction has remanded and stayed Office of Conservation regulations or guidelines and all appeals have been exhausted, if the remand and stay concern that portion of the regulations or guidelines on which the permit condition was based and a request is filed by the operator to have permit conditions based on the remanded or stayed standards or regulations deleted from his permit.

d. Compliance Schedules. The Office of Conservation determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the operator has little or no control and for which there is no reasonable available remedy.

4. Causes for Modification or Revocation and Reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit.

a. Cause exists for termination under §3311.K.7, and the Office of Conservation determines that modification or revocation and reissuance is appropriate.

b. The Office of Conservation has received notification of a proposed transfer of the permit and the transfer is determined not to be a minor permit modification. A permit may be modified to reflect a transfer after the effective date (3311.J.2.b.ii) but will not be revoked and reissued after the effective date except upon the request of the new operator.

5. Facility Siting. Suitability of an existing facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that continued operations at the site pose a threat to the health or safety of persons or the environment which was unknown at the time of the

permit issuance. A change of injection site or facility location may require modification or revocation and issuance as determined to be appropriate by the commissioner.

6. Minor Modifications of Permits. The Office of Conservation may modify a permit to make corrections or allowances for changes in the permitted activity listed in this subsection without issuing a draft permit and providing for public participation. Minor modifications may only:

- a. correct administrative or make informational changes;
- b. correct typographical errors;
- c. amend the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities;
- d. change an interim compliance date in a schedule of compliance, provided the new date does not interfere with attainment of the final compliance date requirement;
- e. allow for a change in ownership or operational control of a solution-mining well where the Office of Conservation determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Office of Conservation (see 3311.J);
- f. change quantities or types of fluids injected which are within the capacity of the facility as permitted and, in the judgment of the commissioner, would not interfere with the operation of the facility or its ability to meet conditions prescribed in the permit, and would not change its classification;
- g. change construction requirements or plans approved by the Office of Conservation provided that any such alteration is in compliance with these rules and regulations. No such changes may be physically incorporated into construction of the solution-mining well, cavern, or surface facility before written approval from the Office of Conservation; or
- h. amend a closure or post-closure plan.

7. Termination of Permits

a. The Office of Conservation may terminate a permit during its term for the following causes:

- i. noncompliance by the operator with any condition of the permit;
- ii. the operator's failure in the application or during the permit issuance process to fully disclose all relevant facts, or the operator's misrepresentation of any relevant facts at any time; or
- iii. a determination that continued operation of the permitted activity cannot be conducted in a way that is protective of the environment, or the health, safety and welfare of the public.

b. If the Office of Conservation decides to terminate a permit, he shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under §3311.E. The Office of Conservation may alternatively decide to modify or revoke and reissue a permit for the causes in §3311.K.7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:326 (February 2014).

**§3313. Site Assessment**

A. Applicability. This Section applies to all applicants, owners or operators of solution-mining wells. The applicant, owner or operator shall be responsible for showing that the solution-mining operation shall be accomplished using good engineering and geologic practices for solution-mining operations to preserve the integrity of the salt stock and overlying sediments. In addition to all applicants showing this in their application, as part of the compliance review found in subsection 3309.K, the commissioner may require any owner or operator of a solution-mining well to provide the same or similar information required in this Section. This shall include, but not be limited to:

1. an assessment of the engineering, geological, geomechanical, geochemical, and geophysical properties of the salt stock;
2. stability of salt stock and overlying and surrounding sediments;
3. stability of the cavern design (particularly regarding its size, shape, depth, and operating parameters);
4. the amount of separation between the cavern of interest and adjacent caverns and structures within the salt stock;
5. the amount of separation between the outermost cavern wall and the periphery of the salt stock; and
6. an assessment of well information and oil and gas activity within the vicinity of the salt dome.

B. Geological Studies and Evaluations. The applicant, owner, or operator shall do a thorough geological, geophysical, geomechanical, and geochemical evaluation of the salt stock to determine its suitability for solution-mining, stability of the cavern under the proposed set of operating conditions, and where applicable, the structural integrity of the salt stock between an adjacent cavern and salt periphery under the proposed set of operating conditions. A listing of data or information used to characterize the structure and geometry of the salt stock shall be included.

1. Where applicable, the geologic evaluation shall include, but should not be limited to:

- a. geologic mapping of the structure of the salt stock and any cap rock;
- b. geologic history of salt movement;
- c. an assessment of the impact of possible anomalous zones (salt spines, shear planes, etc.) on the solution-mining well or cavern;
- d. deformation of the cap rock and strata overlying the salt stock;
- e. investigation of the upper salt surface and adjacent areas involved with salt dissolution;
- f. cap rock formation and any non-vertical salt movement.

2. The applicant shall perform a thorough hydrogeological study on strata overlying the salt stock to determine the occurrence of the lowermost underground source of drinking water immediately above and in the vicinity of the salt stock.

3. The applicant shall investigate regional tectonic activity and the potential impact (including ground

subsidence) of the project on surface and subsurface resources.

4. The proximity of all existing and proposed solution-mining caverns to the periphery of the salt stock and to manmade structures within the salt stock shall be demonstrated to the Office of Conservation at least once every five years by providing the following:

a. an updated structure contour map of the salt stock on a scale no smaller than 1 inch to 500 feet. The updated map should make use of all available data. The horizontal configuration of the salt caverns should be shown on the structure map and reflect the caverns' maximum lateral extent as determined by the most recent sonar caliper surveys; and

b. vertical cross sections of the salt caverns showing their outline and position within the salt stock. Cross sections should be oriented to indicate the closest approach of the salt cavern wall to the periphery of the salt stock. The outline of the salt cavern should be based on the most recent sonar caliper survey.

#### C. Core Sampling

1. At least one well at the site of the solution-mining well (or the salt dome) shall be or shall have been cored over sufficient depth intervals to yield representative samples of the subsurface geologic environment. This shall include coring of the salt stock and may include coring of overlying formations, including any cap rock. Cores should be obtained using the whole core method. Core acquisition, core handling, and core preservation shall be done according to standard field sampling practices considered acceptable for laboratory tests of recovered cores.

2. Data from previous coring projects may be used instead of actual core sampling provided the data is specific to the salt dome of interest. If site-specific data is unavailable, data may be obtained from sources that are not specific to the area as long as the data can be shown to closely approximate the properties of the salt dome of interest. It shall be the responsibility of the applicant to make a satisfactory demonstration that data obtained from other sources are applicable to the salt dome of interest.

D. Core Analyses and Laboratory Tests. Analyses and tests shall consider the characteristics of the injected materials and should provide data on the salt's geomechanical, geophysical, geochemical, mineralogical properties, microstructure, and where necessary, potential for adjacent cavern connectivity, with emphasis on cavern shape and the operating conditions. All laboratory tests, experimentation, and numeric modeling shall be conducted using methods that simulate the proposed operating conditions of the cavern. Test methods shall be selected to define the deformation and strength properties and characteristics of the salt stock under cavern operating conditions.

E. Area of Review. A thorough evaluation shall be undertaken of both surface and subsurface activities in the defined area of review of the individual solution-mining well or project area that may influence the integrity of the salt stock, solution-mining well, and cavern, or contribute to the movement of injected fluids outside the cavern, wellbore, or salt stock.

1. Surface Delineation. The area of review for an individual solution-mining well shall be a fixed radius

around the wellbore of not less than 1320 feet. The area of review for wells in a solution-mining project, shall be the project area plus a circumscribing area the width of which is not less than 1320 feet. Exception shall be noted as shown in §3313.E.2.c and d below.

2. Subsurface Delineation. At a minimum, the following shall be identified within the area of review:

a. all known active, inactive, and abandoned wells within the area of review with known depth of penetration into the cap rock or salt stock;

b. all known water wells within the area of review;

c. all caverns within the salt stock regardless of usage, depth of penetration, or distance to the proposed solution-mining well or cavern;

d. all conventional (dry or room and pillar) mining activity either active or abandoned occurring anywhere within the salt stock regardless of distance to the proposed solution-mining well or cavern.

e. all producing formations either active or depleted.

#### F. Corrective Action

1. For manmade structures that penetrate the salt stock identified in the area of review that are not properly constructed, completed, or plugged and abandoned, the applicant shall submit a corrective action plan consisting of such steps, procedures, or modifications as are necessary to prevent the movement of fluids outside the cavern or into underground sources of drinking water.

a. Where the plan is adequate, the provisions of the corrective action plan shall be incorporated into the permit as a condition.

b. Where the plan is inadequate, the Office of Conservation shall require the applicant to revise the plan, or prescribe a plan for corrective action as a condition of the permit, or the application shall be denied.

2. Any permit issued for an existing solution-mining well for which corrective action is required shall include a schedule of compliance for complete fulfillment of the approved corrective action procedures as soon as possible. If the required corrective action is not completed as prescribed in the schedule of compliance, the permit shall be suspended, modified, revoked and possibly reissued, or terminated according to these rules and regulations.

3. No permit shall be issued for a new solution-mining well until all required corrective action obligations have been fulfilled.

4. The commissioner may require as a permit condition that injection pressure be so limited that pressure in the injection zone does not cause the movement of fluids into a underground source of drinking water through any improperly completed or abandoned well within the area of review. This pressure limitation shall satisfy the corrective action requirement. Alternatively, such injection pressure limitation can be part of a compliance schedule and last until all other corrective action has been taken.

5. When setting corrective action requirements for solution-mining wells, the commissioner shall consider the overall effect of the project on the hydraulic gradient in potentially affected underground sources of drinking water, and the corresponding changes in potentiometric surface(s) and flow direction(s) rather than the discrete effect of each well. If a decision is made that corrective action is not



necessary, the monitoring program required in §3323 shall be designed to verify the validity of such determination.

6. In determining the adequacy of corrective action proposed by the applicant under §3313.F above and in determining the additional steps needed to prevent fluid movement into underground sources of drinking water, the following criteria and factors shall be considered by the commissioner:

- a. nature and volume of injection fluid;
- b. nature of native fluids or by-products of injection;
- c. potentially affected population;
- d. geology;
- e. hydrology;
- f. history of the injection operation;
- g. completion and plugging records;
- h. abandonment procedures in effect at the time the well was abandoned; and
- i. hydraulic connections with underground sources of drinking water.

7. The Office of Conservation may prescribe additional requirements for corrective action beyond those submitted by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:330 (February 2014).

### **§3315. Cavern and Surface Facility Design Requirements**

A. This Section provides general standards for design of caverns to assure that project development can be conducted in a reasonable, prudent, and a systematic manner and shall stress physical and environmental safety. The cavern design shall be modified where necessary to conform to good engineering and geologic practices.

#### **B. Cavern Spacing Requirements**

##### **1. Property Boundary**

a. Existing Solution-Mining Caverns. No part of a solution-mining cavern permitted as of the date these regulations are promulgated shall extend closer than 100 feet to the property of others without consent of the owner(s). Continued operation without this consent of an existing solution-mining cavern within 100 feet of the property of others may be allowed as follows.

i. The operator of the cavern shall make a good faith effort to provide notice in a form and manner approved by the commissioner to the adjacent property owner(s) of the location of its cavern.

ii. The commissioner shall hold a public hearing in Baton Rouge if a non-consenting adjacent owner whose property line is within 100 feet objects to the cavern's continued operation. Following the public hearing the commissioner may approve the cavern's continued operation upon a determination that the continued operation of the cavern has no adverse effects to the property rights of the adjacent property owner(s).

iii. If no objection from a non-consenting adjacent property owner is received within 30 days of the notice provided in accordance with Subparagraph 1(i) above, then the commissioner may approve the continued operation of the cavern administratively.

b. New Solution-Mining Caverns. No part of a newly permitted solution-mining cavern shall extend closer than 100 feet to the property of others without the consent of the owner(s).

2. Adjacent Structures within the Salt. As measured in any direction, the minimum separation between walls of adjacent caverns or between the walls of the cavern and any adjacent cavern or any other manmade structure within the salt stock shall not be less than 200 feet. Caverns must be operated in a manner that ensures the walls between any cavern and any other manmade structure maintain the minimum separation of 200 feet. For solution-mining caverns permitted prior to the effective date of these regulations and which are already within 200 feet of any other cavern or manmade structure within the salt stock, the Commissioner of Conservation may approve continued operation upon a proper showing by the owner or operator that the cavern is capable of continued safe operations.

##### **3. Salt Periphery**

a. Without exception or variance to these rules and regulations, at no time shall the minimum separation between the cavern walls at any point and the periphery of the salt stock for a newly permitted solution-mining cavern be less than 300 feet.

b. An existing solution-mining cavern with less than 300 feet of salt separation at any point between the cavern walls and the periphery of the salt stock shall provide the Office of Conservation with an enhanced monitoring plan that has provisions for ongoing monitoring of the structural stability of the cavern and salt through methods that may include, but are not limited to, increased frequency of sonar caliper surveys, vertical seismic profiles, micro-seismic monitoring, increased frequency of subsidence monitoring, mechanical integrity testing, continuous cavern pressure data monitoring, etc. A combination of enhanced monitoring methods may be proposed where appropriate. Once approved, the owner or operator shall implement the enhanced monitoring plan.

c. Without exception or variance to these rules and regulations, an existing solution-mining cavern with cavern walls 100 feet or less from the periphery of the salt stock shall be removed from service immediately and permanently. An enhanced monitoring plan of Subparagraph b above shall be prepared and submitted to the Office of Conservation. Once approved, the owner or operator shall implement the enhanced monitoring plan.

C. Cavern Coalescence. The Office of Conservation may permit the use of coalesced caverns for solution-mining. It shall be the duty of the applicant, owner or operator to demonstrate that operation of coalesced caverns under the proposed cavern operating conditions can be accomplished in a physically and environmentally safe manner. The intentional subsurface coalescing of adjacent caverns must be requested by the applicant, owner or operator in writing and be approved by the Office of Conservation before beginning or resumption of solution-mining operations. Approval for cavern coalescence shall only be considered upon a showing by the applicant, owner or operator that the stability and integrity of the cavern and salt stock shall not be compromised and that solution-mining operations can be conducted in a physically and environmentally safe manner. If the design of adjacent caverns should include approval for

the subsurface coalescing of adjacent caverns, the minimum spacing requirement of §3315.B.2 above shall not apply to the coalesced caverns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:332 (February 2014).

### **§3317. Well Construction and Completion**

#### **A. General Requirements**

1. All materials and equipment used in the construction of the solution-mining well and related appurtenances shall be designed and manufactured to exceed the operating requirements of the specific project. Consideration shall be given to depth and lithology of all subsurface geologic zones, corrosiveness of formation fluids, hole size, anticipated ranges and extremes of operating conditions, subsurface temperatures and pressures, type and grade of cement, and projected life of the solution-mining well.

2. All solution-mining wells and caverns shall be designed, constructed, completed, and operated to prevent the escape of injected materials out of the salt stock, into or between underground sources of drinking water, or otherwise create or cause pollution or endanger the environment or public safety. All phases of design, construction, completion, and testing shall be prepared and supervised by qualified personnel.

a. Where injection is into a formation which contains water with less than 10,000 mg/l TDS, monitoring wells shall be completed into the injection zone and into any underground sources of drinking water above the injection zone which could be affected by the mining operation. These wells shall be located in such a fashion as to detect any excursion of injected fluids, process by-products, or formation fluids outside the mining area or zone. If the operation may be affected by subsidence or catastrophic collapse the monitoring wells shall be located so that they will not be physically affected.

b. Where injection is into a formation which does not contain water with less than 10,000 mg/l TDS, no monitoring wells are necessary in the injection stratum.

c. Where the injection well penetrates an underground source of drinking water in an area subject to subsidence or catastrophic collapse an adequate number of monitoring wells shall be completed into the USDW to detect any movement of injected fluids, process by-products or formation fluids into the USDW. The monitoring wells shall be located outside the physical influence of the subsidence or catastrophic collapse.

d. In determining the number, location, construction and frequency of monitoring of the monitoring wells the following criteria shall be considered:

- i. the population relying on the USDW affected or potentially affected by the injection operation;
- ii. the proximity of the injection operation to points of withdrawal of drinking water;
- iii. the local geology and hydrology;
- iv. the operating pressures and whether a negative pressure gradient is being maintained;
- v. the nature and volume of the injected fluid, the formation water, and the process by-products; and
- vi. the injection well density.

#### **B. Open Borehole Surveys**

1. Open hole wireline surveys that delineate subsurface lithologies, formation tops (including top of cap rock and salt), formation fluids, formation porosity, and fluid resistivities shall be done on wells from total well depth to either ground surface or base of conductor pipe. Wireline surveys shall be presented with gamma-ray and, where applicable, spontaneous potential curves. All surveys shall be presented on a scale of 1 inch to 100 feet and a scale of 5 inches to 100 feet. A descriptive report interpreting the results of such logs and tests shall be prepared and submitted to the commissioner.

2. Gyroscopic multi-shot surveys of the borehole shall be taken at intervals not to exceed every 100 feet of drilled borehole.

3. Where practicable, caliper logging to determine borehole size for cement volume calculations shall be done before running casings.

4. The owner or operator shall submit all wireline surveys as one paper copy and an electronic version in a format approved by the commissioner.

C. Casing and Cementing. Except as specified below, the wellbore of the solution-mining well shall be cased, completed, and cemented according to rules and regulations of the Office of Conservation and good petroleum industry engineering practices for wells of comparable depth that are applicable to the same locality of the cavern. Design considerations for casings and cementing materials and methods shall address the nature and characteristics of the subsurface environment, the nature of injected materials, the range of conditions under which the well, cavern, and facility shall be operated, and the expected life of the well including closure and post-closure.

1. Cementing shall be by the pump-and-plug method or another method approved by the Office of Conservation and shall be circulated to the surface. Circulation of cement may be done by staging.

a. For purposes of these rules and regulations, circulated (cemented) to the surface shall mean that actual cement returns to the surface were observed during the primary cementing operation. A copy of the cementing company's job summary or cementing ticket indicating returns to the surface shall be submitted as part of the pre-operating requirements of §3325.

b. If returns are lost during cementing, the owner or operator shall have the burden of showing that sufficient cement isolation is present to prevent the upward movement of injected material into zones of porosity or transmissive permeability in the overburden along the wellbore and to protect underground sources of drinking water.

2. In determining and specifying casing and cementing requirements, the following factors shall be considered:

- a. depth to the injection zone;
- b. injection pressure, external pressure, internal pressure, axial loading, etc.;
- c. borehole size;
- d. size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specification, and construction material);
- e. corrosiveness of injected fluids and formation fluids;

f. lithology of subsurface formations penetrated; and

g. type and grade of cement.

3. Surface casing shall be set to a depth into a confining bed below the base of the lowermost underground source of drinking water. Surface casing shall be cemented to surface where practicable.

4. Except as otherwise noted in this Chapter all solution-mining wells shall be cased with a minimum of two casings cemented into the salt. The surface casing shall not be considered one of the two casings for purposes of this Subsection.

5. New wells drilled into an existing cavern shall have an intermediate casing and a final cemented casing set into the salt. The final cemented casing shall be set a minimum distance of 300 feet into the salt and shall make use of a sufficient number of casing centralizers.

6. The following applies to wells existing in caverns before the effective date of these rules and regulations and that are being used for solution-mining. If the design of the well or cavern precludes having distinct intermediate and final casing seats cemented into the salt, the wellbore shall be cased with two concentric casings run from the surface of the well to a minimum distance of 300 feet into the salt. The inner casing shall be cemented from its base to surface.

7. The intermediate and final casings shall be cemented from their respective casing seats to the surface when practicable.

8. An owner or operator may propose for approval by the Commissioner of Conservation an alternative casing program for a new solution-mining well pursuant to an exception or variance request in accordance with the requirements of Subsection 3303.F.

D. Casing and Casing Seat Tests. When doing tests under this paragraph, the owner or operator shall monitor and record the tests by use of a surface readout pressure gauge and a chart or a digital recorder. All instruments shall be properly calibrated and in good working order. If there is a failure of the required tests, the owner or operator shall take necessary corrective action to obtain a passing test.

1. Casing. After cementing each casing, but before drilling out the respective casing shoe, all casings will be hydrostatically pressure tested to verify casing integrity and the absence of leaks. The stabilized test pressure applied at the well surface will be calculated such that the pressure gradient at the depth of the respective casing shoe will not be less than 0.7 PSI/FT of vertical depth or greater than 0.9 PSI/FT of vertical depth. All casing test pressures will be maintained for 1 hour after stabilization. Allowable pressure loss is limited to 5 percent of the test pressure over the stabilized test duration. Test results will be reported as part of the Pre-Operating Requirements

2. Casing Seat. The casing seat and cement of the intermediate and production casings will each be hydrostatically pressure tested after drilling out the casing shoe. At least 10 feet of formation below the respective casing shoes will be drilled before the test.

a. For all casings below the surface casing—excluding the final cemented casing—the stabilized test pressure applied at the well surface will be calculated such that the pressure at the casing shoe will not be less than the 85 percent of the predicted formation fracture pressure at

that depth. The test pressures will be maintained for 1 hour after pressure stabilization. Allowable pressure loss is limited to 5 percent of the test pressure over the stabilized test duration. Test results will be reported as part of the Pre-Operating Requirements.

b. For the final cemented casing, the test pressure applied at the surface will be the greater of the maximum predicted salt cavern operating pressure or a pressure gradient of 0.85 PSI/FT of vertical depth calculated with respect to the depth of the casing shoe. The test pressures will be maintained for 1 hour after pressure stabilization. Allowable pressure loss is limited to 5 percent of the test pressure over the stabilized test duration. Test results will be reported as part of the Pre-Operating Requirements. Allowable pressure loss is limited to 5 percent of the test pressure over the stabilized test duration.

3. Casing or casing seat test pressures shall never exceed a pressure gradient equivalent to 0.90 PSI per foot of vertical depth at the respective casing seat or exceed the known or calculated fracture gradient of the appropriate subsurface formation. The test pressure shall never exceed the rated burst or collapse pressures of the respective casings.

E. Cased Borehole Surveys. A cement bond with variable density log (or similar cement evaluation tool) and a temperature log shall be run on all casings. The Office of Conservation may consider requests for alternative means of compliance for wireline logging in large diameter casings or justifiable special conditions. A descriptive report interpreting the results of such logs shall be prepared and submitted to the commissioner.

1. It shall be the duty of the well applicant, owner or operator to prove adequate cement isolation on all cemented casings. Remedial cementing shall be done before proceeding with further well construction, completion, or conversion if adequate cement isolation between the solution-mining well and other subsurface zones cannot be demonstrated.

2. A casing inspection log (or similar log) shall be run on the final cemented casing.

F. Hanging Strings. Without exception or variance to these rules and regulations, all solution-mining wells shall be completed with at least two hanging strings. One hanging string shall be for injection; the second hanging string shall be for displacing fluid out of the cavern from below the blanket material. However, the commissioner may approve a request for a single hanging string only in the case of dual-bore mining. Hanging strings shall be designed with a collapse, burst, and tensile strength rating conforming to all expected operating conditions. The design shall also consider the physical and chemical characteristics of fluids placed into and/or withdrawn from the cavern.

G. Wellhead Components and Related Connections. All wellhead components, valves, flanges, fittings, flowlines, and related connections shall be manufactured of steel. All components shall be designed with a test pressure rating of at least 125 percent of the maximum pressure that could be exerted at the surface. Selection and design criteria for components shall consider the physical and chemical characteristics of fluids placed into and/or withdrawn from the cavern under the specific range of operating conditions, including flow induced vibrations. The fluid withdrawal side

of the wellhead (if applicable) shall be rated for the same pressure as the water injection side. All components and related connections shall be maintained in good working order and shall be periodically inspected by the operator.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:4 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:333 (February 2014).

### **§3319. Operating Requirements**

A. **Cavern Roof.** Without exception or variance to these rules and regulations, no cavern shall be used if the cavern roof has grown above the top of the salt stock. The operation of an already permitted cavern shall cease and shall not be allowed to continue if information becomes available that shows this condition exists. The Office of Conservation may order the solution-mining well and cavern closed according to an approved closure and post-closure plan.

B. **Blanket Material.** Before beginning solution-mining operations, a blanket material shall be placed into the cavern to prevent unwanted leaching of the cavern roof. The blanket material shall consist of crude oil, diesel, mineral oil, or other fluid possessing similar noncorrosive, nonsoluble, low-density properties. The blanket material shall be placed between the outermost hanging string and innermost cemented casing of the cavern and shall be of sufficient volume to coat the entire cavern roof. In active caverns, the cavern roof and level of the blanket material shall be monitored at least once every five years by running a density interface survey or using an alternative method approved by the Office of Conservation.

C. **Remedial Work.** No remedial work or repair work of any kind shall be done on the solution-mining well or cavern without prior authorization from the Office of Conservation. The provision for prior authorization shall also extend to doing mechanical integrity pressure and leak tests and sonar caliper surveys; however, a work permit is not required in order to conduct interface surveys. The owner or operator or its agent shall submit a valid work permit request form (Form UIC-17 or successor). Before beginning well or cavern remedial work, the pressure in the cavern shall be relieved, as practicable.

D. **Well Recompletion—Casing Repair.** The following applies to solution-mining wells where remedial work results from well upgrade, casing wear, or similar condition. For each paragraph below, a casing inspection log shall be done on the entire length of the innermost cemented casing in the well before doing any casing upgrade or repair. Authorization from the Office of Conservation shall be obtained before beginning any well recompletion, repair, upgrade, or closure. A solution-mining well that cannot be repaired or upgraded shall be properly closed according to §3337.

1. **Liner.** A liner may be used to recomplete or repair a well with severe casing damage. The liner shall be run from the well surface to the base of the innermost cemented casing. The liner shall be cemented over its entire length and shall be successfully pressure tested.

2. **Casing Patch.** Internal casing patches shall not be used to repair severely corroded or damaged casing. Casing patches shall only be used for repairing or covering isolated

pitting, corrosion, or similar localized damage. The casing patch shall extend a minimum of 10 feet above and below the area being repaired. The entire casing shall be successfully pressure tested.

E. **Multiple Well Caverns.** No newly permitted well shall be drilled into an existing cavern until the cavern pressure has been relieved, as practicable, to zero pounds per square inch as measured at the surface.

#### **F. Cavern Allowable Operating Pressure**

1. The maximum allowable cavern injection pressure shall be calculated at a depth referenced to the well's deepest cemented casing seat. The injection pressure at the well-head shall be calculated so as to assure that the pressure in the injection zone during injection does not initiate new fractures or propagate existing fractures in the injection zone. In no case shall injection pressure initiate fractures in the confining zone or cause the migration of injection or formation fluids into an underground source of drinking water. When measured at the surface and calculated with respect to the appropriate reference depth, the maximum allowable cavern injection pressure shall never exceed a pressure gradient of 0.90 PSI per foot of vertical depth.

2. The solution-mining well shall never be operated at pressures over the maximum allowable injection pressure defined above, exceed the maximum allowable pressure as may be established by permit, or exceed the rated burst or collapse pressure of all well tubulars (cemented or hanging strings) even for short periods, including pressure pulsation peaks, abnormal operating conditions, well or cavern tests.

3. The maximum injection pressure for a solution-mining well shall be determined after considering the properties of all injected fluids, the physical properties of the salt stock, well and cavern design, neighboring activities within and above the salt stock, etc.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:4 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:335 (February 2014).

### **§3321. Safety**

A. **Emergency Action Plan.** A plan outlining procedures for personnel at the facility to follow in case of an emergency shall be prepared and submitted as part of the permit application. The plan shall contain emergency contact telephone numbers, procedures and specific information for facility personnel to respond to a release, upset, incident, accident, or other site emergency. A copy of the plan shall be kept at the facility and shall be reviewed and updated as needed.

B. **Controlled Site Access.** Access to solution-mining facilities shall be controlled by fencing or other means around the facility property. All points of entry into the facility shall be through by a lockable gate system.

C. **Personnel.** While solution mining, testing, or performing any work requiring a UIC-17 (Work Permit), trained and competent personnel shall be on duty and stationed as appropriate at the solution-mining well during all hours and phases of facility operation. If the solution-mining facility chooses to use an offsite monitoring and control automated telemetry surveillance system, approved by the commissioner, provisions shall be made for trained

personnel to be on-call at all times and 24 hours a day staffing of the facility may not be required.

#### D. Wellhead Protection and Identification

1. A protective barrier shall be installed and maintained around the wellhead as protection from physical or accidental damage by mobile equipment or trespassers.

2. An identifying sign shall be placed at the wellhead of each solution-mining well and shall include at a minimum the operator's name, well/cavern name and number, well's serial number, section-township-range, and any other information required by the Office of Conservation. The sign shall be of durable construction with all lettering kept in a legible condition.

#### E. Valves and Flowlines

1. All valves, flowlines, flanges, fittings, and related connections shall be manufactured of steel. All components shall be designed with a test pressure rating of at least 125 percent of the maximum pressure that could be exerted at the surface. All components and related connections shall be maintained in good working order and shall be periodically inspected by the operator.

2. All valves, flowlines for injection, fluid withdrawal, and any other flowlines shall be designed to prevent pressures over maximum operating pressure from being exerted on the solution-mining well and cavern and prevent backflow or escape of injected material. The fluid withdrawal side of the wellhead shall have the same pressure rating as the injection side.

3. All flowlines for injection and withdrawal connected to the wellhead of the solution-mining well shall be equipped with remotely operated shut-off valves and shall also have manually operated positive shut-off valves at the wellhead. All remotely operated shut-off valves shall be fail-safe and tested and inspected according to §3321.H.

F. Alarm Systems. Manually activated alarms shall be installed at all cavern facilities. All alarms shall be audible and visible from any normal work location within the facility. The alarms shall always be maintained in proper working order.

G. Emergency Shutdown Valves. Manual shutdown valves shall be installed on all systems of cavern injection and withdrawal and any other flowline going into or out from each solution-mining wellhead. All emergency shutdown valves shall be fail-safe and shall be tested and inspected according to §3321.H.

1. Manual controls for emergency shutdown valves shall be designed for operation from a local control room, at the solution-mining well, any remote monitoring and control location, and at a location that is likely to be accessible to emergency response personnel.

#### H. Systems Test and Inspection

1. Safety Systems Test. The operator shall annually function-test all critical systems of control and safety. This includes testing of alarms, test tripping of emergency shutdown valves ensuring their closure times are within design specifications, and ensuring the integrity of all electrical, pneumatic, and/or hydraulic circuits. Tests results shall be documented and kept onsite for inspection by an agent of the Office of Conservation.

2. Visual Facility Inspections. Visual inspections of the cavern facility shall be conducted each day the facility is operating. At a minimum, this shall include inspections of

the wellhead, flowlines, valves, signs, perimeter fencing, and all other areas of the facility. Problems discovered during the inspections shall be corrected timely.

#### I. Retaining Walls and Spill Containment

1. Retaining walls, curbs, or other spill containment systems shall be designed, built, and maintained around appropriate areas of the facility to collect, retain, and/or otherwise prevent the escape of waste or other materials that may be released through facility upset or accidental spillage.

J. Assistance to Residents. As soon as practicable following the issuance of an evacuation order pursuant to R.S. 29:721 et seq., and associated with a sinkhole or other incident at a solution-mining cavern facility, the commissioner of conservation shall:

1. after consulting with the authority which issued the evacuation order and local governmental officials for the affected area, establish interim assistance amounts for residents subject to the evacuation order and identify the operator(s) responsible for providing assistance. The interim assistance shall remain in effect until the evacuation order is lifted or until a subsequent order is issued by the commissioner in accordance with Paragraph 2 of this Subsection;

2. upon request of an interested party, call for a public hearing to take testimony from all interested parties in order to consider modifying the evacuation assistance amounts and/or consider a challenge to the finding of the responsible operator(s). The public hearing shall be noticed and held in accordance with R.S. 30:6. The order shall remain in effect until the evacuation is lifted or the commissioner's order is modified, supplemented, or revoked and reissued, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:335 (February 2014).

### §3323. Monitoring Requirements

#### A. Pressure Gauges, Pressure Sensors, Flow Sensors

1. Pressure gauges or pressure sensors/transmitters that show pressure on the fluid injection string, fluid withdrawal string, and any annulus of the well, including the blanket material annulus, shall be installed at each wellhead. Gauges or pressure sensors/transmitters shall be designed to read gauge pressure in 10 PSIG increments. All gauges or pressure sensors/transmitters shall be properly calibrated and shall always be maintained in good working order. The pressure valves onto which the pressure gauges are affixed shall have 1/2 inch female fittings.

2. Pressure sensors designed to automatically close all emergency shutdown valves in response to a preset pressure (high) shall be installed and properly maintained for all fluid injection and fluid withdrawal strings, and blanket material annulus.

3. Flow sensors designed to automatically close all emergency shutdown valves in response to abnormal increases in cavern injection and withdrawal flow rates shall be installed and properly maintained on each solution-mining well.

B. Continuous Recording Instruments. Continuous recording instrumentation shall be installed and properly maintained for each solution-mining well. Continuous

recordings may consist of circular charts, digital recordings, or similar type. Unless otherwise specified by the commissioner, digital instruments shall record the required information at no greater than one minute intervals. Mechanical charts shall not exceed a clock period of 24-hour duration. The chart shall be selected such that its scaling is of sufficient sensitivity to record all fluctuations of pressure or any other parameter being monitored. The chart shall be scaled such that the parameter being recorded is 30 percent to 70 percent of full scale. Instruments shall be housed in weatherproof enclosures when located in areas exposed to climatic conditions. All fluid volumes shall be determined by metering or an alternate method approved by the Office of Conservation. Minimum data recorded shall include the following:

1. wellhead pressures on both the fluid injection and fluid withdrawal strings;
  2. wellhead pressure on the blanket material annulus;
  3. volume and flow rate of fluid injected; and
  4. volume of fluid withdrawn;
- C. Casing Inspection.

1. For existing permitted Class III Brine Wells, a casing inspection or similar log shall be run on the entire length of the innermost cemented casing within five years of the effective date of these rules.

2. For all Class III Brine Wells, a casing inspection or similar log shall be run on the entire length of the innermost cemented casing in each well at least once every 10 years.

3. Equivalent alternate monitoring programs to ensure the integrity of the innermost, cemented casing may be approved by the Office of Conservation in place of §3323.C.1 and §3323.C.2 above.

D. Subsidence Monitoring. The owner or operator shall prepare and carry out a plan approved by the commissioner to monitor ground subsidence at and in the vicinity of the solution-mining cavern(s). The monitoring plan should include at a minimum all wells/caverns belonging to the owner or operator regardless of the status of the cavern. Frequency of subsidence monitoring shall be scheduled to occur annually during the same period. A monitoring report shall be prepared and submitted to the Office of Conservation after completion of each monitoring event.

E. Monitor Wells. Quarterly monitoring of the monitor wells required by 3317.A.2.a.

F. All Class III wells may be monitored on a field or project basis rather than an individual well basis by manifold monitoring. Manifold monitoring may be used in cases of facilities consisting of more than one injection well, operating with a common manifold. Separate monitoring systems for each well are not required provided the owner or operator demonstrates that manifold monitoring is comparable to individual well monitoring.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:336 (February 2014).

### **§3325. Pre-Operating Requirements—Completion Report**

A. The operator of a solution-mining well shall not begin injection until all required information has been submitted to the Office of Conservation and the operator has received written authorization from the Office of Conservation clearly

stating operations may begin. Preauthorization pursuant to this Subsection is not required for workovers.

B. The operator shall submit a report to the Office of Conservation that describes, in detail, the work performed resulting from any approved permitted activity. A report shall include all information relating to the work and information that documents compliance with these rules and the approved permitted activity. The report shall be prepared and submitted for any approved work relating to the construction, installation and completion of the surface portion of the facility and information on the construction, conversion, or workover of the solution-mining well or cavern.

C. Where applicable to the approved permitted activity, information in a completion report shall include:

1. all required state reporting forms containing original signatures;
2. revisions to any operation or construction plans since approval of the permit application;
3. as-built schematics of the layout of the surface portion of the facility;
4. as-built piping and instrumentation diagram(s);
5. copies of applicable records associated with drilling, completing, working over, or converting the solution-mining well and/or cavern including a daily chronology of such activities;
6. revised certified location plat of the solution-mining well if the actual location of the well differs from the location plat submitted with the solution-mining well application;
7. as-built subsurface diagram of the solution-mining well and cavern labeled with appropriate construction, completion, or conversion information, i.e., depth and diameter of all tubulars, depths of top of cap rock and salt, and top and bottom of the cavern;
8. as-built diagram of the surface wellhead labeled with appropriate construction, completion, or conversion information, i.e., valves, gauges, and flowlines;
9. results of any core sampling and testing;
10. results of well or cavern tests such as casing and casing seat tests, well/cavern mechanical integrity pressure and leak tests;
11. copies of any wireline logging such as open hole and/or cased hole logs, the most recent cavern sonar survey, and mechanical integrity test;
12. the status of corrective action on defective wells in the area of review;
13. the proposed operating data;
14. the proposed injection procedures; and
15. any additional data documenting the work performed for the permitted activity, information requested by the Office of Conservation, or any additional reporting requirements imposed by the approved permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:337 (February 2014).

### **§3327. Well and Cavern Mechanical Integrity Pressure and Leak Tests**

A. The operator of the solution-mining well and cavern shall have the burden of meeting the requirements for well and cavern mechanical integrity. The Office of Conservation

shall be notified in writing at least seven days before any scheduled mechanical integrity test. The test may be witnessed by Office of Conservation personnel but must be witnessed by a qualified third party.

#### B. Frequency of Tests

1. Without exception or variance to these rules and regulations, all solution mining wells and caverns shall be tested for and satisfactorily demonstrate mechanical integrity before beginning injection activities.

2. For solution mining wells and caverns permitted on the effective date of these regulations, if a mechanical integrity test (MIT) has not been run on the well or cavern within three years prior to the effective date of these regulations, the operator must run an MIT within two years in order to remain in compliance.

3. All subsequent demonstrations of mechanical integrity shall occur at least once every five years. Additionally, mechanical integrity testing shall be done for the following reasons regardless of test frequency:

- a. after physical alteration to any cemented casing or cemented liner;
- b. after performing any remedial work to reestablish well or cavern integrity;
- c. before returning the cavern to hydrocarbon storage service after a period of salt solution mining or washing to purposely increase storage cavern size or capacity;
- d. after completion of any additional mining or salt washing for caverns engaging in simultaneous storage and salt solution mining or washing that results in a significant increase in cavern volume or change in cavern configuration;
- e. before well closure;
- f. whenever the commissioner determines a test is warranted.

#### C. Test Method

1. All mechanical integrity pressure and leak tests shall demonstrate no significant leak in the cavern, wellbore, casing seat, and wellhead and the absence of significant fluid movement. Test schedules and methods shall consider neighboring activities occurring at the salt dome to reduce any influences those neighboring activities may have on the cavern being tested.

2. Tests shall be conducted using the nitrogen-brine interface method with density interface and temperature logging. An alternative test method may be used if the alternative test can reliably demonstrate well/cavern mechanical integrity and with prior written approval from the Office of Conservation.

3. The cavern pressure shall be stabilized before beginning the test. Stabilization shall be reached when the rate of cavern pressure change is no more than 10 PSIG during 24 hours.

4. The stabilized test pressure to apply at the surface shall be calculated with respect to the depth of the shallowest occurrence of either the cavern roof or deepest cemented casing seat and shall not exceed a pressure gradient of 0.90 PSI per foot of vertical depth. However, the well or cavern shall never be subjected to pressures that exceed the solution-mining well's maximum allowable operating pressure or exceed the rated burst or collapse

pressure of all well tubulars (cemented or hanging strings) even for short periods during testing.

5. A mechanical integrity pressure and leak test shall be run for at least 24 hours after cavern pressure stabilization and must be of sufficient time duration to ensure a sensitive test. All pressures shall be monitored and recorded continuously throughout the test. Continuous pressure recordings may be achieved through mechanical charts or may be recorded digitally. Mechanical charts shall not exceed a clock period of 24-hour duration. The chart shall be scaled such that the test pressure is 30 percent to 70 percent of full scale. All charts shall be selected such that its scaling is of sufficient sensitivity to record all fluctuations of pressure, temperature, or any other monitored parameter.

D. Submission of Pressure and Leak Test Results. One complete copy of the mechanical integrity pressure and leak test results shall be submitted to the Office of Conservation within 60 days of test completion. The report shall include the following minimum information:

1. current well and cavern completion data;
2. description of the test procedure including pretest preparation and the test method used;
3. one paper copy and an electronic version of all wireline logs performed during testing;
4. tabulation of measurements for pressure, volume, temperature, etc.;
5. interpreted test results showing all calculations including error analysis and calculated leak rates. In conducting and evaluating the tests enumerated in this Section or others to be allowed by the commissioner, the owner or operator and the commissioner shall apply methods and standards generally accepted in the industry; and
6. any information the owner or operator of the cavern determines is relevant to explain the test procedure or results.

#### E. Mechanical Integrity Test Failure

1. Without exception or variance to these rules and regulations, a solution-mining well or cavern that fails a test for mechanical integrity shall be immediately taken out of service. The failure shall be reported to the Office of Conservation according to the Notification Requirements of §3309.H. The owner or operator shall investigate the reason for the failure and shall take appropriate steps to return the solution-mining well or cavern to a full state of mechanical integrity. A solution-mining well or cavern is considered to have failed a test for mechanical integrity for the following reasons:

- a. failure to maintain a change in test pressure of no more than 10 PSIG over a 24-hour period;
- b. not maintaining nitrogen-brine interface levels according to standards applied in the solution-mining industry; or
- c. fluids are determined to have escaped from the solution-mining well or cavern during solution-mining operations.

2. Written procedures for rehabilitation of the solution-mining well or cavern, extended cavern monitoring, or abandonment (closure and post-closure) of the solution-mining well or cavern shall be submitted to the Office of Conservation within 60 days of mechanical integrity test failure.

3. Upon reestablishment of mechanical integrity of the solution-mining well or cavern and before returning either to service, a new mechanical integrity pressure and leak test shall be performed that demonstrates mechanical integrity of the solution-mining well or cavern. The owner or operator shall submit the new test results to the Office of Conservation for written approval before resuming injection operations.

4. If a solution-mining well or cavern fails to demonstrate mechanical integrity and where mechanical integrity cannot be reestablished, the Office of Conservation may require the owner or operator to begin closure of the well or cavern within six months according to an approved closure and post-closure plan.

5. If a cavern fails mechanical integrity and where rehabilitation cannot be accomplished within six months, the Office of Conservation may waive the six-month closure requirement if the owner or operator is engaged in a cavern remediation study and implements an interim cavern monitoring plan. The owner or operator must seek written approval from the Office of Conservation before implementing a salt cavern monitoring program. The basis for the Office of Conservation's approval shall be that any waiver granted shall not endanger the environment, or the health, safety and welfare of the public. The Office of Conservation may establish a time schedule for salt cavern rehabilitation, cessation of interim cavern monitoring, and eventual cavern closure and post-closure activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:337 (February 2014).

### **§3329. Cavern Configuration and Capacity Measurements**

A. Sonar caliper surveys shall be performed on all caverns. With prior approval of the Office of Conservation, the operator may use another similar proven technology designed to determine cavern configuration and measure cavern capacity as a substitute for a sonar survey.

B. Frequency of Surveys. A sonar caliper survey shall be performed at least once every five years. At least once every 10 years a sonar caliper survey, or other approved survey, shall be performed that logs the roof of the cavern. Additional surveys as specified by the Office of Conservation shall be performed for any of the following reasons regardless of frequency:

1. before commencing cavern closure operations;
2. whenever leakage into or out of the cavern is suspected;
3. after performing any remedial work to reestablish solution-mining well or cavern integrity; or
4. whenever the Office of Conservation believes a survey is warranted.

C. Submission of Survey Results. One complete copy and an electronic version of each survey shall be submitted to the Office of Conservation within 60 days of survey completion.

1. Survey readings shall be taken a minimum of every 10 feet of vertical depth. Sonar reports shall contain the following minimum information and presentations:

- a. tabulation of incremental and total cavern volume for every survey reading;
- b. tabulation of the cavern radii at various azimuths for every survey reading;
- c. tabulation of the maximum cavern radii at various azimuths;
- d. graphical plot of Cavern Depth versus Volume;
- e. graphical plot of the maximum cavern radii;
- f. vertical cross sections of the cavern at various azimuths drawn to an appropriate horizontal and vertical scale;
- g. vertical cross section overlays comparing results of current survey and previous surveys;
- h. (optional)-isometric or 3-D shade profile of the cavern at various azimuths and rotations.

2. The information submitted resulting from use of an approved alternative survey method to determine cavern configuration and measure cavern capacity shall be determined based on the method or type of survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:339 (February 2014).

### **§3331. Inactive Caverns and Caverns in which Mining Activities are to be Concluded**

A. The operator shall comply with the following minimum requirements when there has been no injection into a salt cavern for one year or the operator is prepared to conclude mining activities, regardless of the reason:

1. notify the Office of Conservation as per the requirements of §3309.I.3 and §3309.I.9;
2. disconnect all flowlines for injection to the solution-mining well. If the operator anticipates that the cavern will be put back into service within the following year, they may submit a request to the commissioner to allow the cavern to remain inactive without disconnecting the flowlines;
3. maintain continuous monitoring of cavern pressure, fluid withdrawal, and other parameters required by the permit;
4. maintain and demonstrate solution-mining well and cavern mechanical integrity if mining operations were suspended for reasons other than a lack of mechanical integrity. See §3327.B for the frequency of mechanical integrity tests;
5. maintain compliance with financial responsibility requirements of these rules and regulations; and
6. any additional requirements of the Office of Conservation to document the solution-mining well and cavern shall not endanger the environment, or the health, safety and welfare of the public during the period of cavern inactivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:339 (February 2014).

### **§3333. Operating Reports**

A. The operator shall submit quarterly operation reports to the Office of Conservation. Quarterly reports are due no later than 15 days following the end of the reporting period.



B. Quarterly reports shall be submitted electronically on Form UIC 33/34 or successor document and contain the following minimum information:

1. operator name, well name, serial number, and location of the solution-mining well;
2. wellhead pressures (PSIG) on the injection string;
3. wellhead pressure (PSIG) on the blanket material annulus;
4. volume in barrels of injected material;
5. results of any monitoring program required by permit or compliance action;
6. summary of any test of the solution-mining well or cavern;
7. summary of any workover performed during the month including minor well maintenance;
8. description of any event resulting in non compliance with these rules which triggers an alarm or shutdown device and the response taken;
9. description of any event that exceeds operating parameters for annulus pressure or injection pressure as may be specified in the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:339 (February 2014).

### §3335. Record Retention

A. The owner or operator shall retain copies of all records, data, and information concerning the design, permitting, construction, and operation of the solution-mining well, cavern, and related surface facility. Records shall be retained throughout the operating life of the solution-mining well and for five years following conclusion of any post-closure care requirements. Records, data, and information shall include, but shall not be limited to the permit application, cementing (primary and remedial), wireline logs, drill records, casing records, casing pressure tests, well recompletion records, well/cavern mechanical integrity tests, cavern capacity and configuration surveys, surface construction, post-closure activities, corrective action, sampling data, etc. Unless otherwise specified by the commissioner, monitoring records obtained pursuant to §3323.B shall be retained by the owner or operator for a minimum of five years from the date of collection. All documents shall be available for inspection by agents of the Office of Conservation at any time.

B. Should there be a change in the owner or operator of the solution-mining well, copies of all records identified in the previous paragraph shall be transferred to the new owner or operator. The new owner or operator shall then have the responsibility of maintaining such records.

C. The Office of Conservation may require the owner or operator to deliver the records to the Office of Conservation at the conclusion of the retention period. If so, the records shall be retained at a location designated by the Office of Conservation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:340 (February 2014).

### §3337. Closure and Post-Closure

A. Closure. The owner or operator shall close the solution-mining well, cavern, surface facility or parts thereof as approved by the Office of Conservation. Closure shall not

begin without written authorization from the Office of Conservation.

1. Closure Plan. Plans for closure of the solution-mining well, cavern, and related surface facility shall be submitted as part of the permit application. The closure plan shall meet the requirements of these rules and regulations and be acceptable to the Office of Conservation. The obligation to implement the closure plan survives the termination of a permit or the cessation of mining operations or related activities. The requirement to maintain and implement an approved plan is directly enforceable regardless of whether the requirement is a condition of the permit. The Office of Conservation may modify a closure plan where necessary.

2. Plugging and Abandonment. The well/cavern to be abandoned shall be in a state of static equilibrium prior to plugging.

a. A continuous column of cement shall fill the deepest cemented casing from shoe to surface via a series of balanced cement plugs and shall be accomplished as follows:

i. a balanced cement plug shall be placed across the shoe of the deepest cemented casing and tagged to verify the top of cement; and

ii. subsequent balanced cement plugs shall be spotted immediately on top of the previously-placed balanced cement plug. Each plug shall be tagged to verify the top of cement and pressure tested before the next plug is placed.

b. After placing the top plug, the operator shall be required on all land locations to cut and pull the casings a minimum of 5 feet below ground level. A 1/2 inch thick steel plate shall be welded across the top of all casings. The plate shall be inscribed with the plug and abandonment date and the well serial number on top. On all water locations, the casings shall be cut and pulled a minimum of 15 feet below the mud line.

c. The plan of abandonment may be altered if new or unforeseen conditions arise during the well work, but only after approval by the Office of Conservation.

d. Within 20 days of the completion of plugging work, the operator shall file one original and one copy of Form UIC-P&A or its successor document with the Office of Conservation.

3. Closure Plan Requirements. The owner or operator shall review the closure plan annually to determine if the conditions for closure are still applicable to the actual conditions of the solution-mining well, cavern, or surface facility. Any revision to the plan shall be submitted to the Office of Conservation for approval. At a minimum, a closure plan shall address the following:

a. assurance of financial responsibility as required in §3309.B.1. All instruments of financial responsibility shall be reviewed each year before its renewal date according to the following process:

i. a detailed cost estimate for adequate closure (plugging and abandonment) of the entire solution-mining well facility (solution-mining well, cavern, surface appurtenances, etc.) shall be prepared by a qualified professional and submitted to the Office of Conservation by the date specified in the permit;

ii. the closure plan and cost estimate shall include provisions for closure acceptable to the Office of Conservation;

iii. after reviewing the closure cost estimate, the Office of Conservation may increase, decrease or allow the amount to remain the same;

iv. documentation from the operator showing that the required financial instrument has been renewed shall be received each year by the date specified in the permit. When an operator is delinquent in submitting documentation of financial instrument renewal, the Office of Conservation shall initiate procedures to take possession of funds guaranteed by the financial instrument and suspend or revoke the operating permit. Permit suspensions shall remain in effect until renewal documentation is received and accepted by the Office of Conservation;

b. a prediction of the pressure build-up in the cavern following closure;

c. an analysis of potential pathways for leakage from the cavern, cemented casing shoe, and wellbore. Consideration shall be given to site specific elements of geology, salt cavern geometry and depth, cavern pressure build-up over time due to salt creep and other factors inherent to the salt stock and/or salt dome;

d. procedures for determining the mechanical integrity of the solution-mining well and cavern before closure;

e. removal and proper disposal of any waste or other materials remaining at the facility;

f. closing, dismantling, and removing all equipment and structures located at the surface (including site restoration) if such equipment and structures will not be used for another purpose at the same solution-mining facility;

g. the type, number, and placement of each wellbore or cavern plug including the elevation of the top and bottom of each plug;

h. the type, grade, and quantity of material to be used in plugging;

i. a description of the amount, size, and location (by depth) of casing and any other well construction materials to be left in the solution-mining well;

j. any proposed test or measurement to be made before or during closure.

#### 4. Notice of Intent to Close

a. The operator shall review the closure plan before seeking authorization to begin closure activities to determine if the conditions for closure are still relevant to the actual conditions of the solution-mining well, cavern, or surface facility. Revisions to the method of closure reflected in the plan shall be submitted to the Office of Conservation for approval no later than the date on which the notice of closure is required to be submitted as shown in the subparagraph below.

b. The operator shall notify the Office of Conservation in writing at least 30 days before the expected closure of a solution-mining well, cavern, or surface facility. Notification shall be by submission of a request for a work permit. At the discretion of the Office of Conservation, a shorter notice period may be allowed.

5. Standards for Closure. The following are minimum standards for closing the solution-mining well or cavern. The

Office of Conservation may require additional standards prior to actual closure.

a. After permanently concluding mining operations into the cavern but before closing the solution-mining well or cavern, the owner or operator shall:

i. observe and accurately record the shut-in salt cavern pressures and cavern fluid volume for no less than five years or a time period specified by the Office of Conservation to provide information regarding the cavern's natural closure characteristics and any resulting pressure buildup;

ii. using actual pre-closure monitoring data, show and provide predictions that closing the solution-mining well or cavern as described in the closure plan will not result in any pressure buildup within the cavern that could adversely affect the integrity of the solution-mining well, cavern, or any seal of the system.

b. Unless the well is being plugged and abandoned due to a failed mechanical integrity test and the condition of the casing and cavern are known, before closure, the owner or operator shall do mechanical integrity pressure and leak tests to ensure the integrity of both the solution-mining well and cavern.

c. Before closure, the owner or operator shall remove and properly dispose of any free oil or blanket material remaining in the solution-mining well or cavern.

d. Upon permanent closure, the owner or operator shall plug the solution-mining well with cement in a way that will not allow the movement of fluids into or between underground sources of drinking water or outside the salt stock.

6. Closure Report. The owner or operator shall submit a closure report to the Office of Conservation within 60 days after closure of the solution-mining well, cavern, surface facility, or part thereof. The report shall be certified as accurate by the owner or operator and by the person charged with overseeing the closure operation (if other than the owner or operator). The report shall contain the following information:

a. detailed procedures of the closure operation. Where actual closure differed from the plan previously approved, the report shall include a written statement specifying the differences between the previous plan and the actual closure;

b. one original of the appropriate Office of Conservation plug and abandon report form (Form UIC-P&A or successor); and

c. any information pertinent to the closure activity including test or monitoring data.

B. Post-Closure. Plans for post-closure care of the solution-mining well, cavern, and related surface facility shall be submitted as part of the permit application. The post-closure plan shall meet the requirements of these rules and regulations and be acceptable to the Office of Conservation. The obligation to implement the post-closure plan survives the termination of a permit or the cessation of mining operations or related activities. The requirement to maintain and implement an approved post-closure plan is directly enforceable regardless of whether the requirement is a condition of the permit. The Office of Conservation may modify a post-closure plan where necessary.

RULE

Department of Natural Resources  
Office of Conservation

Hydrocarbon Storage Wells in Salt Dome Cavities  
(LAC 43:XVII.Chapter 3)

Editor's Note: A hearing was not held pursuant to R.S. 49:968(H)(2) to incorporate the changes in this Rule. The original language of this Rule can be viewed on pages 2902-2929 of the October 20, 2013 edition of the *Louisiana Register*.

The Department of Natural Resources, Office of Conservation has amended LAC 43:XVII.Chapter 3 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The action adopts Statewide Order No. 29-M (revision 3), which provides comprehensive regulations for hydrocarbon storage wells in salt dome cavities, and will amend existing Statewide Order No. 29-M, as enacted by Act 368 and Act 369 of the 2013 Legislative Session.

Title 43

NATURAL RESOURCES

Part XVII. Office of Conservation—Injection and Mining

Subpart 3. Statewide Order No. 29-M (Rev. 3)

Chapter 3. Hydrocarbon Storage Wells in Salt Dome Cavities

§301. Definitions

*Act*—part I, chapter 1 of title 30 of the *Louisiana Revised Statutes*.

*Active Cavern Well*—a storage well or cavern that is actively being used or capable of being used to store liquid, liquefied, or gaseous hydrocarbons, including standby wells. The term does not include an *inactive cavern well*.

*Application*—the filing on the appropriate Office of Conservation form(s), including any additions, revisions, modifications, or required attachments to the form(s), for a permit to operate a hydrocarbon storage well or parts thereof.

*Aquifer*—a geologic formation, groups of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

*Blanket Material*—sometimes referred to as a "pad." The *blanket material* is a fluid placed within a cavern that is lighter than the water in the cavern and will not dissolve the salt or any mineral impurities that may be contained within the salt. The function of the blanket is to prevent unwanted leaching of the cavern roof, prevent leaching of salt from around the cemented casing, and to protect the cemented casing from internal corrosion. *Blanket material* typically consists of crude oil, diesel, mineral oil, or some fluid possessing similar noncorrosive, nonsoluble, low-density properties. The *blanket material* is placed between the cavern's outermost hanging string and innermost cemented casing.

*Brine*—water within a salt cavern that is saturated partially or completely with salt.

1. The owner or operator shall review the post-closure plan annually to determine if the conditions for post-closure are still applicable to actual conditions. Any revision to the plan shall be submitted to the Office of Conservation for approval. At a minimum, a post-closure plan shall address the following:

a. assurance of financial responsibility as required in §3309.B.1. All instruments of financial responsibility shall be reviewed each year before its renewal date according to the following process:

i. a detailed cost estimate for adequate post-closure care of the entire solution-mining well shall be prepared by a qualified, independent third party and submitted to the Office of Conservation by the date specified in the permit;

ii. the post-closure care plan and cost estimate shall include provisions acceptable to the Office of Conservation and shall reflect the costs for the Office of Conservation to complete the approved post-closure care of the facility;

iii. after reviewing the post-closure cost estimate, the Office of Conservation may increase, decrease or allow the amount to remain the same. The Office of Conservation will send notification of any change needed to the operator;

iv. documentation from the operator showing that the required financial instrument has been renewed must be received each year by the date specified in the permit. When an operator is delinquent in submitting documentation of financial instrument renewal, the Office of Conservation shall initiate procedures to take possession of the funds guaranteed by the financial instrument and suspend or revoke the operating permit. Any permit suspension shall remain in effect until renewal documentation is received and accepted by the Office of Conservation.

b. any plans for monitoring, corrective action, site remediation, site restoration, etc., as may be necessary.

2. Where necessary and as an ongoing part of post-closure care, the owner or operator shall continue the following activities:

a. conduct subsidence monitoring for a period of no less than 10 years after closure of the facility;

b. complete any corrective action or site remediation resulting from the operation of a solution-mining well;

c. conduct any groundwater monitoring by the permit until pressure in the cavern displays a trend of behavior that can be shown to pose no threat to cavern integrity, underground sources of drinking water, or other natural resources of the state;

d. complete any site restoration.

3. The owner or operator shall retain all records as required in §3335 for five years following conclusion of post-closure requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:340 (February 2014).

James H. Welsh  
Commissioner

1402#043

*Cap Rock*—the porous and permeable strata immediately overlying all or part of the salt stock of some salt structures typically composed of anhydrite, gypsum, limestone, and occasionally sulfur.

*Casing*—metallic pipe placed and cemented in the wellbore for the purpose of supporting the sides of the wellbore and to act as a barrier preventing subsurface migration of fluids out of or into the wellbore.

*Catastrophic Collapse*—the sudden failure of the overlying strata caused by the removal or otherwise weakening of underlying sediments.

*Cavern Roof*—the uppermost part of a cavern being just below the neck of the wellbore. The shape of the salt cavern roof may be flat or domed.

*Cavern Well*—a well extending into the salt stock to facilitate the injection and withdrawal of fluids into a salt cavern.

*Cementing*—the operation (either primary, secondary, or squeeze) whereby a cement slurry is pumped into a drilled hole and/or forced behind the casing.

*Circulate to the Surface*—the observing of actual cement returns to the surface during the primary cementing operation.

*Closed Cavern Well*—a storage well or cavern that is no longer used or capable of being used to store liquid, liquefied, or gaseous hydrocarbons and is thus subject to the closure and post-closure requirements of §337. The term does not include an inactive well or a previously closed well.

*Commissioner*—the *commissioner* of conservation of the state of Louisiana.

*Contamination*—the introduction of substances or contaminants into a groundwater aquifer, a USDW or soil in such quantities as to render them unusable for their intended purposes.

*Discharge*—the placing, releasing, spilling, percolating, draining, pumping, leaking, mixing, migrating, seeping, emitting, disposing, by-passing, or other escaping of pollutants on or into the air, ground, or waters of the state. A *discharge* shall not include that which is allowed through a federal or state permit.

*Effective Date*—the date of final promulgation of these rules and regulations.

*Emergency Shutdown Valve*—for the purposes of these rules, a valve that automatically closes to isolate a salt cavern well from surface piping in the event of a specified condition that, if uncontrolled, may cause an emergency.

*Exempted Aquifer*—an aquifer or its portion that meets the criteria of the definition of underground source of drinking water but which has been exempted according to the procedures set forth in §303.E.2.

*Existing Cavern Well or Storage Project*—a well, salt cavern, or project permitted to store liquid, liquefied, or gaseous hydrocarbons before the effective date of these regulations.

*Facility or Activity*—any *facility* or *activity*, including land or appurtenances thereto, that is subject to these regulations.

*Fluid*—any material or substance that flows or moves whether in a semisolid, liquid, sludge, gas or any other form or state.

*Ground Subsidence*—the downward settling of the earth's surface with little or no horizontal motion in response to natural or manmade subsurface actions.

*Groundwater Aquifer*—water in the saturated zone beneath the land surface that contains less than 10,000 mg/l total dissolved solids.

*Groundwater Contamination*—the degradation of naturally occurring groundwater quality either directly or indirectly as a result of human activities.

*Hanging String*—casing whose weight is supported at the wellhead and hangs vertically in a larger cemented casing or another larger *hanging string*.

*Hydrocarbon Storage Cavern*—a salt cavern created within the salt stock by solution mining and used to store liquid, liquefied, or gaseous hydrocarbons.

*Improved Sinkhole*—a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface.

*Inactive Cavern Well*—a storage well or cavern that is capable of being used to store liquid, liquefied, or gaseous hydrocarbons but is not being so used, as evidenced by the filing of a written notice with the Office of Conservation in accordance with §309.I.3 and §331.

*Injection and Mining Division*—the *Injection and Mining Division* of the Louisiana Office of Conservation within the Department of Natural Resources.

*Injection Well*—a well into which fluids are injected other than fluids associated with active drilling operations.

*Injection Zone*—a geological formation, group of formations or part of a formation receiving fluids through an injection well.

*Leaching*—the process of introducing an under-saturated fluid into a salt cavern thereby dissolving additional salt and increasing the volume of the salt cavern.

*Mechanical Integrity*—an injection well has *mechanical integrity* if there is no significant leak in the casing, tubing, or packer and there is no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore.

*Migrating*—any movement of fluids by leaching, spilling, discharging, or any other uncontained or uncontrolled manner, except as allowed by law, regulation, or permit.

*New Cavern Well*—a storage well or cavern permitted after the effective date of these regulations.

*Office of Conservation*—the Louisiana *Office of Conservation* within the Department of Natural Resources.

*Open Borehole*—that portion of a well below the production casing and above the salt cavern.

*Operator*—the person recognized by the Office of Conservation as being responsible for the physical operation of the facility or activity subject to regulatory authority under these rules and regulations.

*Owner*—the person recognized by the Office of Conservation as owning the facility or activity subject to regulatory authority under these rules and regulations.

*Permit*—an authorization, license, or equivalent control document issued by the commissioner to implement the requirements of these regulations. *Permit* includes, but is not limited to, area *permits* and emergency *permits*. *Permit* does not include UIC authorization by rule or any *permit* which has not yet been the subject of final agency action, such as a draft *permit*.

*Person*—an individual, association, partnership, public or private corporation, firm, municipality, state or federal agency and any agent or employee thereof, or any other juridical *person*.

*Post-Closure Care*—the appropriate monitoring and other actions (including corrective action) needed following cessation of a storage project to ensure that USDWs are not endangered.

*Previously Closed Cavern Well*—a storage well or cavern that is no longer used or capable of being used to store liquid, liquefied, or gaseous hydrocarbons and was closed prior to the effective date of these regulations.

*Produced Water*—liquids and suspended particulate matter that is obtained by processing fluids brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations, with underground storage of hydrocarbons, or with solution mining for brine.

*Public Water System*—a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals. Such term includes:

1. any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and
2. any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

*Project*—a group of wells or salt caverns used in a single operation.

*Release*—the accidental or intentional spilling, pumping, leaking, pouring, emitting, leaching, escaping, or dumping of pollutants into or on any air, land, groundwater, or waters of the state. A *release* shall not include that which is allowed through a federal or state permit.

*Salt Dome*—a diapiric, typically circular structure that penetrates, uplifts, and deforms overlying sediments as a result of the upward movement of a salt stock in the subsurface. Collectively, the *salt dome* includes the salt stock and any overlying uplifted sediments.

*Salt Stock*—a typically cylindrical formation composed chiefly of an evaporite mineral that forms the core of a salt dome. The most common form of the evaporite mineral is halite known chemically as sodium chloride (NaCl). Cap rock shall not be considered a part of the *salt stock*.

*Schedule of Compliance*—a schedule or remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the act and these regulations.

*Site*—the land or water area where any facility or activity is physically located or conducted including adjacent land used in connection with the facility or activity.

*Solution-Mined Salt Cavern*—a cavity or cavern created within the salt stock by dissolution with water.

*Solution Mining Injection Well*—a well used to inject fluids, other than fluids associated with active drilling operations, for the extraction of minerals or energy.

*State*—the state of Louisiana.

*Subsidence*—see *ground subsidence*.

*Surface Casing*—the first string of casing installed in a well, excluding conductor casing.

*UIC*—the Louisiana State Underground Injection Control Program.

*Unauthorized Discharge*—a continuous, intermittent, or one-time discharge, whether intentional or unintentional, anticipated or unanticipated, from any permitted or unpermitted source which is in contravention of any provision of the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.) or of any permit or license terms and conditions, or of any applicable regulation, compliance schedule, variance, or exception of the commissioner of conservation.

*Underground Source of Drinking Water*—an aquifer or its portion:

1. which supplies any public water system; or
2. which contains a sufficient quantity of groundwater to supply a public water system; and
  - a. currently supplies drinking water for human consumption; or
  - b. contains fewer than 10,000 mg/1 total dissolved solids; and which is not an exempted aquifer.

*USDW*—see *underground source of drinking water*.

*Waters of the State*—both surface and underground waters within the state of Louisiana including all rivers, streams, lakes, ground waters, and all other water courses and waters within the confines of the state, and all bordering waters, and the Gulf of Mexico.

*Well*—a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or an improved sinkhole; or, a subsurface fluid distribution system.

*Well Plug*—a fluid-tight seal installed in a borehole or well to prevent the movement of fluids.

*Well Stimulation*—several processes used to clean the well bore, enlarge channels, and increase pore space in the interval to be injected thus making it possible for injection fluids to move more readily into the formation, and includes such actions as:

1. surging;
2. jetting;
3. blasting;
4. acidizing;
5. hydraulic fracturing.

*Workover*—to perform one or more of a variety of remedial operations on an injection well, such as cleaning, perforation, changing tubing, deepening, squeezing, plugging back, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 3:310 (July 1977), amended LR 40:342 (February 2014).

### §303. General Provisions

#### A. Applicability

1. These rules and regulations shall apply to applicants, owners, or operators of a solution-mined salt cavern to store liquid, liquefied, or gaseous hydrocarbons.

2. That except as to liquid, liquefied, or gaseous hydrocarbon storage projects begun before October 1, 1976, no such project to develop or use a salt dome in the state of Louisiana for the injection, storage and withdrawal of liquid, liquefied, or gaseous hydrocarbons shall be allowed until the commissioner has issued an order following a public hearing

after 30-day notice, under the rules covering such matters, which order shall include the following findings of fact:

a. that the area of the salt dome sought to be used for the injection, storage, and withdrawal of liquid, liquefied, or gaseous hydrocarbons is suitable and feasible for such use as to area, salt volume, depth and other physical characteristics;

b. that the use of the salt dome cavern for the storage of liquid, liquefied, or gaseous hydrocarbons will not contaminate other formations containing fresh water, oil, gas, or other commercial mineral deposits, except salt;

c. that the proposed storage, including all surface pits and surface storage facilities incidental thereto which are used in connection with the salt dome cavern storage operation, will not endanger lives or property and is environmentally compatible with existing uses of the salt dome area, and which order shall provide that:

i. liquid, liquefied, or gaseous hydrocarbons, which are injected and stored in a salt dome cavern, shall at all times be deemed the property of the injector, his successors or assigns, subject to the provisions of any contract with the affected land or mineral owners; and

ii. in no event shall the owner of the surface of the lands or water bottoms or of any mineral interest under or adjacent to which the salt dome cavern may lie, or any other person, be entitled to any right of claim in or to such liquid, liquefied, or gaseous hydrocarbons stored unless permitted by the injector;

d. that temporary loss of jobs caused by the storage of liquid, liquefied, or gaseous hydrocarbons will be corrected by compensation, finding of new employment, or other provisions made for displaced labor.

3. That in presenting evidence to the commissioner to enable him to make the findings described above, the applicant shall demonstrate that the proposed storage of liquid, liquefied, or gaseous hydrocarbons will be conducted in a manner consistent with established practices to preserve the integrity of the salt deposit and the overlying sediments. This shall include an assessment of the stability of the proposed cavern design, particularly with regard to the size, shape and depth of the cavern, the amount of separation among caverns, the amount of separation between the outermost cavern wall and the periphery of the salt deposit, and any other requirements of this Rule.

4. That these regulations shall apply to all liquid, liquefied, or gaseous hydrocarbon storage projects begun before October 1, 1976, as specified in §303.A.2, except for the requirements under §307 and §311.A-H. Any liquid, liquefied, or gaseous hydrocarbon storage projects begun before October 1, 1976 shall fulfill the requirements of §309.K within one year of the effective date of these regulations.

#### B. Prohibition of Unauthorized Injection

1. The construction, conversion, or operation of a hydrocarbon storage well or salt cavern without obtaining a permit from the Office of Conservation is a violation of these rules and regulations and applicable laws of the state of Louisiana.

2. For existing hydrocarbon storage caverns that are in compliance with Statewide Order No. 29-M, but not in compliance with Statewide Order No. 29-M (Revision 3) as of the effective date of these rules, they may continue to

operate for one year under Statewide Order No. 29M. Within that year, the owner or operator must submit an alternate means of compliance or a request for a variance pursuant to §303.F and/or present a corrective action plan to meet the requirements of Statewide Order No. 29-M (Revision 3). During the review period of the request until a final determination is made regarding the alternate means of compliance or variance and/or corrective action plan, the affected hydrocarbon storage well may continue to operate in compliance with Statewide Order No. 29-M in effect as of the effective date of these regulations.

3. By no later than one year after the effective date of these rules the owner or operator shall provide for review documentation of any variance previously authorized by the Office of Conservation. Based on that review, the commissioner may terminate, modify, or revoke and reissue the existing permit with the variance if it is determined that continued operations cannot be conducted in a way that is protective of the environment, or the health, safety, and welfare of the public. The process for terminating, modifying, or revoking and reissuing the permit with the variance is set forth in 311.K. During the review period the affected hydrocarbon storage well may continue to operate in compliance with such variance. If the commissioner does not terminate, modify, or revoke and reissue the existing permit, the affected solution-mining well may continue to operate in compliance with such variance.

#### C. Prohibition on Movement of Fluids into Underground Sources of Drinking Water

1. No authorization by permit shall allow the movement of injected or stored fluids into underground sources of drinking water or outside the salt stock. The owner or operator of the hydrocarbon storage well shall have the burden of showing that this requirement is met.

2. The Office of Conservation may take emergency action upon receiving information that injected or stored fluid is present in or likely to enter an underground source of drinking water or may present an imminent and substantial endangerment to the environment, or the health, safety and welfare of the public.

D. Prohibition of Surface Discharges. The intentional, accidental, or otherwise unauthorized discharge of fluids, wastes, or process materials into manmade or natural drainage systems or directly into waters of the state is prohibited.

#### E. Identification of Underground Sources of Drinking Water and Exempted Aquifers

1. The Office of Conservation may identify (by narrative description, illustrations, maps, or other means) and shall protect as an underground source of drinking water, except where exempted under §303.E.2 all aquifers or parts of aquifers that meet the definition of an underground source of drinking water. Even if the Office of Conservation has not specifically identified an aquifer, it is an underground source of drinking water if it meets the definition.

2. After notice and opportunity for a public hearing, the Office of Conservation may identify (by narrative description, illustrations, maps, or other means) and describe in geographic or geometric terms (such as vertical and lateral limits and gradient) that are clear and definite, all aquifers or parts thereof that the Office of Conservation proposes to

denote as exempted aquifers if they meet the following criteria:

a. the aquifer does not currently serve as a source of drinking water; and

b. the aquifer cannot now and shall not in the future serve as a source of drinking water because:

i. it is mineral, hydrocarbon, or geothermal energy producing or can be demonstrated to contain minerals or hydrocarbons that when considering their quantity and location are expected to be commercially producible;

ii. it is situated at a depth or location that makes recovery of water for drinking water purposes economically or technologically impractical;

iii. it is so contaminated that it would be economically or technologically impractical to render said water fit for human consumption; or

iv. it is located in an area subject to severe subsidence or catastrophic collapse; or

c. the total dissolved solids content of the groundwater is more than 3,000 mg/l and less than 10,000 mg/l and it is not reasonably expected to supply a public water system.

#### F. Exceptions/Variations/Alternative Means of Compliance

1. Except where noted in specific provisions of these rules and regulations, the Office of Conservation may allow, on a case-by-case basis, exceptions or variances to these rules and regulations. It shall be the obligation of the applicant, owner, or operator to show that the requested exception or variance and any associated mitigating measures shall not result in an unacceptable increase of endangerment to the environment, or the health, safety and welfare of the public. The applicant, owner, or operator shall submit a written request to the Office of Conservation detailing the reason for the requested exception or variance. No deviation from the requirements of these rules or regulations shall be undertaken by the applicant, owner, or operator without prior written authorization from the Office of Conservation.

a. When injection does not occur into, through, or above an underground source of drinking water, the commissioner may authorize a hydrocarbon storage well or project with less stringent requirements for area-of review, construction, mechanical integrity, operation, monitoring, and reporting than required herein to the extent that the reduction in requirements will not result in an increased risk of movements of fluids into an underground source of drinking water or endanger the public.

b. The commissioner shall issue an order explaining the reasons for the action when reducing requirements under this Section.

2. Granting of exceptions or variances to these rules and regulations shall only be considered upon proper showing by the applicant, owner, or operator at a public hearing that such exception or variance is reasonable, justified by the particular circumstances, and consistent with the intent of these rules and regulations regarding physical and environmental safety and the prevention of waste. The requester of the exception or variance shall be responsible for all costs associated with a public hearing.

3. Hydrocarbon storage caverns in existence, as of the effective date of these rules, or hydrocarbon storage wells

and/or caverns with approved applications containing information submitted pursuant to Subsection 307.F, may operate in accordance with alternative means of compliance approved by the commissioner of conservation. Alternative means of compliance shall mean operations that are capable of demonstrating a level of performance, which meets or exceeds the standards contemplated by these regulations. Owners or operators of caverns existing at the time of these rules may submit alternative means of compliance to be approved by the commissioner of conservation. The commissioner may review and approve upon finding that the alternative means of compliance meet, ensure, and comply with the purpose of the rules and regulations set forth herein provided the proposed alternative means of compliance ensures comparable or greater safety of personnel and property, protection of the environment and public, quality of operations and maintenance, and protection of the USDW.

G. Additional Requirements. The commissioner may prescribe additional requirements for hydrocarbon storage wells or projects in order to protect USDWs and the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 3:310 (July 1977), amended LR 40:344 (February 2014).

### §305. Permit Requirements

A. Applicability. No person shall construct, convert, or operate a hydrocarbon storage well or cavern without first obtaining written authorization (permit) from the Office of Conservation.

B. Application Required. Applicants for a hydrocarbon storage well or cavern, permittees with expiring permits, or any person required to have a permit shall complete, sign, and submit an application form with all required attachments and documentation to the Office of Conservation. The complete application shall contain all information necessary to show compliance with applicable state laws and these regulations.

C. Who Applies. It is the duty of the owner or proposed owner of a facility or activity to submit a permit application and obtain a permit. When a facility or activity is owned by one person and operated by another, it is the duty of the operator to file and obtain a permit.

D. Signature Requirements. All permit applications shall be signed as follows.

1. Corporations. By a principal executive officer of at least the level of vice-president, or duly authorized representative of that person if the representative performs similar policy making functions for the corporation. A person is a duly authorized representative only if:

a. the authorization is made in writing by a principal executive officer of at least the level of vice-president;

b. the authorization specifies either an individual or position having responsibility for the overall operation of a hydrocarbon storage facility, such as the position of plant manager, superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. the written authorization is submitted to the Office of Conservation.

2. Limited Liability Company (LLC). By a member if the LLC is member-managed, by a manager if the LLC is manager-managed, or by a duly authorized representative only if:

a. the authorization is made in writing by an individual who would otherwise have signature authority as outlined in §305.D.2 above;

b. the authorization specifies either an individual or position having responsibility for the overall operation of a hydrocarbon storage well, such as the position of plant manager, superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. the written authorization is submitted to the Office of Conservation.

3. Partnership or Sole Proprietorship. By a general partner or proprietor, respectively; or

4. Public Agency. By either a principal executive officer or a ranking elected official of a municipality, state, federal, or other public agency.

E. Signature Reauthorization. If an authorization above is no longer accurate because a different individual or position has responsibility for the overall operation of a hydrocarbon storage facility, a new authorization satisfying the signature requirements must be submitted to the Office of Conservation before or concurrent with any reports, information, or applications required to be signed by an authorized representative.

F. Certification. Any person signing an application shall make the following certification on the application.

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine, and/or imprisonment."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:346 (February 2014).

### §307. Application Content

A. The following minimum information shall be submitted in a permit application. The applicant shall also refer to the appropriate application form for any additional information that may be required.

B. Administrative information:

1. all required state application form(s);
2. nonrefundable application fee(s) as per LAC 43:XIX.Chapter 7 or successor document;
3. name and mailing address of the applicant and the physical address of the hydrocarbon storage facility;
4. operator's name, address, telephone number, and e-mail address;
5. ownership status as federal, state, private, public, or other entity;
6. brief description of the nature of the business associated with the activity;
7. activity or activities conducted by the applicant which require the applicant to obtain a permit under these regulations;

8. up to four SIC codes which best reflect the principal products or services provided by the facility;

9. a listing of all permits or construction approvals that the applicant has received or applied for under any of the following programs and which specifically affect the legal or technical ability of the applicant to undertake the activity or activities to be conducted by the applicant under the permit being sought:

- a. the Louisiana hazardous waste management;
- b. this or any other underground injection control program;
- c. NPDES Program under the Clean Water Act;
- d. Prevention of Significant Deterioration (PSD) Program under the Clean Air Act;
- e. Nonattainment Program under the Clean Air Act;
- f. National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;
- g. ocean dumping permit under the Marine Protection Research and Sanctuaries Act;
- h. dredge or fill permits under section 404 of the Clean Water Act; and
- i. other relevant environmental permits including, but not limited to any state permits issued under the Louisiana Coastal Resources Program, the Louisiana Surface Mining Program, or the Louisiana Natural and Scenic Streams System;

10. acknowledgment as to whether the facility is located on Indian lands or other lands under the jurisdiction or protection of the federal government, or whether the facility is located on state water bottoms or other lands owned by or under the jurisdiction or protection of the state of Louisiana;

11. documentation of financial responsibility for closure and post-closure, or documentation of the method by which proof of financial responsibility for closure and post-closure will be provided. Before making a final permit decision, the instrument of financial responsibility for closure and post-closure must be submitted to and approved by the Office of Conservation;

12. names and addresses of all property owners within the area of review of the solution-mined cavern.

C. Maps and related information:

1. certified location plat of the hydrocarbon storage well prepared and certified by a registered civil engineer or registered land surveyor. The location plat shall be prepared according to standards of the Office of Conservation;

2. topographic or other map(s) extending at least one mile beyond the property boundaries of the hydrocarbon storage facility depicting the facility and each well where fluids are injected underground, and those wells, springs, or surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area;

3. the section, township and range of the area in which the hydrocarbon storage well is located and any parish, city or municipality boundary lines within one mile of the facility location;

4. map(s) showing the hydrocarbon storage well for which the permit is sought, the project area or property boundaries of the facility in which the hydrocarbon storage well is located, and the applicable area-of-review. Within the



area-of-review, the map(s) shall show the well name, well number, well state serial number, and location of all existing producing wells, injection wells, abandoned wells and dry holes, public water systems and water wells. The map(s) shall also show surface bodies of water, mines (surface and subsurface), quarries, and other pertinent surface features including residences and roads. Only information of public record and pertinent information known to the applicant is required to be included on the map(s);

5. maps and cross-sections indicating the vertical limits of all underground sources of drinking water within the area-of-review, their position relative to the injection formation, and the direction of water movement, where known, in every underground source of drinking water which may be affected by the proposed injection;

6. generalized maps and cross sections illustrating the regional geologic setting;

7. structure contour mapping of the salt stock on a scale no smaller than 1 inch to 500 feet;

8. maps and vertical cross sections detailing the geologic structure of the local area. The cross sections shall be structural (as opposed to stratigraphic cross sections), be referenced to sea level, show the hydrocarbon storage well and the cavern being permitted, all surrounding salt caverns regardless of use and current status, conventional (room and pillar) mines, and all other boreholes and wells that penetrate the salt stock. Cross-sections should be oriented to indicate the closest approach to surrounding caverns, boreholes, wells, the edge of the salt stock, etc. and shall extend at least one mile beyond the edge of the salt stock unless the edge of the salt stock and any existing oil and gas production can be demonstrated in a shorter distance and is administratively approved by the Office of Conservation. Salt caverns shall be depicted on the cross sections using data from the most recent salt cavern sonar. Known faulting in the area shall be illustrated on the cross sections such that the displacement of subsurface formations is accurately depicted;

9. sufficient information, including data and maps, to enable the Office of Conservation to identify oil and gas activity in the vicinity of the salt dome and potential effects upon the proposed well; and

10. any other information required by the Office of Conservation to evaluate the hydrocarbon storage well, salt cavern, storage project, and related surface facility.

D. Area-of-Review Information. Refer to §313.E for area-of-review boundaries and exceptions. Only information of public record or otherwise known to the applicant need be researched or submitted with the application, however, a diligent effort must be made to identify all wells and other manmade structures that penetrate or are within the salt stock in response to the area-of-review requirements. The applicant shall provide the following information on all wells or structures within the defined area-of-review:

1. a discussion of the protocol used by the applicant to identify wells and manmade structures that penetrate or are within the salt stock in the defined area-of-review;

2. a tabular listing of all known water wells in the area-of-review to include the name of the operator, well location, well depth, well use (domestic, irrigation, public, etc.) and current well status (active, abandoned, etc.);

3. a tabular listing of all known wells (excluding water wells) in the area-of-review with penetrations into the cap rock or salt stock to include at a minimum:

a. operator name, well name and number, state serial number (if assigned), and well location;

b. well type and current well status (producing, disposal, storage, solution mining, shut-in, plugged and abandoned), date the well was drilled, and the date the current well status was assigned;

c. well depth, construction, completion (including completion depths), plug and abandonment data; and

d. any additional information the commissioner may require;

4. the following information shall be provided on manmade structures within the salt stock regardless of use, depth of penetration, or distance to the hydrocarbon storage well or cavern being the subject of the application:

a. a tabular listing of all salt caverns to include:

i. operator name, well name and number, state serial number, and well location;

ii. current or previous use of the cavern (waste disposal, hydrocarbon storage, solution mining), current status of the cavern (active, shut-in, plugged and abandoned), date the well was drilled, and the date the current well status was assigned;

iii. cavern depth, construction, completion (including completion depths), plug and abandonment data;

b. a tabular listing of all conventional (dry or room and pillar) mining activities, whether active or abandoned. The listing shall include the following minimum items:

i. owner or operator name and address;

ii. current mine status (active, abandoned);

iii. depth and boundaries of mined levels;

iv. the closest distance of the mine in any direction to the hydrocarbon storage well and cavern.

E. Technical Information. The applicant shall submit, as an attachment to the application form, the following minimum information:

1. for existing caverns, the results of a current cavern sonar survey and mechanical integrity pressure and leak tests;

2. corrective action plan required by §313.F for wells or other manmade structures within the area-of-review that penetrate the salt stock but are not properly constructed, completed, or plugged and abandoned;

3. plans for performing the geological, geomechanical, engineering, and other site assessment studies of §313 to assess the stability of the salt stock and overlying and surrounding sediments based on past, current, and planned well and cavern operations. If such studies are complete, submit the results obtained along with an interpretation of the results;

4. properly labeled schematic of the surface construction details of the hydrocarbon storage well to include the wellhead, gauges, flowlines, and any other pertinent details;

5. properly labeled schematic of the subsurface construction and completion details of the hydrocarbon storage well and cavern to include borehole diameters; all cemented casings with cement specifications, casing

specifications (size, depths, etc.); all hanging strings showing sizes and depths set; total depth of well; top, bottom, and diameter of cavern; and any other pertinent details;

6. surface site diagram(s) of the facility in which the hydrocarbon storage well is located, including but not limited to surface pumps, piping and instrumentation, controlled access roads, fenced boundaries, field offices, monitoring and safety equipment, etc.;

7. unless already obtained, a proposed formation testing program to obtain the geomechanical properties of the salt stock;

8. proposed injection and withdrawal procedures;

9. plans and procedures for operating the hydrocarbon storage well, cavern, and related surface facility to include at a minimum:

a. average and maximum daily rate and volume of fluid to be injected;

b. average and maximum injection pressure; and

c. the cavern design requirements of §315, including, but not limited to cavern spacing requirements;

d. enhanced monitoring plan implementation for any existing cavern within the mandatory setback distance location of §315.B.3;

e. the well construction and completion requirements of §317, including, but not limited to open borehole surveys, casing and cementing, casing and casing seat tests, cased borehole surveys, hanging strings, and wellhead components and related connections;

f. the operating requirements of §319, including, but not limited to cavern roof restrictions, blanket material, remedial work, well recompletion, multiple well caverns, cavern allowable operating pressure and rates, and disposition of extracted cavern fluid for pressure management.

g. the safety requirements of §321, including, but not limited to an emergency action plan, controlled site access, facility identification, personnel, wellhead protection and identification, valves and flowlines, alarm systems, emergency shutdown valves, systems test and inspections, and surface facility retaining walls and spill containment, contingency plans to cope with all shut-ins as a result of noncompliance with these regulations or well failures to prevent the migration of contaminating fluids into underground sources of drinking water;

h. the monitoring requirements of §323, including, but not limited to equipment requirements such as pressure gauges, pressure sensors and flow sensors, continuous recording instruments, and subsidence monitoring, as well as a description of methods that will be undertaken to monitor cavern growth;

i. the pre-operating requirements of §325, specifically the submission of a completion report, and the information required therein;

j. the mechanical integrity pressure and leak test requirements of §327, including, but not limited to frequency of tests, test methods, submission of pressure and leak test results, and notification of test failures;

k. the cavern configuration and capacity measurement procedures of §329, including, but not limited to sonar caliper surveys, frequency of surveys, and submission of survey results;

l. the requirements for inactive caverns in §331;

m. the reporting requirements of §333, including, but not limited to the information required in monthly operation reports;

n. the record retention requirements of §335;

o. the closure and post-closure requirements of §337, including, but not limited to closure plan requirements, notice of intent to close, standards for closure, and post-closure requirements;

p. any other information pertinent to the operation of the hydrocarbon storage well, including, but not limited to any waiver for surface siting, monitoring equipment and safety procedures.

F. If an alternative means of compliance has previously been approved by the commissioner of conservation within an area permit, applicants may submit means of compliance for new applications for wells and/or storage caverns within the same area permit in order to meet the requirements of E.9.f, g, and h of this Section.

G. Confidentiality of Information. In accordance with R.S. 44.1 et seq., any information submitted to the Office of Conservation pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application for, or instructions or, in the case of other submissions, by stamping the words "Confidential Business Information" on each page containing such information. If no claim is made at the time of submission, the Office of Conservation may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in R.S. 44.1 et seq. (public information).

1. Claims of confidentiality for the following information will be denied:

a. the name and address of any permit applicant or permittee; and

b. information which deals with the existence, absence, or level of contaminants in drinking water or zones other than the approved injection zone.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:347 (February 2014).

### **§309. Legal Permit Conditions**

A. Signatories. All reports required by permit or regulation and other information requested by the Office of Conservation shall be signed as in applications by a person described in §305.D or §305.E.

#### **B. Financial Responsibility**

1. Closure and Post-Closure. The owner or operator of a hydrocarbon storage well shall maintain financial responsibility and the resources to close, plug and abandon and where necessary, post-closure care of the hydrocarbon storage well, cavern, and related facility as prescribed by the Office of Conservation. Evidence of financial responsibility shall be by submission of a surety bond, a letter of credit, certificate of deposit, or other instrument acceptable to the Office of Conservation. The amount of funds available shall be no less than the amount identified in the cost estimate of the closure plan of §337.A and post-closure plan of §337.B. Any financial instrument filed in satisfaction of these

financial responsibility requirements shall be issued by and drawn on a bank or other financial institution authorized under state or federal law to operate in the state of Louisiana. In the event that an operator has previously provided financial security pursuant to LAC 43: XVII.309, such operator shall provide increased financial security if required to remain in compliance with this Section, within 30 days after notice from the commissioner.

2. **Renewal of Financial Responsibility.** Any approved instrument of financial responsibility coverage shall be renewable yearly. Financial security shall remain in effect until release thereof is granted by the commissioner pursuant to written request by the operator. Such release shall only be granted after plugging and abandonment and associated site restoration is completed and inspection thereof indicates compliance with applicable regulations or upon transfer of such well approved by the commissioner.

C. **Duty to Comply.** The operator must comply with all conditions of a permit. Any permit noncompliance is a violation of the act, the permit and these rules and regulations and is grounds for enforcement action, permit termination, revocation and possible reissuance, modification, or denial of any future permit renewal applications if the commissioner determines that such noncompliance endangers underground sources of drinking water. If the commissioner determines that such noncompliance is likely to endanger underground sources of drinking water, it shall be the duty of the operator to prove that continued operation of the hydrocarbon storage well shall not endanger the environment, or the health, safety and welfare of the public.

D. **Duty to Halt or Reduce Activity.** It shall not be a defense for an owner or operator in an enforcement action to claim it would have been necessary to halt or reduce the permitted activity to maintain compliance with the conditions of this Rule or permit.

E. **Duty to Mitigate.** The owner or operator shall take all reasonable steps to minimize or correct any adverse impact on the environment such as the contamination of underground sources of drinking water resulting from a noncompliance with the permit or these rules and regulations.

F. **Proper Operation and Maintenance**

1. The operator shall always properly operate and maintain all facilities and systems of injection, withdrawal, and control (and related appurtenances) installed or used to achieve compliance with the permit or these rules and regulations. Proper operation and maintenance include effective performance (including well and cavern mechanical integrity), adequate funding, adequate operation, staffing and training, and adequate process controls. This provision requires the operation of back-up, auxiliary facilities, or similar systems when necessary to achieve compliance with the conditions of the permit or these rules and regulations.

2. The operator shall address any unauthorized escape, discharge, or release of any material from the hydrocarbon well, or part thereof that is in violation of any state or federal permit or which is not incidental to normal operations, with a corrective action plan. The plan shall address the cause, delineate the extent, and determine the overall effects on the environment resulting from the escape, discharge, or release.

The Office of Conservation shall require the operator to formulate a plan to remediate the escaped, discharged, or released material if the material is believed to have entered or has the possibility of entering an underground source of drinking water.

3. The operator shall agree to provide the following.

a. Assistance to residents of areas deemed to be at immediate potential risk in the event of a sinkhole developing or other incident that requires an evacuation if the potential risk or evacuation is associated with the operation of the solution-mining well or cavern.

b. Reimbursement to the state or any political subdivision of the state for reasonable and extraordinary costs incurred in responding to or mitigating a disaster or emergency due to a violation of this Chapter or any rule, regulation or order promulgated or issued pursuant to this Chapter. Such costs shall be subject to approval by the director of the Governor's Office of Homeland Security and Emergency Preparedness prior to being submitted to the permittee for reimbursement. Such payments shall not be construed as an admission of responsibility or liability for the emergency or disaster.

4. The Office of Conservation may immediately prohibit further operations if it determines that continued operations at a hydrocarbon storage well, or part thereof, may cause unsafe operating conditions, or endanger the environment, or the health, safety and welfare of the public. The prohibition shall remain in effect until it is determined that continued operations can and shall be conducted safely. It shall be the duty of the operator to prove that continued operation of the hydrocarbon storage well, or part thereof, shall not endanger the environment, or the health, safety and welfare of the public.

G. **Inspection and Entry.** Inspection and entry at a hydrocarbon storage well facility by Office of Conservation personnel shall be allowed as prescribed in R.S. 30:4.

H. **Property Rights.** The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege or servitude.

I. **Notification Requirements.** The operator shall give written, and where required, verbal notice to the Office of Conservation concerning activities indicated herein.

1. Any change in the principal officers, management, owner or operator of the hydrocarbon storage well shall be reported to the Office of Conservation in writing within 10 days of the change.

2. Planned physical alterations or additions to the hydrocarbon storage well, cavern, surface facility or parts thereof that may constitute a modification or amendment of the permit. No mechanical integrity tests, sonar caliper surveys, remedial work, well or cavern abandonment, or any test or work on a cavern well (excluding an interface survey not associated with a mechanical integrity test) shall be performed without prior authorization from the Office of Conservation. The operator must submit the appropriate work permit request form (Form UIC-17 or subsequent document) for approval.

3. Whenever a hydrocarbon storage cavern is removed from service and the cavern is expected to remain out of service for one year or more, the operator shall notify the Office of Conservation in writing within seven days of the cavern becoming inactive (out-of-service). The notification

shall include the date the cavern was removed from service, the reason for taking the cavern out of service, and the expected date, if known, when the cavern may be returned to service. See §331 for additional requirements for inactive caverns.

4. The operator of a new or converted hydrocarbon storage well shall not begin storage operations until the Office of Conservation has been notified of the following:

a. well construction or conversion is complete, including submission of a notice of completion, a completion report, and all supporting information (e.g., as-built diagrams, records, sampling and testing results, well and cavern tests, logs, etc.) required in §325;

b. a representative of the commissioner has inspected the well and/or facility within 10 working days of the notice of completion required in Subparagraph a above and finds it is in compliance with the conditions of the permit; and

c. the operator has received written approval from the Office of Conservation indicating hydrocarbon storage operations may begin.

5. Noncompliance or anticipated noncompliance with the permit or applicable regulations (which may result from any planned changes in the permitted facility or activity) including a failed mechanical integrity pressure and leak test.

6. Permit Transfer. A permit is not transferable to any person except after giving written notice to and receiving written approval from the Office of Conservation indicating that the permit has been transferred. This action may require modification or revocation and re-issuance of the permit to change the name of the operator and incorporate other requirements as may be necessary, including but not limited to financial responsibility.

7. Compliance Schedules. Report of compliance or noncompliance with interim and final requirements contained in any compliance schedule in these regulations, or any progress reports, shall be submitted to the commissioner no later than 14 days following each schedule date.

8. Twenty-Four Hour Reporting

a. The operator shall report any noncompliance that may endanger the environment, or the health, safety and welfare of the public. Any information pertinent to the noncompliance shall be reported to the Office of Conservation by telephone at (225) 342-5515 within 24 hours from when the operator became aware of the circumstances. In addition, a written submission shall be provided within five days from when the operator became aware of the circumstances. The written notification shall contain a description of the noncompliance and its cause, the periods of noncompliance including exact times and dates, and if the noncompliance has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance.

b. The following additional information must also be reported within the 24-hour period:

i. monitoring or other information (including a failed mechanical integrity test) that suggests the hydrocarbon storage operations may cause an endangerment to underground sources of drinking waters, oil, gas, other

commercial mineral deposits (excluding the salt), neighboring salt operations of any kind, or movement outside the salt stock or cavern;

ii. any noncompliance with a regulatory or permit condition or malfunction of the injection/withdrawal system (including a failed mechanical integrity test) that may cause fluid migration into or between underground sources of drinking waters or outside the salt stock or cavern.

9. The operator shall give written notification to the Office of Conservation upon permanent conclusion of hydrocarbon storage operations. Notification shall be given within seven days after concluding storage operations. The operator shall review its post-closure plan to determine if changes to the plan are needed. The Office of Conservation must approve any changes to the post-closure plan before operator implementation.

10. The operator shall give written notification before abandonment (closure) of the hydrocarbon storage well, related surface facility, or in the case of area permits before closure of the project. Abandonment (closure) shall not begin before receiving written authorization from the Office of Conservation.

11. When the operator becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or in any report to the Office of Conservation, the operator shall promptly submit such facts and information.

J. Duration of Permits

1. Authorization to Operate. Authorization by permit to operate a hydrocarbon storage well and salt cavern shall be valid for the life of the well and salt cavern, unless suspended, modified, revoked and reissued, or terminated for cause as described in §311.K. The commissioner may issue for cause any permit for a duration that is less than the full allowable term under this Section.

2. Authorization to Drill, Construct, or Convert. Authorization by permit to drill, construct, or convert a hydrocarbon storage well shall be valid for one year from the effective date of the permit. If drilling or conversion is not completed in that time, the permit shall be null and void and the operator must obtain a new permit.

3. Extensions. The operator shall submit to the Office of Conservation a written request for an extension of the time of Paragraph 2 above; however, the Office of Conservation shall approve the request only for just cause and only if the permitting conditions have not changed. The operator shall have the burden of proving claims of just cause.

K. Compliance Review. The commissioner shall review each hydrocarbon storage well permit or area permit at least once every five years to determine whether it should be modified, revoked and reissued, terminated, or if minor modifications are needed. Commencement of the permit review process for each facility shall proceed as authorized by the commissioner of conservation.

1. As a part of the five-year permit review, the operator shall submit to the Office of Conservation updated maps and cross sections based upon best available information depicting the locations of its own caverns and proposed caverns in relation to each other, in relation to the periphery of the salt stock, and in relation to other operators' salt caverns (including solution mining caverns, disposal

caverns, storage caverns) in the salt stock. Also, refer to §313 and §315.

2. As a part of the five year permit review, the well operator shall review the closure and post-closure plan and associated cost estimates of §337 to determine if the conditions for closure are still applicable to the actual conditions.

L. Schedules of Compliance. The permit may specify a schedule of compliance leading to compliance with the act and these regulations.

1. Time for Compliance. Any schedules of compliance under this Section shall require compliance as soon as possible but not later than three years after the effective date of the permit.

2. Interim Dates. Except as provided in Subparagraph b below, if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

a. The time between interim dates shall not exceed one year.

b. If the time necessary for completion of any interim requirements (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit shall specify interim dates for submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

3. The permit shall be written to require that progress reports be submitted no later than 30 days following each interim date and the final date of compliance.

M. Area or Project Permit Authorization

1. The commissioner may issue a hydrocarbon storage well or cavern permit on an area basis, rather than for each well or cavern individually, provided that the permit is for wells or caverns:

a. described and identified by location in permit applications if they are existing wells, except that the commissioner may accept a single description of wells or caverns with substantially the same characteristics;

b. within the same salt dome, storage facility site, or storage project; and

c. operated by a single owner or operator.

2. Area permits shall specify:

a. the area within which hydrocarbon storage is authorized; and

b. the requirements for construction, monitoring, reporting, operation, and abandonment, for all wells authorized by the permit.

3. The area permit may authorize the operator to construct and operate, convert, or plug and abandon wells within the permit area provided:

a. the operator notifies the commissioner at such time as the permit requires;

b. the additional well satisfies the criteria in §309.M.1 and meets the requirements specified in the permit under §309.M.2; and

c. the cumulative effects of drilling and operation of additional hydrocarbon storage wells are considered by the commissioner during evaluation of the area permit application and are acceptable to the commissioner.

4. If the commissioner determines that any well constructed pursuant to §309.M.3 does not satisfy any of the requirements of §309.M.3.a and b, the commissioner may modify the permit under §311.K.3, terminate under §311.K.6, or take enforcement action. If the commissioner determines that cumulative effects are unacceptable, the permit may be modified under §311.K.3.

N. Recordation of Notice of Existing Solution-Mined Caverns. The owner or operator of an existing solution-mined storage cavern shall record a certified survey plat of the well location for the cavern in the mortgage and conveyance records of the parish in which the property is located. Such notice shall be recorded no later than six months after the effective date of these rules and the owner or operator shall furnish a date/file -stamped copy of the recorded notice to the Office of Conservation within 15 days of its recording. If an owner or operator fails or refuses to record such notice, the commissioner may, if he determines that the public interest requires, and after due notice and an opportunity for a hearing has been given to the owner and operator, cause such notice to be recorded.

O. Additional Conditions. The Office of Conservation shall, on a case-by-case basis, impose any additional conditions or requirements as are necessary to protect the environment, the health, safety and welfare of the public, underground sources of drinking waters, oil, gas, or other mineral deposits (excluding the salt), and preserve the integrity of the salt dome.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:349 (February 2014).

### §311. Permitting Process

A. Applicability. This Section has procedures for issuing and transferring permits to operate a hydrocarbon storage well and cavern. Any person required to have a permit shall apply to the Office of Conservation as stipulated in §305. The Office of Conservation shall not issue a permit before receiving an application form and any required supplemental information showing compliance with these rules and regulations, and that is administratively and technically complete to the satisfaction of the Office of Conservation.

B. Notice of Intent to File Application

1. The applicant shall make public notice that a permit application is proposed for filing with the Office of Conservation. A notice of intent shall be published at least 30 days but not more than 180 days before filing the permit application with the Office of Conservation. Without exception, the applicant shall publish a new notice of intent if the application is not received by the Office of Conservation within the filing period.

2. The notice shall be published once in the legal advertisement sections in the official state journal and in the official journal of the parish of the proposed project location. The cost for publishing the notices is the responsibility of the applicant and shall contain the following minimum information:

a. name and address of the permit applicant and, if different, the facility to be regulated by the permit;

b. the geographic location of the proposed project;

c. name and address of the regulatory agency to process the permit action where interested persons may obtain information concerning the application or permit action; and

d. a brief description of the business conducted at the facility or activity described in the permit application.

3. The applicant shall submit the proof of publication of the notice of intent when submitting the application.

#### C. Application Submission and Review

1. The applicant shall complete, sign, and submit one original paper application form, with required attachments and documentation, and one copy of the same to the Office of Conservation. The complete application shall contain all information to show compliance with applicable state laws and these rules and regulations. In addition to submitting the application on paper, the applicant shall submit an exact duplicate of the paper application in an electronic format approved by the commissioner. The commissioner may request additional paper copies of the application, either in its entirety or in part, as needed. The electronic version of the application shall contain the following certification statement.

"This document is an electronic version of the application titled (Insert Document Title) dated (Insert Application Date). This electronic version is an exact duplicate of the paper copy submitted in (Insert the Number of Volumes Comprising the Full Application) to the Louisiana Office of Conservation."

2. The applicant shall be notified if a representative of the Office of Conservation decides that a site visit is necessary for any reason in conjunction with the processing of the application. Notification may be either oral or written and shall state the reason for the visit.

3. If the Office of Conservation deems an application to be incomplete, deficient of information, or requires additional data, a notice of application deficiency indicating the information necessary to make the application complete shall be transmitted to the applicant.

4. The Office of Conservation shall deny an application if an applicant fails, refuses, is unable to respond adequately to the notice of application deficiency, or if the Office of Conservation determines that the proposed activity cannot be conducted safely.

a. The Office of Conservation shall notify the applicant by certified mail of the decision denying the application.

b. The applicant may appeal the decision to deny the application in a letter to the commissioner who may call a public hearing through §311.D.

D. Public Hearing Requirements. A public hearing for new well applications shall not be scheduled until administrative and technical review of an application has been completed to the satisfaction of the Office of Conservation.

#### 1. Public Notice of Permit Actions

a. Upon acceptance of a permit application as complete and meeting the administrative and technical requirements of these rules and regulations, the commissioner shall give public notice that the following actions have occurred:

- i. an application has been received;
- ii. a draft permit has been prepared under §311.E;

and

iii. a public hearing has been scheduled under §311.D.

b. No public notice or public hearing is required for additional wells drilled or for conversion under an approved area permit or when a request for permit modification, revocation and reissuance, or termination is denied under §311.K.

#### 2. Public Notice by Office of Conservation

a. Public notice shall be published by the Office of Conservation in the legal advertisement section of the official state journal and the official journal of the parish of the proposed project location not less than 30 days before the scheduled hearing.

b. The Office of Conservation shall provide notice of the scheduled public hearing by forwarding a copy of the notice by mail or e-mail to:

- ii. the applicant;
- iii. all property owners within 1320 feet of the hydrocarbon storage facility's property boundary;
- iv. operators of existing projects located on or within the salt stock of the proposed project;
- v. United States Environmental Protection Agency;
- vi. Louisiana Department of Wildlife and Fisheries;
- vii. Louisiana Department of Environmental Quality;
- viii. Louisiana Office of Coastal Management;
- ix. Louisiana Office of Conservation, Pipeline Division;
- x. Louisiana Department of Culture, Recreation and Tourism, Division of Archaeology;
- xii. the governing authority for the parish of the proposed project; and
- xiii. any other interested parties.

3. Public Notice Contents. The public notices shall contain the following minimum information:

- a. name and address of the permit applicant and, if different, the facility or activity regulated by the permit;
- b. name and address of the regulatory agency processing the permit action;
- c. name, address, and phone number of a person within the regulatory agency where interested persons may obtain information concerning the application or permit action;
- d. a brief description of the business conducted at the facility or activity described in the permit application;
- e. a statement that a draft permit has been prepared under §311.E;
- f. a brief description of the public comment procedures;
- g. a brief statement of procedures whereby the public may participate in the final permit decision;
- h. the time, place, and a brief description of the nature and purpose of the public hearing;
- i. a reference to the date of any previous public notices relating to the permit;
- j. any additional information considered necessary or proper by the commissioner.

#### 4. Application Availability for Public Review

a. The applicant shall file at least one copy of the complete permit application with:

- i. the local governing authority of the parish of the proposed project location; and
- ii. in a public library in the parish of the proposed project location.

b. The applicant shall deliver copies of the application to the aforementioned locations before the public notices are published in the respective journals.

E. Draft Permit. The Office of Conservation shall prepare a draft permit after an application is determined to be complete. Draft permits shall be publicly noticed and made available for public comment.

#### F. Fact Sheet

1. The Office of Conservation shall prepare a fact sheet for every draft permit. It shall briefly set forth principal facts and significant factual, legal, and policy questions considered in preparing the draft permit.

2. The fact sheet shall include, when applicable:

- a. a brief description of the type of facility or activity that is the subject of the draft permit or application;
- b. the type and proposed quantity of material to be injected;
- c. a brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provision;
- d. a description of the procedures for reaching a final decision on the draft permit or application including the beginning and ending date of the public comment period, the address where comments shall be received, and any other procedures whereby the public may participate in the final decision;
- e. reasons why any requested variances or alternative to required standards do or do not appear justified;
- f. procedures for requesting a hearing and the nature of that hearing; and
- g. the name and telephone number of a person within the permitting agency to contact for additional information;
- h. that due consideration has been given to alternative sources of water for the leaching of cavities.

3. The fact sheet shall be distributed to the permit applicant and to any interested person on request.

#### G. Public Hearing

1. The Office of Conservation shall fix a time, date, and location for a public hearing. The public hearing shall be held in the parish of the proposed project location. The cost of the public hearing is set by LAC 43:XIX.Chapter 7 (Fees, as amended) and is the responsibility of the applicant.

2. The public hearing shall be fact finding in nature and not subject to the procedural requirements of the Louisiana Administrative Procedure Act. All public hearings shall be publicly noticed as required by these rules and regulations.

3. At the hearing, any person may make oral statements or submit written statements and data concerning the application or permit action being the basis of the hearing. Reasonable limits may be set upon the time allowed for oral statements; therefore, submission of written statements may be required. The hearing officer may extend

the public comment period by so stating before the close of the hearing.

4. A transcript shall be made of the hearing and such transcript shall be available for public review.

#### H. Public Comments, Response to Comments, and Permit Issuance

1. Any interested person may submit written comments concerning the permitting activity during the public comment period. All comments pertinent and significant to the permitting activity shall be considered in making the final permit decision.

2. The Office of Conservation shall issue a response to all pertinent and significant comments as an attachment to and at the time of final permit decision. The final permit with response to comments shall be made available to the public. The response shall:

a. specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

b. briefly describe and respond to all significant comments on the draft permit or the permit application raised during the public comment period or hearing.

3. The Office of Conservation may issue a final permit decision within 30 days following the close of the public comment period; however, this time may be extended due to the nature, complexity, and volume of public comments received.

4. A final permit decision shall be effective on the date of issuance.

5. The owner or operator of a solution-mined storage cavern permit shall record a certified survey plat and final permit in the mortgage and conveyance records of the parish in which the property is located. A date/file stamped copy of the plat and final permit is to be furnished to the Office of Conservation within 15 days of its recording. If an owner or operator fails or refuses to record such notice, the commissioner may, if he determines that the public interest requires, and after due notice and an opportunity for a hearing has been given to the owner and operator, cause such notice to be recorded.

6. Approval or the granting of a permit to construct or convert a hydrocarbon storage well shall be valid for one year from its effective date and if not completed in that time, the permit shall be null and void. The permittee may request an extension of this one year requirement; however, the commissioner shall approve the request only for just cause and only if the conditions existing at the time the permit was issued have not changed. The permittee shall have the burden of proving claims of just cause.

#### I. Permit Application Denial

1. The Office of Conservation may refuse to issue, reissue, or reinstate a permit or authorization if an applicant or operator has delinquent, finally determined violations of the Office of Conservation or unpaid penalties or fees, or if a history of past violations demonstrates the applicant's or operator's unwillingness to comply with permit or regulatory requirements.

2. If an application is denied, the applicant may request a review of the Office of Conservation's decision to deny the permit application. Such request shall be made in writing and shall contain facts or reasons supporting the request for review.

3. Grounds for application denial review shall be limited to the following reasons:

a. the decision is contrary to the laws of the state, applicable regulations, or evidence presented in or as a supplement to the permit application;

b. the applicant has discovered since the permit application public hearing or permit denial, evidence important to the issues that the applicant could not with due diligence have obtained before or during the initial permit application review;

c. there is a showing that issues not previously considered should be examined so as to dispose of the matter; or

d. there is other good ground for further consideration of the issues and evidence in the public interest.

#### J. Permit Transfer

1. Applicability. A permit may be transferred to a new owner or operator only upon written approval from the Office of Conservation. Written approval must clearly show that the permit has been transferred. It is a violation of these rules and regulations to operate a hydrocarbon storage well without a permit or other authorization if a person attempting to acquire a permit transfer allows operation of the hydrocarbon storage well before receiving written approval from the Office of Conservation.

#### 2. Procedures

a. The proposed new owner or operator must apply for and receive an operator code by submitting a completed organization report (Form OR-1), or subsequent form, to the Office of Conservation.

b. The current operator shall submit an application for permit transfer at least 30 days before the proposed permit transfer date. The application shall contain the following:

i. name and address of the proposed new owner or operator;

ii. date of proposed permit transfer; and

iii. a written agreement between the existing and new owner or operator containing a specific date for transfer of permit responsibility, financial responsibility, and liability between them.

c. If no agreement described in Subparagraph b.iii. above is provided, responsibility for compliance with the terms and conditions of the permit and liability for any violation will shift from the existing operator to the new operator on the date the transfer is approved.

d. The new operator shall submit an application for a change of operator using Form MD-10-R-A, or subsequent form, to the Office of Conservation containing the signatories of §305.D and E, along with the appropriate filing fee.

e. The new operator shall submit evidence of financial responsibility under §309.B.

f. If a person attempting to acquire a permit causes or allows operation of the facility before approval by the commissioner, it shall be considered a violation of these rules for operating without a permit or other authorization.

g. If the commissioner does not notify the existing operator and the proposed new owner or operator of his intent to modify or revoke and reissue the permit under

§309.K.3.b, the transfer is effective on the date specified in the agreement mentioned in Subparagraph b.iii. above.

h. Any additional information as may be required to be submitted by these regulations or the Office of Conservation.

K. Permit Suspension, Modification, Revocation and Reissuance, Termination. This subsection sets forth the standards and requirements for applications and actions concerning suspension, modification, revocation and reissuance, termination, and renewal of permits. A draft permit must be prepared and other applicable procedures must be followed if a permit modification satisfies the criteria of this subsection. A draft permit, public notice, or public participation is not required for minor permit modifications defined in §311.K.6.

#### 1. Permit Actions

a. The permit may be suspended, modified, revoked and reissued, or terminated for cause.

b. The operator shall furnish the Office of Conservation within 30 days, any information that the Office of Conservation may request to determine whether cause exists for suspending, modifying, revoking and reissuing, or terminating a permit, or to determine compliance with the permit. Upon request, the operator shall furnish the Office of Conservation with copies of records required to be kept by the permit.

c. The Office of Conservation may, upon its own initiative or at the request of any interested person, review any permit to determine if cause exists to suspend, modify, revoke and reissue, or terminate the permit for the reasons specified in §311.K.2, 3, 4, 5, and 6. All requests by interested persons shall be in writing and shall contain only factual information supporting the request.

d. If the Office of Conservation decides the request is not justified, the person making the request shall be sent a brief written response giving a reason for the decision. Denials of requests for suspension, modification, revocation and reissuance, or termination are not subject to public notice, public comment, or public hearing.

e. If the Office of Conservation decides to suspend, modify, or revoke and reissue a permit under §311.K.2, 3, 4, 5, and 6, additional information may be requested and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the Office of Conservation shall require the submission of a new application.

f. The suitability of an existing well or salt cavern location shall not be considered at the time of permit modification or revocation and reissuance unless new information or standards suggest continued operation at the site endangers the environment, or the health, safety and welfare of the public that was unknown at the time of permit issuance. If the hydrocarbon storage well location is no longer suitable for its intended purpose, it may be ordered closed according to applicable sections of these rules and regulations.

2. Suspension of Permit. The Office of Conservation may suspend the operator's right to store hydrocarbons until violations are corrected. If violations are corrected, the Office of Conservation may lift the suspension. Suspension of a permit or subsequent corrections of the causes for the



suspension by the operator shall not preclude the Office of Conservation from terminating the permit, if necessary. The Office of Conservation shall issue a notice of violation (NOV) to the operator that lists the specific violations of the permit or these regulations. If the operator fails to comply with the NOV by correcting the cited violations within the date specified in the NOV, the Office of Conservation shall issue a compliance order requiring the violations be corrected within a specified time and may include an assessment of civil penalties. If the operator fails to take corrective action within the time specified in the compliance order, the Office of Conservation shall assess a civil penalty, and shall suspend, revoke, or terminate the permit.

3. Modification or Revocation and Reissuance of Permits. The following are causes for modification and may be causes for revocation and reissuance of permits.

a. Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

b. Information. The Office of Conservation has received information pertinent to the permit. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance. Cause shall include any information indicating that cumulative effects on the environment, or the health, safety and welfare of the public are unacceptable.

c. New Regulations

i. The standards or regulations on which the permit was based have been changed by promulgation of new or amended standards or regulations or by judicial decision after the permit was issued and conformance with the changed standards or regulations is necessary for the protection of the environment, or the health, safety and welfare of the public. Permits may be modified during their terms when:

(a). the permit condition to be modified was based on a promulgated regulation or guideline;

(b). there has been a revision, withdrawal, or modification of that portion of the regulation or guideline on which the permit condition was based; or

(c). an operator requests modification within 90 days after *Louisiana Register* notice of the action on which the request is based.

ii. The permit may be modified as a minor modification without providing for public comment when standards or regulations on which the permit was based have been changed by withdrawal of standards or regulations or by promulgation of amended standards or regulations which impose less stringent requirements on the permitted activity or facility and the operator requests to have permit conditions based on the withdrawn or revised standards or regulations deleted from his permit.

iii. For judicial decisions, a court of competent jurisdiction has remanded and stayed Office of Conservation regulations or guidelines and all appeals have been exhausted, if the remand and stay concern that portion of the

regulations or guidelines on which the permit condition was based and a request is filed by the operator to have permit conditions based on the remanded or stayed standards or regulations deleted from his permit.

d. Compliance Schedules. The Office of Conservation determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the operator has little or no control and for which there is no reasonable available remedy.

4. Causes for Modification or Revocation and Reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit.

a. Cause exists for termination under §311.K.6, and the Office of Conservation determines that modification or revocation and reissuance is appropriate.

b. The Office of Conservation has received notification of a proposed transfer of the permit and the transfer is determined not to be a minor permit modification. A permit may be modified to reflect a transfer after the effective date but will not be revoked and reissued after the effective date except upon the request of the new operator.

5. Facility Siting. Suitability of an existing facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that continued operations at the site pose a threat to the health or safety of persons or the environment that was unknown at the time of the permit issuance. A change of injection site or facility location may require modification or revocation and issuance as determined to be appropriate by the commissioner.

6. Minor Modifications of Permits. The Office of Conservation may modify a permit to make corrections or allowances for changes in the permitted activity listed in this subsection without issuing a draft permit and providing for public participation. Minor modifications may only:

a. correct administrative or make informational changes;

b. correct typographical errors;

c. amend the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities;

d. change an interim compliance date in a schedule of compliance, provided the new date does not interfere with attainment of the final compliance date requirement;

e. allow for a change in ownership or operational control of a hydrocarbon storage well where the Office of Conservation determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Office of Conservation;

f. change quantities or types of fluids injected which are within the capacity of the facility as permitted and, in the judgment of the commissioner, would not interfere with the operation of the facility or its ability to meet conditions prescribed in the permit, and would not change its classification;

g. change construction requirements or plans approved by the Office of Conservation provided that any such alteration is in compliance with these rules and regulations. No such changes may be physically incorporated into construction or conversion of the

hydrocarbon storage well or cavern without written approval from the Office of Conservation; or

h. amend a closure or post-closure plan.

7. Termination of Permits

a. The Office of Conservation may terminate a permit during its term for the following causes:

i. noncompliance by the operator with any condition of the permit;

ii. the operator's failure in the application or during the permit issuance process to fully disclose all relevant facts, or the operator's misrepresentation of any relevant facts at any time; or

iii. a determination that continued operation of the permitted activity cannot be conducted in a way that is protective of the environment, or the health, safety and welfare of the public.

b. If the Office of Conservation decides to terminate a permit, he shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit that follows the same procedures as any draft permit prepared under §311.E. The Office of Conservation may alternatively decide to modify or revoke and reissue a permit for the causes in §311.K.7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:352 (February 2014).

**§313. Site Assessment**

A. Applicability. This Section applies to all applicants, owners, or operators of hydrocarbon storage wells and caverns. The applicant, owner, or operator shall be responsible for showing that the hydrocarbon storage operation shall be accomplished using good engineering and geologic practices for hydrocarbon storage operations to preserve the integrity of the salt stock and overlying sediments. In addition to all applicants showing this in their application and as part of the compliance review found in §309.K, the commissioner shall require any owner or operator of a hydrocarbon storage well to provide the same or similar information required in this Section. This shall include, but not be limited to:

1. an assessment of the engineering, geological, geomechanical, geochemical, geophysical properties of the salt stock;

2. stability of salt stock and overlying and surrounding sediments;

3. stability of the cavern design (particularly regarding its size, shape, depth, and operating parameters);

4. the amount of separation between the cavern of interest and adjacent caverns and structures within the salt stock; and

5. the amount of separation between the outermost cavern wall and the periphery of the salt stock;

6. an assessment of well information and oil and gas activity within the vicinity of the salt dome.

B. Geological Studies and Evaluations. The applicant, owner, or operator shall do a thorough geological, geophysical, geomechanical, and geochemical evaluation of the salt stock to determine its suitability for hydrocarbon storage, stability of the cavern under the proposed set of operating conditions, and where applicable, the structural

integrity of the salt stock between an adjacent cavern and salt periphery under the proposed set of operating conditions. A listing of data or information used to characterize the structure and geometry of the salt stock shall be included.

1. Where applicable, the evaluation shall include, but should not be limited to:

a. geologic mapping of the structure of the salt stock and any cap rock;

b. geologic history of salt movement;

c. an assessment of the impact of possible anomalous zones (salt spines, shear planes, etc.) on the hydrocarbon storage well or cavern;

d. deformation of the cap rock and strata overlying the salt stock;

e. investigation of the upper salt surface and adjacent areas involved with salt dissolution;

f. cap rock formation and any non-vertical salt movement.

2. The applicant shall perform a thorough hydrogeologic study on strata overlying the salt stock to determine the occurrence of the lowermost underground source of drinking water immediately above and near the salt stock.

3. The applicant shall investigate regional tectonic activity and the potential impact (including ground subsidence) of the project on surface and subsurface resources.

4. The proximity of all existing and proposed hydrocarbon storage caverns to the periphery of the salt stock and to manmade structures within the salt stock shall be demonstrated to the Office of Conservation at least once every five years (see §309.K) by providing the following:

a. an updated structure contour map of the salt stock on a scale no smaller than 1 inch to 500 feet. The updated map should make use of all available data. The horizontal configuration of the salt cavern should be shown on the structure map and reflect the caverns' maximum lateral extent as determined by the most recent sonar caliper survey; and

b. vertical cross sections of the salt caverns showing their outline and position within the salt stock. Cross-sections should be oriented to indicate the closest approach of the salt cavern wall to the periphery of the salt stock. The outline of the salt cavern should be based on the most recent sonar caliper survey.

C. Core Sampling

1. At least one well at the site of the hydrocarbon storage well (or the salt dome) shall be or shall have been cored over sufficient depth intervals to yield representative samples of the subsurface geologic environment. This shall include coring of the salt stock and may include coring of overlying formations, including any cap rock. Cores should be obtained using the whole core method. Core acquisition, core handling, and core preservation shall be done according to standard field sampling practices considered acceptable for laboratory tests of recovered cores.

2. Data from previous coring projects may be used instead of actual core sampling provided the data is specific to the salt dome of interest. If site-specific data is unavailable, data may be obtained from sources that are not specific to the area as long as the data can be shown to

closely approximate the properties of the salt dome of interest. It shall be the responsibility of the applicant to make a satisfactory demonstration that data obtained from other sources are applicable to the salt dome of interest.

D. Core Analyses and Laboratory Tests. Analyses and tests shall consider the characteristics of the injected materials and should provide data on the salt's geomechanical, geophysical, geochemical, mineralogical properties, microstructure, and where necessary, potential for adjacent cavern connectivity, with emphasis on cavern shape and the operating conditions. All laboratory tests, experimentation, and numeric modeling shall be conducted using methods that simulate the proposed operating conditions of the cavern. Test methods shall be selected to define the deformation and strength properties and characteristics of the salt stock under cavern operating conditions.

E. Area-of-Review. A thorough evaluation shall be undertaken of both surface and subsurface activities in the defined area-of-review of the individual hydrocarbon storage well or project area (area permit) that may influence the integrity of the salt stock, hydrocarbon storage well, and cavern, or contribute to the movement of injected fluids outside the cavern, wellbore, or salt stock.

1. Surface Delineation

a. The area-of-review for individual hydrocarbon storage wells shall be a fixed radius around the wellbore of not less than 1320 feet.

b. The area-of-review for wells in a hydrocarbon storage project area (area permit), shall be the project area plus a circumscribing area the width of which is not less than 1320 feet.

c. Exception shall be noted as in Subparagraphs 2.c and d below.

2. Subsurface Delineation. At a minimum, the following shall be identified within the area-of-review:

a. all known active, inactive, and abandoned wells within the area-of-review with known depth of penetration into the cap rock or salt stock;

b. all known water wells within the area-of-review;

c. all salt caverns within the salt stock regardless of use, depth of penetration, or distance to the proposed hydrocarbon storage well or cavern;

d. all conventional (dry or room and pillar) mining activity either active or abandoned occurring anywhere within the salt stock regardless of distance to the proposed hydrocarbon storage well or cavern;

e. all producing formations either active or depleted

F. Corrective Action

1. For manmade structures identified in the area-of-review that penetrate the salt stock and are not properly constructed, completed, or plugged and abandoned, the applicant shall submit a corrective action plan consisting of such steps, procedures, or modifications as are necessary to prevent the movement of fluids outside the cavern or into underground sources of drinking water.

a. Where the plan is adequate, the provisions of the corrective action plan shall be incorporated into the permit as a condition.

b. Where the plan is inadequate, the Office of Conservation shall require the applicant to revise the plan, or

prescribe a plan for corrective action as a condition of the permit, or the application shall be denied.

2. Any permit issued for an existing hydrocarbon storage well for which corrective action is required shall include a schedule of compliance for complete fulfillment of the approved corrective action procedures. If the required corrective action is not completed as prescribed in the schedule of compliance, the permit shall be suspended, modified, revoked and possibly reissued, or terminated according to these rules and regulations.

3. No permit shall be issued for a new hydrocarbon storage well until all required corrective action obligations have been fulfilled.

4. The commissioner may require as a permit condition that injection pressure be so limited that pressure in the injection zone does not cause the movement of fluids into a underground source of drinking water through any improperly completed or abandoned well within the area-of-review. This pressure limitation shall satisfy the corrective action requirement. Alternatively, such injection pressure limitation can be part of a compliance schedule and last until all other corrective action has been taken.

5. When setting corrective action requirements for hydrocarbon storage wells, the commissioner shall consider the overall effect of the project on the hydraulic gradient in potentially affected underground sources of drinking water, and the corresponding changes in potentiometric surface(s) and flow direction(s) rather than the discrete effect of each well. If a decision is made the corrective action is not necessary, the monitoring program required in §323 shall be designed to verify the validity of such determination.

6. In determining the adequacy of proposed corrective action and in determining the additional steps needed to prevent fluid movement into underground sources of drinking water, the following criteria and factors shall be considered by the commissioner:

a. nature and volume of injection fluid;

b. nature of native fluids or by-products of injection;

c. potentially affected population;

d. geology;

e. hydrology;

f. history of the injection operation;

g. completion and plugging records;

h. abandonment procedures in effect at the time the well was abandoned; and

i. hydraulic connections with underground sources of drinking water.

7. The Office of Conservation may prescribe additional requirements for corrective action beyond those submitted by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:357 (February 2014).

### §315. Cavern Design and Spacing Requirements

A. This Section provides general standards for design of caverns to ensure that project development can be conducted in a reasonable, prudent, and a systematic manner and shall stress physical and environmental safety. The owner or operator shall continually review the design throughout the

construction and operation phases taking into consideration pertinent additional detailed subsurface information and shall include provisions for protection from damage caused by hydraulic shock. If necessary, the original development and operational plans shall be modified to conform to good engineering practices.

## B. Cavern Spacing Requirements

### 1. Property Boundary

a. Existing Hydrocarbon Storage Caverns. No part of a hydrocarbon storage cavern permitted as of the date these regulations are promulgated shall extend closer than 100 feet to the property of others without consent of the owner(s). Continued operation without this consent of an existing hydrocarbon storage cavern within 100 feet of the property of others may be allowed as follows.

i. The operator of the cavern shall make a good faith effort to provide notice in a form and manner approved by the commissioner to the adjacent property owner(s) of the location of its cavern.

ii. The commissioner shall hold a public hearing at Baton Rouge if a non-consenting adjacent owner whose property line is within 100 feet objects to the cavern's continued operation. Following the public hearing the commissioner may approve the cavern's continued operation upon a determination that the continued operation of the cavern has no adverse effects to the rights of the non-consenting adjacent property owner(s).

iii. If no objection from a non-consenting adjacent property owner is received within 30 days of the notice provided in accordance with Subparagraph 1.a.i above, then the commissioner may approve the continued operation of the cavern administratively.

b. New Hydrocarbon Storage Caverns. No part of a newly permitted hydrocarbon storage cavern shall extend closer than 100 feet to the property of others without the consent of the owner(s).

2. Adjacent Structures within the Salt. As measured in any direction, the minimum separation between walls of adjacent caverns or between the walls of the cavern and any adjacent cavern or any other manmade structure within the salt stock shall not be less than 200 feet. Caverns must be operated in a manner that ensures the walls between any cavern and any other manmade structure maintain the minimum separation of 200 feet. For hydrocarbon storage caverns permitted prior to the effective date of these regulations and which are already within 200 feet of any other cavern or manmade structure within the salt stock, the commissioner of conservation may approve continued operation upon a proper showing by the owner or operator that the cavern is capable of continued safe operations.

### 3. Salt Periphery

a. Without exception or variance to these rules and regulations, at no time shall the minimum separation between the cavern walls at any point and the periphery of the salt stock for a newly permitted hydrocarbon storage cavern be less than 300 feet.

b. An existing hydrocarbon storage cavern with less than 300 feet of salt separation at any point between the cavern walls and the periphery of the salt stock shall provide the Office of Conservation with an enhanced monitoring plan that has provisions for ongoing monitoring of the structural stability of the cavern and salt through methods

that may include, but are not limited to, increased frequency of sonar caliper surveys, vertical seismic profiles, micro-seismic monitoring, increased frequency of subsidence monitoring, mechanical integrity testing, continuous cavern pressure data monitoring, etc. A combination of enhanced monitoring methods may be proposed where appropriate. Once approved, the owner or operator shall implement the enhanced monitoring plan.

c. Without exception or variance to these rules and regulations, an existing hydrocarbon storage cavern with cavern walls 100 feet or less from the periphery of the salt stock shall be removed from hydrocarbon storage service immediately and permanently. An enhanced monitoring plan of Subparagraph b above shall be prepared and submitted to the Office of Conservation. Once approved, the owner or operator shall implement the enhanced monitoring plan.

C. Cavern Coalescence. The Office of Conservation may permit the use of coalesced caverns for hydrocarbon storage, but only for hydrocarbons that are liquid at standard temperature and pressure. It shall be the duty of the applicant, owner, or operator to demonstrate that operation of coalesced caverns under the proposed cavern operating conditions can be accomplished in a physically and environmentally safe manner and that the stability and integrity of the cavern and salt stock shall not be compromised. The intentional subsurface coalescing of adjacent caverns must be requested by the applicant, owner, or operator in writing and be approved by the Office of Conservation before beginning or resumption of hydrocarbon storage operations. If the design of adjacent caverns should include approval for the subsurface coalescing of adjacent caverns, the minimum spacing requirement of §315.B.2 shall not apply to the coalesced caverns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:358 (February 2014).

## §317. Well Construction and Completion

### A. General Requirements

1. All materials and equipment used in the construction of the hydrocarbon storage well and related appurtenances shall be designed and manufactured to exceed the operating requirements of the specific project. Consideration shall be given to depth and lithology of all subsurface geologic zones, corrosiveness of formation fluids, hole size, anticipated ranges and extremes of operating conditions, subsurface temperatures and pressures, type and grade of cement, and projected life of the hydrocarbon storage well, etc.

2. All hydrocarbon storage wells and caverns shall be designed, constructed, completed, and operated to prevent the escape of injected materials out of the salt stock, into or between underground sources of drinking water, or otherwise create or cause pollution or endanger the environment or public safety. All phases of design, construction, completion, and testing shall be prepared and supervised by qualified personnel.

a. Where the hydrocarbon storage well penetrates an underground source of drinking water in an area subject to subsidence or catastrophic collapse, an adequate number

of monitoring wells shall be completed into the USDW to detect any movement of injected fluids, process by-products or formation fluids into the USDW. The monitoring wells shall be located outside the physical influence of the subsidence or catastrophic collapse.

b. The following criteria shall be considered in determining the number, location, construction, and frequency of monitoring of any monitor wells:

- i. the population relying on the USDW affected or potentially affected by the injection operation;
- ii. the proximity of the hydrocarbon storage operation to points of withdrawal of drinking water;
- iii. the local geology and hydrology;
- iv. the operating pressures and whether a negative pressure gradient is being maintained;
- v. the nature and volume of the injected fluid, the formation water, and the process by-products; and
- vi. the injected fluid density.

#### B. Open Borehole Surveys

1. Open hole wireline surveys that delineate subsurface lithologies, formation tops (including top of cap rock and salt), formation fluids, formation porosity, and fluid resistivities shall be performed on all new wells from total well depth to either ground surface or base of conductor pipe. Wireline surveys shall be presented with gamma-ray and, where applicable, spontaneous potential curves. All surveys shall be presented on a scale of 1 inch to 100 feet and a scale of 5 inches to 100 feet. A descriptive report interpreting the results of such logs and tests shall be prepared and submitted to the commissioner.

2. Gyroscopic multi-shot surveys of the borehole shall be taken at intervals not to exceed every 100 feet of drilled borehole.

3. Where practicable, caliper logging to determine borehole size for cement volume calculations shall be performed before running casings.

4. The owner or operator shall submit all wireline surveys as one paper copy and an electronic version in a format approved by the commissioner.

C. Casing and Cementing. Except as specified below, the wellbore of the hydrocarbon storage well shall be cased, completed, and cemented according to rules and regulations of the Office of Conservation and good industry engineering practices for wells of comparable depth that are applicable to the same locality of the cavern. Design considerations for casings and cementing materials and methods shall address the nature and characteristics of the subsurface environment, the nature of injected materials, the range of conditions under which the well, cavern, and facility shall be operated, and the expected life of the well including closure and post-closure.

1. Cementing shall be by the pump-and-plug method or another method approved by the Office of Conservation and shall be circulated to the surface. Circulation of cement may be done by staging.

a. For purposes of these rules and regulations, circulated (cemented) to the surface shall mean that actual cement returns to the surface were observed during the primary cementing operation. A copy of the cementing company's job summary or cementing ticket indicating returns to the surface shall be submitted as part of the pre-operating requirements of §325.

b. If returns are lost during cementing, the owner or operator shall have the burden of showing that sufficient cement isolation is present to prevent the upward movement of injected material into zones of porosity or transmissive permeability in the overburden along the wellbore and to protect underground sources of drinking water.

2. In determining and specifying casing and cementing requirements, the following factors shall be considered:

- a. depth of the storage zone;
- b. injection pressure, external pressure, internal pressure, axial loading, etc.;
- c. borehole size;
- d. size and grade of all casing strings (wall thickness, diameter, nominal weight, length, joint specification, construction material, etc.);
- e. corrosiveness of injected fluids and formation fluids;
- f. lithology of subsurface formations penetrated;
- g. type and grade of cement.

3. Surface casing shall be set to a depth below the base of the lowermost underground source of drinking water and shall be cemented to ground surface where practicable.

4. At a minimum, all hydrocarbon storage wells shall be dually cased from the surface into the salt, one casing string being an intermediate string, the other being the final cemented string. The surface casing shall not be considered one of the two casings.

5. The final cemented casing shall be set a minimum distance of 300 feet into the salt and shall make use of a sufficient number of casing centralizers.

6. The following applies to wells existing in caverns before the effective date of these rules and regulations. If the design of the well or cavern precludes having distinct intermediate and final casing seats cemented into the salt, the wellbore shall be cased with two concentric casings run from the surface of the well to a minimum distance of 300 feet into the salt. The inner casing shall be cemented from its base to surface.

7. All cemented casings shall be cemented from their respective casing seats to the surface when practicable; however, in every case, casings shall be cemented a sufficient distance to prevent migration of the stored products into zones of porosity or permeability in the overburden.

D. Casing and Casing Seat Tests. When performing tests under this subsection, the owner or operator shall monitor and record the tests by use of a surface readout pressure gauge and a chart or a digital recorder. All instruments shall be properly calibrated and in good working order. If there is a failure of the required tests, the owner or operator shall take necessary corrective action to obtain a passing test.

1. Casing. After cementing each casing, but before drilling out the respective casing shoe, all casings will be hydrostatically pressure tested to verify casing integrity and the absence of leaks. The stabilized test pressure applied at the well surface will be calculated such that the pressure gradient at the depth of the respective casing shoe will not be less than 0.7 PSI/FT of vertical depth or greater than 0.9 PSI/FT of vertical depth. All casing test pressures will be maintained for one-hour after stabilization. Allowable pressure loss is limited to 5 percent of the test pressure over

the stabilized test duration. Test results will be reported as part of the pre-operating requirements.

2. Casing Seat. The casing seat and cement of the intermediate and production casings will each be hydrostatically pressure tested after drilling out the casing shoe. At least 10 feet of formation below the respective casing shoes will be drilled before the test.

a. For all casings below the surface casing, excluding the final cemented casing, the stabilized test pressure applied at the well surface will be calculated such that the pressure at the casing shoe will not be less than the 85 percent of the predicted formation fracture pressure at that depth. The test pressures will be maintained for one hour after pressure stabilization. Allowable pressure loss is limited to 5 percent of the test pressure over the stabilized test duration. Test results will be reported as part of the pre-operating requirements.

b. For the final cemented casing, the test pressure applied at the surface will be the greater of the maximum predicted salt cavern operating pressure or a pressure gradient of 0.85 PSI/FT of vertical depth calculated with respect to the depth of the casing shoe. The test pressures will be maintained for one hour after pressure stabilization. Allowable pressure loss is limited to 5 percent of the test pressure over the stabilized test duration. Test results will be reported as part of the pre-operating requirements.

3. Casing or casing seat test pressures shall never exceed a pressure gradient equivalent to 0.90 PSI/FT of vertical depth at the respective casing seat or exceed the known or calculated fracture gradient of the appropriate subsurface formation. The test pressure shall never exceed the rated burst or collapse pressures of the respective casings.

E. Cased Borehole Surveys. A cement bond with variable density log (or similar cement evaluation tool) and a temperature log shall be run on all casings. The Office of Conservation may consider requests for alternative means of compliance for wireline logging in large diameter casings or justifiable special conditions. A descriptive report interpreting the results of such logs shall be prepared and submitted to the commissioner.

1. It shall be the duty of the well applicant, owner or operator to prove adequate cement isolation on all cemented casings. Remedial cementing shall be done before proceeding with further well construction, completion, or conversion if adequate cement isolation between the hydrocarbon storage well and subsurface formations cannot be demonstrated.

2. A casing inspection log (or similar log) shall be run on the final cemented casing.

3. When submitting wireline surveys, the owner or operator shall submit one paper copy and an electronic copy in a format approved by the commissioner.

F. Hanging Strings. Hanging strings shall be designed with a collapse, burst, and tensile strength rating conforming to all expected operating conditions. The design shall also consider the physical and chemical characteristics of fluids placed into and withdrawn from the cavern.

G. Wellhead Components and Related Connections. All wellhead components, valves, flanges, fittings, flowlines, and related connections shall be manufactured of steel. All components shall be designed with a test pressure rating of

at least 125 percent of the maximum pressure that could be exerted at the surface. Selection and design criteria for components shall consider the physical and chemical characteristics of fluids placed into and withdrawn from the cavern under the specific range of operating conditions, including flow induced vibrations. The fluid withdrawal side of the wellhead shall be rated for the same pressure as the fluid injection side. All components and related connections shall be periodically inspected by the well operator and maintained in good working order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:359 (February 2014).

### **§319. Operating Requirements**

A. Cavern Roof. Without exception or variance to these rules and regulations, no cavern shall be used for hydrocarbon storage if the cavern roof has grown above the top of the salt stock. The operation of an already permitted storage cavern shall cease and shall not be allowed to continue if information becomes available that shows this condition exists. The Office of Conservation may order the hydrocarbon storage well and cavern removed from storage service according to an approved closure and post-closure plan.

B. Remedial Work. No remedial work or repair work of any kind shall be done on the hydrocarbon storage well or cavern without prior authorization from the Office of Conservation. The provision for prior authorization shall also extend to doing mechanical integrity pressure and leak tests and sonar caliper surveys; however, a work permit is not required in order to conduct interface surveys. The owner, operator, or its agent shall submit a valid work permit request form (Form UIC-17 or successor). Before beginning well or cavern remedial work, the pressure in the cavern shall be relieved, as practicable.

C. Well Recompletion—Casing Repair. The following applies to hydrocarbon storage wells where remedial work results from well upgrade, casing wear, or similar condition. For each Paragraph below, a casing inspection log shall be done on the entire length of the innermost cemented casing in the well before doing any casing upgrade or repair. Authorization from the Office of Conservation shall be obtained before beginning any well recompletion, repair, upgrade, or closure. A hydrocarbon storage well that cannot be repaired or upgraded shall remain out-of-service and be closed according to an approved closure and post-closure plan.

1. Liner. A liner may be used to recomplete or repair a well with severe casing damage. The liner shall be run from the well surface to the base of the innermost cemented casing. The liner shall be cemented over its entire length and shall be successfully pressure tested.

2. Casing Patch. Internal casing patches shall not be used to repair severely corroded or damaged casing. Casing patches shall only be used for repairing or covering isolated pitting, corrosion, or similar localized damage. The casing patch shall extend a minimum of 10 feet above and below the area being repaired. The entire casing shall be successfully pressure tested.

D. Multiple Well Caverns. No newly permitted well shall be drilled into an existing cavern until the cavern pressure

has been relieved, as practicable, to 0 PSI measured at the surface.

#### E. Cavern Allowable Operating Pressure

1. The maximum and minimum surface injection pressures (gauge) for the storage well and cavern shall be determined after considering the geomechanical characteristics of the salt, the properties of the injected fluid, well and cavern design, and neighboring activities within salt stock.

2. The maximum and minimum allowable surface injection pressures shall be calculated at a depth referenced to the well's deepest cemented casing seat. The injection pressure at the wellhead shall be calculated to ensure that the pressure induced within the salt cavern during injection does not initiate fractures or propagate existing fractures in the salt. In no case shall the injection pressure initiate fractures in the confining zone or cause the migration of injected fluids out of the salt stock or into an underground source of drinking water.

3. When measured at the surface and calculated with respect to the appropriate reference depth, the maximum allowable cavern injection pressure shall not exceed a pressure gradient of 0.90 PSI/FT of vertical depth.

4. The hydrocarbon storage well shall not be operated at pressures above the maximum allowable injection pressure defined above, exceed the maximum allowable pressure as may be established by permit, or exceed the rated burst or collapse pressure of all well tubulars (cemented or hanging strings) even for short periods, including pressure pulsation peaks, abnormal operating conditions, well or cavern tests, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:361 (February 2014).

### §321. Safety

A. **Emergency Action Plan.** A plan outlining procedures for facility personnel to follow in case of an emergency shall be prepared and submitted as part of the permit application. The plan shall contain emergency contact telephone numbers, procedures and specific information for facility personnel to respond to a release, upset, incident, accident, or other site emergency. A copy of the plan shall be kept at the facility and shall be reviewed and updated as needed.

B. **Controlled Site Access.** Access to hydrocarbon storage facilities shall be controlled by fencing or other means around the facility property. All points of entry into the facility shall be through by a lockable gate system.

C. **Personnel.** Personnel shall be on duty at the storage facility 24 hours a day. During periods of stored product injection or withdrawal, trained personnel shall be stationed at the storage well, facility's onsite local control room, or other facility control location at the storage site. If the storage facility chooses to use an offsite monitoring and control automated telemetry surveillance system, approved by the commissioner, provisions shall be made for trained personnel to be on-call at all times and 24-hours-a-day staffing of the facility may not be required.

#### D. Wellhead Protection and Identification

1. A barrier shall be installed and maintained around the storage wellhead as protection from physical or accidental damage by mobile equipment or trespassers.

2. An identifying sign shall be placed at the wellhead of each storage well and, at a minimum, shall include the operator's name, well/cavern name and number, well's state serial number, section-township-range, and any other information required by the Office of Conservation. The sign shall be of durable construction with all lettering kept in a legible condition.

#### E. Valves and Flowlines

1. All valves, flowlines, flanges, fittings, and related connections shall be manufactured of steel. All components shall be designed with a test pressure rating of at least 125 percent of the maximum pressure that could be exerted at the surface. All components and related connections shall be maintained in good working order and shall be periodically inspected by the operator.

2. All valves, flowlines for injection and withdrawal, and any other flowlines shall be designed to prevent pressures over maximum operating pressure from being exerted on the storage well and cavern and prevent backflow or escape of injected material. The fluid withdrawal side of the wellhead shall have the same pressure rating as the injection side.

3. All flowlines for injection and withdrawal connected to the wellhead shall be equipped with remotely operated shut-off valves and shall have manually operated positive shut-off valves at the wellhead. All remotely operated shut-off valves shall be fail-safe and tested and inspected according to §321.I.

F. **Alarm Systems.** Manual and automatically activated alarms shall be installed at all cavern facilities. All alarms shall be audible and visible from any normal work location within the facility. The alarms shall be maintained in proper working order. Automatic alarms designed to activate an audible and a visible signal shall be integrated with all pressure, flow, heat, fire, cavern overfill, leak sensors and detectors, emergency shutdown systems, or any other safety system. The circuitry shall be designed such that failure of a detector or sensor shall activate a warning.

G. **Emergency Shutdown Valves.** Manual and automatically actuated emergency shutdown valves shall be installed on all systems of cavern injection and withdrawal and any other flowline going into or out from each storage wellhead. All emergency shutdown valves shall be fail-safe and shall be tested and inspected according to §321.I.

1. Manual controls for emergency shutdown valves shall be designed to operate from a local control room, at storage wellhead, any remote monitoring and control location, and at a location that is likely to be accessible to emergency response personnel.

2. Automatic emergency shutdown valves shall be designed to actuate on detection of abnormal pressures of the injection system, abnormal increases in flow rates, responses to any heat, fire, cavern overfill, leak sensors and detectors, loss of pressure or power to the well, cavern, or valves, or any abnormal operating condition.

H. **Vapor Detection.** The operator shall develop and implement a plan as required in §323.D to detect the presence of combustible gases or any potentially ignitable substances in the atmosphere resulting from the storage operation.

1. A continuous flare or other safety system shall be installed at or near each brine pit or at any other location where the uncontrollable escape of liquefied gases are likely to occur and the flare shall be burned continuously when a liquefied gas is being injected into a cavern.

I. Safety Systems Test. The operator shall function-test all critical systems of control and safety at least once every six months. This includes testing of alarms, test tripping of emergency shutdown valves ensuring their closure times are within design specifications, and ensuring the integrity of all electrical, pneumatic, or hydraulic circuits. Tests results shall be documented and kept onsite for inspection by an agent of the Office of Conservation.

J. Safety Inspections

1. The operator shall conduct twice-yearly safety inspections and file with the commissioner a written report consisting of the inspection procedures and results within 30 days following the inspection. Such inspections shall be conducted during the winter and summer months of each year. The operator shall notify the commissioner at least five days prior to such inspections so that his representative may be present to witness the inspections. Inspections shall include, but not be limited to, the following:

- a. operations of all manual wellhead valves;
- b. operation of all automatic shut-in safety valves, including sounding or alarm devices;
- c. flare system installation or hydrocarbon filters;
- d. brine pits, tanks, firewalls, and related equipment;
- e. flowlines, manifolds, and related equipment;
- f. warning signs, safety fences, etc.

2. Representatives of the Office of Conservation may inspect the storage well and facility at any time during the storage facility regular working hours.

K. Spill Containment. Levees, booms, or other containment devices suitable to retain liquids released by accidental spillage shall surround the wellheads of caverns storing hydrocarbons that exist as liquids at ambient conditions.

L. Assistance to Residents. As soon as practicable following the issuance of an evacuation order pursuant to R.S. 29:721 et seq., and associated with a sinkhole or other incident at a hydrocarbon storage cavern facility, the commissioner of conservation shall:

1. after consulting with the authority which issued the evacuation order and local governmental officials for the affected area, establish assistance amounts for residents subject to the evacuation order and identify the operator(s) responsible for providing assistance. The assistance amount shall remain in effect until the evacuation order is lifted or until a subsequent order is issued by the commissioner in accordance with Paragraph 2 of this Subsection;

2. upon request of an interested party, call for a public hearing to take testimony from all interested parties in order to consider modifying the evacuation assistance amounts and/or consider a challenge to the finding of the responsible operator(s). The public hearing shall be noticed and held in accordance with R.S. 30:6. The order shall remain in effect until the evacuation is lifted or the commissioner's order is modified, supplemented, or revoked and reissued, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:362 (February 2014).

**§323. Monitoring Requirements**

A. Pressure Gauges, Pressure Sensors, Flow Sensors

1. Pressure gauges or pressure sensors/transmitters that show pressure on the fluid injection string, fluid withdrawal string, and any other string in the well shall be installed at each wellhead. Gauges or pressure sensors/transmitters shall be designed to read gauge pressure in 10 PSIG increments. All gauges or pressure sensors/transmitters shall be properly calibrated and shall always be maintained in good working order. The pressure valves onto which the pressure gauges are affixed shall have 1/2 inch female fittings.

2. Pressure sensors designed to actuate the automatic closure of all emergency shutdown valves in response to a preset pressure (high/low) shall be installed and properly maintained for all fluid injection, withdrawal, and any other appropriate string in the well.

3. Flow sensors designed to actuate the automatic closure of all emergency shutdown valves in response to abnormal changes in cavern injection and withdrawal flow rates shall be installed and properly maintained on each storage well.

B. Continuous Recording Instruments. Continuous recording instrumentation shall be installed and properly maintained for each storage well. Continuous recordings may consist of circular charts, digital recordings, or similar type. Unless otherwise specified by the commissioner, digital instruments shall record the required information at no greater than one minute intervals. Mechanical charts shall not exceed a clock period of 24-hour duration. The chart shall be selected such that its scaling is of sufficient sensitivity to record all fluctuations of pressure or any other parameter being monitored. The chart shall be scaled such that the parameter being recorded is 30 percent to 70 percent of full scale. Instruments shall be housed in weatherproof enclosures when located in areas exposed to climatic conditions. All fluid volumes shall be determined by metering or an alternate method approved by the Office of Conservation. Minimum data recorded shall include the following:

1. wellhead pressures on the fluid injection, fluid withdrawal, and any other string in the well;
2. volume and flow rate of fluid injected;
3. volume of fluid withdrawn.

C. Casing Inspection

1. For existing permitted liquid hydrocarbon storage caverns without a casing inspection or similar log run on the entire length of the innermost cemented casing within 5 years prior to the effective date of these rules, one shall be run within 5 years of the effective date.

2. For existing permitted natural gas storage caverns without a casing inspection or similar log run on the entire length of the innermost cemented casing within 10 years prior to the effective date of these rules, one shall be run within 5 years of the effective date.

3. A casing inspection or similar log shall be run on the entire length of the cemented casing in each well at least



once every 10 years for hydrocarbon storage caverns and 15 years for natural gas storage caverns.

4. Equivalent alternate monitoring programs to ensure the integrity of the innermost, cemented casing may be approved by the Office of Conservation in place of §323.C.1 and §323.C.2.

D. Vapor Detection. The operator shall develop a monitoring plan designed to detect the presence of a buildup of combustible gases or any potentially ignitable substances in the atmosphere resulting from the hydrocarbon storage operation. Variations in topography, atmospheric conditions typical to the area, characteristics of the stored product, nearness of the facility to homes, schools, commercial establishments, etc., should be considered in developing the monitoring plan. The plan shall be submitted as part of the permit application and should include provisions for strategic placement of stationary detection devices at various areas of the facility, portable monitoring devices, or any other appropriate system acceptable to the commissioner.

1. Any stationary detection devices or systems identified in the monitoring plan shall include their integration into the facility's automatic alarm system.

2. Detection of a buildup of combustible gases or any potentially ignitable substances in the atmosphere or system alarm shall cause an immediate investigation by the operator for reason of and correction of the detection.

E. Subsidence Monitoring and Frequency. The owner or operator shall prepare and carry out a plan approved by the commissioner to monitor ground subsidence at and in the area of the storage cavern(s). A monitoring report shall be prepared and submitted to the Office of Conservation after completion of each monitoring event.

1. The frequency of conducting subsidence-monitoring surveys for caverns in gas storage shall be every six months.

2. The frequency of conducting subsidence-monitoring surveys for caverns in liquid storage shall be every 12 months.

F. Wind Sock. At least one windsock shall be installed at all storage cavern facilities. The windsock shall be visible from any normal work location within the facility.

G. Monitor Wells. Quarterly monitoring of any monitor wells required by §317.A.2.a.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:363 (February 2014).

### **§325. Pre-Operating Requirements—Completion Report**

A. The operator shall submit a report describing, in detail, the work performed resulting from the approved permitted activity. The report shall include all information relating to the work and information that documents compliance with these rules and the approved permitted activity. The report shall be prepared and submitted for any approved work relating to the construction, conversion, completion, or workover of the storage well or cavern. Product storage shall not commence until all required information has been submitted to the Office of Conservation and the operator has received written authorization from the Office of Conservation stating storage

operations may begin. Preauthorization pursuant to this Subsection is not required for workovers.

B. Where applicable to the approved permitted activity, information in a completion report shall include:

1. all required state reporting forms containing original signatures;

2. revisions to any operation or construction plans since approval of the permit application;

3. as-built schematics of the layout of the surface portion of the facility;

4. as-built piping and instrumentation diagram(s);

5. copies of applicable records associated with drilling, completing, working over, or converting the well and cavern including a daily chronology of such activities;

6. revised certified location plat of the storage well if the actual location of the well differs from the location plat submitted with the well application;

7. as-built subsurface diagram of the storage well and cavern labeled with appropriate construction, completion, or conversion information, i.e., depth and diameter of all tubulars, depths of top of cap rock and salt, and top and bottom of the cavern;

8. as-built diagram of the wellhead labeled with appropriate construction, completion, or conversion information, i.e., valves, gauges, and flowlines;

9. results of any core sampling and testing;

10. results of well or cavern tests such as casing and casing seat tests, well/cavern mechanical integrity pressure and leak tests;

11. copies of any wireline logging such as open hole logs, cased hole logs, the most recent cavern sonar survey, and mechanical integrity test;

12. the status of corrective action on wells in the area-of-review;

13. the proposed operating data, if different from proposed in the application;

14. the proposed injection procedures, if different from proposed in the application;

15. any additional data documenting the work performed for the permitted activity, information requested by the Office of Conservation, or any additional reporting requirements imposed by the approved permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:364 (February 2014).

### **§327. Well and Cavern Mechanical Integrity Pressure and Leak Tests**

A. The operator of the storage well and cavern shall have the burden of meeting the requirements for well and cavern mechanical integrity. The Office of Conservation shall be notified in writing at least seven days before any scheduled mechanical integrity test. The test may be witnessed by Office of Conservation personnel, but must be witnessed by a qualified third party. Generally accepted industry methods and standards shall apply when conducting and evaluating the tests required in this Rule.

B. Frequency of Tests

1. Without exception or variance to these rules and regulations, all hydrocarbon storage wells and caverns shall be tested for and satisfactorily demonstrate mechanical integrity before beginning storage activities.

2. For hydrocarbon storage caverns permitted on the effective date of these regulations, if a mechanical integrity test (MIT) has not been run on the storage cavern within three years prior to the effective date of these regulations, the operator must run an MIT within two years in order to remain in compliance.

3. All subsequent demonstrations of mechanical integrity shall occur at least once every five years. Additionally, mechanical integrity testing shall be done for the following reasons regardless of test frequency:

- a. after physical alteration to any cemented casing or cemented liner;
- b. after performing any remedial work to reestablish well or cavern integrity;
- c. before returning the cavern to hydrocarbon storage service after a period of salt solution mining or washing to purposely increase storage cavern size or capacity;
- d. after completion of any additional mining or salt washing for caverns engaging in simultaneous storage and salt solution mining or washing that results in a significant increase in cavern volume or change in cavern configuration;
- e. before well closure;
- f. whenever the commissioner determines a test is warranted.

#### C. Test Method

1. All mechanical integrity pressure and leak tests shall demonstrate no significant leak in the cavern, wellbore, casing seat, and wellhead and the absence of significant fluid movement. Test schedules and methods shall consider neighboring activities occurring at the salt dome to reduce any influences those neighboring activities may have on the cavern being tested.

2. Tests shall be conducted using the nitrogen-brine interface method with density interface and temperature logging. An alternative test method may be used if the alternative test can reliably demonstrate well/cavern mechanical integrity and with prior written approval from the Office of Conservation.

3. The cavern pressure shall be stabilized before beginning the test. Pressure stabilization shall be when the rate of cavern pressure change is no more than 10 PSIG during 24 hours.

4. The stabilized test pressure to apply at the surface shall be calculated with respect to the depth of the shallowest occurrence of either the cavern roof or deepest cemented casing seat and shall not exceed a pressure gradient of 0.90 PSI per foot of vertical depth. However, the well or cavern shall never be subjected to pressures that exceed the storage well's maximum allowable operating pressure or exceed the rated burst or collapse pressure of all well tubulars (cemented or hanging strings) even for short periods during testing.

5. A mechanical integrity pressure and leak test shall be run for at least 24 hours after cavern pressure stabilization and must be of sufficient time duration to ensure a sensitive test. All pressures shall be monitored and recorded continuously throughout the test. Continuous pressure recordings may be achieved through mechanical charts or recorded digitally. Mechanical charts shall not exceed a clock period of 24-hour duration. The chart shall be scaled

such that the test pressure is 30 percent to 70 percent of full scale. All charts shall be selected such that its scaling is of sufficient sensitivity to record all fluctuations of pressure, temperature, or any other monitored parameter.

D. Submission of Pressure and Leak Test Results. Submit one complete copy of the mechanical integrity pressure and leak test results to the Office of Conservation within 60 days after test completion. The report shall include the following minimum information:

1. current well and cavern completion data;
2. description of the test procedure including pretest preparation and the test method used;
3. one paper copy and an electronic version of all wireline logs performed during testing;
4. tabulation of measurements for pressure, volume, temperature, etc.;
5. interpreted test results showing all calculations including error analysis and calculated leak rates; and
6. any information the owner or operator of the cavern determines is relevant to explain the test procedure or results.

#### E. Mechanical Integrity Test Failure

1. Without exception or variance to these rules and regulations, a storage well or cavern that fails a test for mechanical integrity shall be immediately taken out of service. The failure shall be reported to the Office of Conservation according to the notification requirements of §309.I. The owner or operator shall investigate the reason for the failure and shall take appropriate steps to return the storage well or cavern to a full state of mechanical integrity. A storage well or cavern is considered to have failed a test for mechanical integrity for the following reasons:

- a. failure to maintain a change in test pressure of no more than 10 PSIG over a 24-hour period;
- b. not maintaining interface levels according to standards applied in the cavern storage industry; or
- c. fluids are determined to have escaped from the storage well or cavern during storage operations.

2. Written procedures to rehabilitate the storage well or cavern, extended cavern monitoring, or abandonment (closure and post-closure) of the storage well or cavern shall be submitted to the Office of Conservation within 60 days of mechanical integrity test failure.

3. If a storage well or cavern fails to demonstrate mechanical integrity and where mechanical integrity cannot be reestablished, the Office of Conservation may require the owner or operator to begin closure of the well or cavern according to an approved closure and post-closure plan.

a. The Office of Conservation may waive implementation of closure requirement if the owner or operator is engaged in a cavern remediation study and implements an interim cavern monitoring plan. The owner or operator must seek written approval from the Office of Conservation before implementing a salt cavern monitoring program. The basis for the Office of Conservation's approval shall be that any waiver granted shall not endanger the environment, or the health, safety and welfare of the public. The Office of Conservation may establish a time schedule for salt cavern rehabilitation, cessation of interim cavern monitoring, and eventual cavern closure and post-closure activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:364 (February 2014).

### **§329. Cavern Configuration and Capacity Measurements**

A. Sonar caliper surveys shall be performed on all storage caverns. With prior approval of the Office of Conservation, the operator may use another similar proven technology designed to determine cavern configuration and measure cavern capacity as a substitute for a sonar survey.

B. Frequency of Surveys. For liquid hydrocarbon storage caverns, a sonar caliper survey, or other approved survey, shall be performed at least once every 5 years. At least once every 10 years a sonar caliper survey, or other approved survey, shall be performed that logs the roof of the cavern. For natural gas storage caverns, a sonar caliper survey, or other approved survey, shall be run that logs the roof of the cavern at least once every 15 years. Additional surveys as specified by the Office of Conservation shall be performed for any of the following reasons regardless of frequency:

1. before commencing cavern closure operations;
2. whenever leakage into or out of the cavern is suspected;
3. after performing any remedial work to reestablish cavern integrity or raise the deepest casing seat;

4. before returning the cavern to storage service after a period of salt solution mining or washing to purposely increase storage cavern size or capacity;

5. after completion of any additional mining or salt washing for caverns engaging in simultaneous storage and salt solution mining or washing;

6. whenever the Office of Conservation determines a survey is warranted.

C. Submission of Survey Results. One complete paper copy and an electronic version of each survey shall be submitted to the Office of Conservation within 60 days of survey completion.

1. Survey readings shall be taken a minimum of every 10 feet of vertical depth. Sonar reports shall contain the following minimum information and presentations:

- a. tabulation of incremental and total cavern volume for every survey reading;
- b. tabulation of the cavern radii at various azimuths for every survey reading;
- c. tabulation of the maximum cavern radii at various azimuths;
- d. graphical plot of cavern depth versus volume;
- e. graphical plot of the maximum cavern radii;
- f. vertical cross sections of the cavern at various azimuths drawn to an appropriate horizontal and vertical scale;
- g. vertical cross section overlays comparing results of current survey and previous surveys;
- h. isometric or 3-D shade profile of the cavern at various azimuths and rotations.

2. The information submitted resulting from use of an approved alternative survey method to determine cavern configuration and measure cavern capacity shall be determined based on the method or type of survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:366 (February 2014).

### **§331. Inactive Caverns**

A. The following minimum requirements apply when a storage cavern is removed from storage service and is expected to remain out of service for one year or more:

1. notify the Office of Conservation in writing within seven days of the well or cavern becoming inactive (out-of-service). The notification shall include the date the cavern was removed from service, the reason for taking the cavern out of service, and the expected date when the cavern may be returned to service (if known);

2. disconnect all flowlines for injection to the well;

3. maintain continuous monitoring of cavern pressures, fluid withdrawal, and other parameters required by the permit;

4. maintain and demonstrate well and cavern mechanical integrity if storage operations were suspended for reasons other than a lack of mechanical integrity;

5. maintain compliance with financial responsibility requirements of these rules and regulations;

6. any additional requirements of the Office of Conservation to document the storage well and cavern shall not endanger the environment, or the health, safety and welfare of the public during the period of cavern inactivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:366 (February 2014).

### **§333. Operating Reports**

A. Operation reports shall be submitted quarterly to the Office of Conservation. Reports are due no later than 15 days following the end of the reporting period.

B. Reports shall be submitted electronically on the appropriate Form and reference the operator name, well name, well number, well state serial number, salt dome name, and contain the following minimum information acquired weekly during the reporting quarter:

1. maximum wellhead pressures (PSIG) on the hanging string;

2. maximum wellhead pressure (PSIG) on the hanging string/casing annulus;

3. description of any event resulting in non-compliance with these rules that triggered an alarm or shutdown device and the response taken;

4. description of any event that exceeds operating parameters for annulus pressure or injection pressure as may be specified in the permit.

C. Upon emergency declaration by the commissioner pursuant to R.S. 30:6 the inventory of stored hydrocarbon in the cavern shall be reported. Report volumes in:

1. barrels (42-gallon barrels) for liquid or liquefied storage; or

2. thousand cubic feet (MCF) for gas storage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:366 (February 2014).

### §335. Record Retention

A. The owner or operator shall retain copies of all records, data, and information concerning the design, permitting, construction, workovers, tests, and operation of the well and cavern. Records shall be retained throughout the operating life of the well and cavern and for five years following conclusion of any post-closure care requirements. Records, data, and information shall include, but shall not be limited to the permit application, cementing (primary and remedial), wireline logs, drill records, casing records, casing pressure tests, well recompletion records, well/cavern mechanical integrity tests, cavern capacity and configuration surveys, surface construction, closure, post-closure activities, corrective action, sampling data, etc. Unless otherwise specified by the commissioner, monitoring records obtained pursuant to §323.B shall be retained by the owner or operator for a minimum of five years from the date of collection. All documents shall be available for inspection by agents of the Office of Conservation.

B. When there is a change in the owner or operator of the well and cavern, copies of all records shall be transferred to the new owner or operator. The new owner or operator shall then have the responsibility of maintaining such records.

C. The Office of Conservation may require the owner or operator to deliver the records to the Office of Conservation at the conclusion of the retention period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:367 (February 2014).

### §337. Closure and Post-Closure

A. Closure. The owner or operator shall close the storage well, cavern, and associated parts as approved by the Office of Conservation. Closure shall not begin without written authorization from the Office of Conservation.

#### 1. Notice of Intent to Close

a. The operator shall review the closure plan before seeking authorization to begin closure activities to determine if the conditions for closure are still relevant to the actual conditions of the storage well, cavern, or facility. Revisions to the method of closure reflected in the plan shall be submitted to the Office of Conservation for approval no later than the date on which the notice of closure is required to be submitted.

b. The operator shall notify the Office of Conservation in writing at least 30 days before the expected closure of the storage well, cavern, or surface facility. Notification shall be by submission of a request for a work permit. At the discretion of the Office of Conservation, a shorter notice period may be allowed.

2. Closure Plan. Plans to close the storage well, cavern, and related surface facility shall be submitted as part of the permit application. The closure plan shall meet the requirements of these rules and regulations, shall use accepted industry practices, and be acceptable to the Office of Conservation. The obligation to implement the closure plan survives the termination of a permit or the cessation of storage operations or related activities. The requirement to maintain and implement an approved plan is directly

enforceable regardless of whether the requirement is a condition of the permit. The Office of Conservation may modify a closure plan where necessary.

3. Closure Plan Requirements. The owner or operator shall review the closure plan at least every five years to determine if the conditions for closure are still applicable to the actual conditions. Any revision to the plan shall be submitted to the Office of Conservation for approval. At a minimum, a closure plan shall address the following:

a. assurance of financial responsibility as required in §309.B.1. All instruments of financial responsibility shall be reviewed according to the following process:

i.(a). detailed cost estimate for closure of the well and related appurtenances (well, cavern, surface appurtenances, etc.) as prepared by a qualified professional. The closure plan and cost estimate shall include provisions for closure acceptable to the Office of Conservation;

ii. after reviewing the required closure cost estimate, the Office of Conservation may amend the required financial surety to reflect the estimated costs to the Office of Conservation to complete the approved closure of the facility;

iii. documentation from the operator showing that the required financial instrument has been renewed shall be received each year by the date specified in the permit. When an operator is delinquent in submitting documentation of financial instrument renewal, the Office of Conservation shall initiate procedures to take possession of funds guaranteed by the financial instrument and suspend or revoke the operating permit. Permit suspensions shall remain in effect until renewal documentation is received and accepted by the Office of Conservation;

b. a prediction of the pressure build-up in the cavern following closure;

c. an analysis of potential pathways for leakage from the cavern, cemented casing shoe, and wellbore. Consideration shall be given to site specific elements of geology, salt cavern geometry and depth, cavern pressure build-up over time due to salt creep and other factors inherent to the salt stock and/or salt dome;

d. procedures for determining the mechanical integrity of the well and cavern before closure;

e. removal and proper disposal of any waste or other materials remaining at the facility;

f. closing, dismantling, and removing all equipment and structures located at the surface (including site restoration);

g. the type, number, and placement of each wellbore or cavern plug including the elevation of the top and bottom of each plug;

h. the type, grade, and quantity of material to be used in plugging;

i. a description of the amount, size, and location (by depth) of casing and any other well construction materials to be left in the well;

j. any proposed test or measurement to be made before or during closure.

4. Standards for Closure. The following are minimum standards for closing the storage well or cavern. The Office of Conservation may require additional standards prior to actual closure.

a. After permanently concluding storage operations with the cavern but before closing the well or cavern, the owner or operator shall:

i. observe and accurately record the shut-in salt cavern pressures and cavern fluid volume for no less than five years or a time period specified by the Office of Conservation to provide information regarding the cavern's natural closure characteristics and any resulting pressure buildup;

ii. using actual pre-closure monitoring data, show and provide predictions that closing the well or cavern as described in the closure plan will not result in any pressure buildup within the cavern that could adversely affect the integrity of the well, cavern, or any seal of the system.

b. Unless the well is being plugged and abandoned due to a failed mechanical integrity test and the condition of the casing and cavern are known, before closure, the owner or operator shall confirm the mechanical integrity of both the well and cavern by well/cavern test methods or analysis of the data collected during the period between the end of storage operations and well/cavern closure.

c. Before closure, the owner or operator shall remove and properly manage any hydrocarbons remaining in the well or cavern.

d. Upon permanent closure, the owner or operator shall plug the well with cement in a way that will not allow the movement of fluids into or between underground sources of drinking water or outside the salt stock.

#### 5. Plugging and Abandonment

a. The well and cavern shall be in a state of static equilibrium before plugging and abandoning.

b. A continuous column of cement shall fill the deepest cemented casing from its shoe to the surface via a series of balanced cement plugs:

i. each cement plug shall be tagged to verify the top of cement and pressure tested to at least 300 PSI for 30 minutes before setting the next cement plug;

ii. an attempt shall be made to place a cement plug in the open borehole below the deepest cemented casing;

iii. a balanced cement plug shall be placed across the shoe of the deepest cemented casing; and

iv. subsequent balanced cement plugs shall be spotted immediately on top of the previously placed balanced cement plug.

c. After placing the top plug, the operator shall:

i. on land locations cut and pull the casings a minimum of 5 feet below ground level. A 1/2 inch thick steel plate shall be welded across the top of all casings. The well's plug and abandonment date and well serial number shall be inscribed on top of the steel plate.

ii. on water locations cut and pulled the casings a minimum of 15 feet below the mud line.

d. The operator may alter the plan of abandonment if new or unforeseen conditions arise during the well work, but only after approval by the Office of Conservation.

6. Closure Report. The owner or operator shall submit a closure report to the Office of Conservation within 60 days after closing the storage well, cavern, facility, or part thereof. The report shall be certified as accurate by the owner or operator and by the person charged with overseeing the

closure operation (if other than the owner or operator). The report shall contain the following information:

a. detailed procedures of the closure operation. Where actual closure differed from the plan previously approved, the report shall include a written statement specifying the differences between the previous plan and the actual closure;

b. one original of the appropriate Office of Conservation plug and abandon report form (Form UIC-P&A or successor); and

c. any information pertinent to the closure activity including test or monitoring data.

B. Post-Closure. Plans for post-closure care of the storage well, cavern, and related facility shall be submitted as part of the permit application. The post-closure plan shall meet the requirements of these rules and regulations and be acceptable to the Office of Conservation. The obligation to implement the post-closure plan survives the termination of a permit or the cessation of storage operations or related activities. The requirement to maintain and implement an approved post-closure plan is directly enforceable regardless of whether the requirement is a condition of the permit. The Office of Conservation may modify a post-closure plan where necessary.

1. The owner or operator shall review the post-closure plan at least every five years to determine if the conditions for post-closure are still applicable to actual conditions. Any revision to the plan shall be submitted to the Office of Conservation for approval. At a minimum, a post-closure plan shall address the following:

a. assurance of financial responsibility as required in §309.B.1. All instruments of financial responsibility shall be reviewed according to the following process:

i.(a). detailed cost estimate for adequate post-closure care of the well and cavern shall be prepared by a qualified, independent third party. The post-closure care plan and cost estimate shall include provisions acceptable to the Office of Conservation;

ii. after reviewing the closure cost estimate, the Office of Conservation may amend the amount to reflect the costs to the Office of Conservation to complete the approved closure of the facility;

iii. documentation from the operator showing that the required financial instrument has been renewed must be received each year by the date specified in the permit. When an operator is delinquent in submitting documentation of financial instrument renewal, the Office of Conservation shall initiate procedures to take possession of the funds guaranteed by the financial instrument and suspend or revoke the operating permit. Any permit suspension shall remain in effect until renewal documentation is received and accepted by the Office of Conservation;

b. any plans for monitoring, corrective action, site remediation, site restoration, etc., as may be necessary.

2. Where necessary and as an ongoing part of post-closure care, the owner or operator shall continue the following activities:

a. conduct subsidence monitoring for a period of no less than 10 years after closure of the facility;

b. complete any corrective action or site remediation resulting from the operation of a storage well;

c. conduct any groundwater monitoring if required by the permit until pressure in the cavern displays a trend of behavior that can be shown to pose no threat to cavern integrity, underground sources of drinking water, or other natural resources of the state;

d. complete any site restoration.

3. The owner or operator shall retain all records as required in §335 for five years following conclusion of post-closure requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 40:367 (February 2014).

James H. Welsh  
Commissioner

1402#044

## RULE

### Department of Public Safety and Corrections Office of Motor Vehicles

#### Commercial Driving Schools and Instructors (LAC 46:XXXIV.Chapters 1-5)

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Motor Vehicles has repealed LAC 46:XXXIV.Chapters 1-5. LAC 55:III.143-159 were amended in August 2012, and again in December 2012, to implement Act 475 of the 2012 Regular Session, which increased the age that first-time driver's license applicants have to take the 30-hour classroom course and an 8-hour behind-the-wheel course to be licensed from 17 to 18 years of age. Furthermore, Act 475 limited the 8-hour behind-the-wheel instruction to 4 hours per day per student and added a requirement that those over the age of 18 must have 8 hours of behind-the-wheel training in addition to the existing 6-hour classroom instruction. Furthermore, the Office of Motor Vehicles added a military exemption to allow for active duty military status persons to submit proof of successful completion of military driver training in lieu of the completion certificate currently required for third-party testers. The Office of Motor Vehicles additionally amended these rules in LAC 55:III.143-159 to provide for an affidavit from secondary/alternative schools to submit in substitution for taking an additional criminal background check when they have already taken one as a result of their employment at the school when applying for a driving school instructor license for a secondary/alternative school. In addition, the Office of Motor Vehicles amended these articles to provide further clarification to the third-party tester requirement as mandated by Act 307 of the 2011 Regular Session. Therefore, the Office of Motor Vehicles has repealed the Sections under LAC 46:XXXIV in order to comply with LAC 55:III.143-159 relative to commercial driving schools and instructors.

## Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part XXXIV. Commercial Driving Schools and Instructors

#### Chapter 1. General Provisions

##### §101. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:22 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 40:369 (February 2014).

##### §103. General Regulations and Policies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:24 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 40:369 (February 2014).

##### §105. Revocation or Suspension

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:24 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 40:369 (February 2014).

##### §107. Penalties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 40:369 (February 2014).

#### Chapter 3. Driving Schools

##### §301. Application for Original Commercial Driving School License

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:22 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 40:369 (February 2014).

##### §303. Changes in Officers or Addresses

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:23 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 40:369 (February 2014).

**§305. Renewal**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:23 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 40:370 (February 2014).

**§307. Location**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:23 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 40:370 (February 2014).

**§309. Office Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:23 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 40:370 (February 2014).

**§311. Commercial Driving School Name**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:23 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 40:370 (February 2014).

**§313. Branch Offices**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:23 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 40:370 (February 2014).

**§315. Records**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:23 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, R.S. 12:446 (July 1986), repealed LR 40:370 (February 2014).

**§317. Contracts**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 40:370 (February 2014).

**§319. Insurance and Safety Requirements**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:23 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 40:370 (February 2014).

**§321. Program of Instruction**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:24 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 40:370 (February 2014).

**Chapter 5. Driving Instructors**

**§501. Application for Instructor's Certificate**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:24 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 40:370 (February 2014).

**§503. Carrying Certificates**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:24 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 40:370 (February 2014).

**§505. Instructor Qualifications**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of Motor Vehicles, LR 6:24 (January 1980), amended by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 12:446 (July 1986), repealed LR 40:370 (February 2014).

Jill Boudreaux  
Undersecretary

1402#031

**RULE**

**Department of Public Safety and Corrections  
Office of Motor Vehicles**

Public Tag Agents (LAC 55:I.1575)

In accordance with the provisions of R.S. 47:532.1, relative to the authority of the Office of Motor Vehicles, the Office of Motor Vehicles amends LAC 55:III.1575, to

further clarify the requirements for a public tag agent to be authorized to issue driver's licenses and identification cards on behalf of the Office of Motor Vehicles.

**Title 55**

**PUBLIC SAFETY**

**Part III. Motor Vehicles**

**Chapter 15. Services Provided by Persons and Business Entities**

**Subchapter B. Public Tag Agents**

**§1575. Driver's License Issuance**

A. A public tag agent may contract with the department to administer the necessary tests and issue or renew identification cards, handicap hang tag identification cards, and driver's licenses. The written knowledge test and the driving or skills test shall be administered in accordance with the provisions of LAC 55:III.Chapter 1.Subchapter C.

B. The public tag agent's third party examiner shall utilize only department approved visual screening equipment. In lieu thereof, each examiner may opt to utilize the standard Snellen wall-chart for visual acuity. The visual acuity testing shall be administered in a manner approved by the department.

C. A public tag agent shall develop controls to secure the materials and equipment necessary to issue driver's licenses. Such controls shall be submitted in writing to the department. A public tag agent shall not issue any driver's licenses until the controls required by this Section have been approved by the department in writing. Once approved, the controls shall be implemented as written. Any changes to the control approved by the department shall be approved in writing prior to implementation.

D. The department shall designate the types of driver's license and identification card transactions a public tag agent may perform, such as renewals and duplicates. Such designation shall be at the sole discretion of the department. Identification cards include the photographic identification issued with a handicap hangtag.

E. Qualifications for Issuance of Driver's Licenses and Identification Cards. In addition to the qualification requirements contained in statute and this Chapter, a public tag agent shall meet these additional requirements in order to be approved to perform driver's license and identification card transaction designated by the department.

1. Insurance. The insurance policy shall provide coverage and a defense for the state of Louisiana and the Department of Public Safety and Corrections, as well as the employees of the state and the department.

a. A policy for professional liability/errors and omissions with minimum coverage of \$1,000,000.

b. A policy for general liability with minimum coverage of \$1,000,000.

2. A security system installed by a company licensed and approved by the Office of State Fire Marshal. This system shall be monitored 24 hours a day by a monitoring company.

3. A video surveillance system which at a minimum monitors all entrances, the driver's license camera station, and the secure supply room. Such system shall be installed by a company licensed and approved by the Office of State Fire Marshal. The video images shall be retained by the system for a minimum of 30 days with the ability to save the video indefinitely if so requested by the department.

**F. Camera Station**

1. The public tag agent shall purchase the camera station from the current vendor providing the credential issuance solution for the department. The public tag agent shall receive prior approval from the department before purchasing the camera station.

2. A public tag agent may only dispose of a camera station in a manner approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:1927 (November 2001), amended LR 40:

Jill P. Boudreaux  
Undersecretary

1402#079

**RULE**

**Department of Public Safety and Corrections  
Office of State Police**

**Motor Carrier Safety Revision Date and Weight  
(LAC 33:V.10303 and 10309)**

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 32:1501 et seq., hereby amends its rules regulating motor carrier safety and hazardous materials by updating the revision date of the adopted federal motor carrier regulations to October 1, 2013 and by deleting rules which were repealed by statute.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part V. Hazardous Wastes and Hazardous Materials**

**Subpart 2. Department of Public Safety and Corrections—Hazardous Materials**

**Chapter 103. Motor Carrier Safety and Hazardous Materials**

**§10303. Federal Motor Carrier Safety and Hazardous Materials**

A. The following federal motor carrier safety regulations and hazardous materials regulations promulgated by the United States Department of Transportation, revised as of October 1, 2013, and contained in the following parts of 49 CFR as now in effect or as hereafter amended, are made a part of this Chapter.

<b>Hazardous Material Regulations</b>	
Part 107	Hazardous Materials Program Procedures
Part 171	General Information, Regulations, and Definitions
Part 172	Hazardous Materials Table, Special Provisions, and Hazardous Materials Communications, Emergency Response Information, and Training Requirements
Part 173	Shippers—General Requirements for Shipments and Packagings
Part 177	Carriage by Public Highways
Part 178	Specifications for Packagings
Part 180	Continuing Qualification and Maintenance of Packagings

<b>Motor Carrier Safety Regulations</b>	
Part 355	Compatibility of State Laws and Regulations Affecting Interstate Motor Carrier Operations
Part 360	Fees for Motor Carrier Registration and Insurance



Motor Carrier Safety Regulations	
Part 365	Rules Governing Applications for Operating Authority
Part 367	Standards for Registration with States
Part 373	Receipts and Bills
Part 374	Passenger Carrier Regulations
Part 375	Transportation of Household Goods in Interstate Commerce: Consumer Protection Regulations
Part 376	Lease and Interchange of Vehicles
Part 379	Preservation of Records
Part 382	Controlled Substances and Alcohol Use and Testing
Part 383	Commercial Driver's License Standards; Requirements and Penalties
Part 384	State Compliance with Commercial Driver's License Program
Part 385	Safety Fitness Procedures
Part 386	Rules of Practice for Motor Carrier, Broker, Freight Forwarder and Hazardous Materials Proceedings
Part 387	Minimum Levels of Financial Responsibility for Motor Carriers
Part 388	Cooperative Agreements with States
Part 389	Rulemaking Procedures-Federal Motor Carrier Safety
Part 390	Federal Motor Carrier Safety Regulations; General
Part 391	Qualifications of Drivers
Part 392	Driving of Commercial Motor Vehicles
Part 393	Parts and Accessories Necessary for Safe Operation
Part 395	Hours of Service of Drivers
Part 396	Inspection, Repair, and Maintenance
Part 397	Transportation of Hazardous Materials; Driving and Parking Rules

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:1115 (November 1991), LR 19:351 (March 1993), LR 20:58 (January 1994), LR 24:956 (May 1998), LR 24:2321 (December 1998), LR 29:711 (May 2003), LR 30:447 (March 2004), LR 32:641 (April 2006), LR 34:882 (May 2008), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 37:1613 (June 2011), LR 38:1417 (June 2012), amended by the Department of Public Safety and Corrections, Office of State Police, LR 40:371 (February 2014).

#### §10309. Recovery of Civil Penalties

A. To enforce the collection of a civil penalty levied after due process upon a person determined by the secretary of the Department of Public Safety and Corrections to have committed an act that is a violation of R.S. 32:1501 et seq., or adopted or promulgated regulations as provided in this Chapter, the secretary shall act in accordance with the provisions of R.S. 32:1525.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 14:488 (July 1988), LR 17:1116 (November 1991), LR 40:372 (February 2014).

Jill P. Boudreaux  
Undersecretary

1402#021

## RULE

### Department of State Elections Division

#### Sale of Voter Registration Lists (LAC 31:II.105)

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 18:31 and R.S. 36:742, the secretary of state hereby amends LAC 31:II.105 with regard to the sale of voter registration lists.

### Title 31 ELECTIONS

#### Part II. Voter Registration and Voter Education

##### Chapter 1. Registrars of Voters

##### §105. Sale of Voter Registration Lists

A. The Department of State generates voter registration lists through ERIN and establishes guidelines that shall be provided to the registrars of voters for the sale of voter registration lists to the general public.

B. Voter registration lists can either be requested through the department's website [www.GeauxVote.com](http://www.GeauxVote.com) or through a registrar of voters' office. All lists must be paid for in advance based upon an estimate provided by either the department or registrar of voters to the client. All estimates will be signed by the client, unless the estimate is submitted electronically. Checks, money orders and credit cards are the acceptable forms of payment. Payment shall either be given to the department or the Registrar of Voters' office. If the registrar of voters' office receives the payment, the registrar shall fax a copy of the check or money order to the department and mail the check or money order to the department within 48 hours.

C. The department hereby establishes the cost schedules detailed below for the sale of voter registration lists.

##### 1. List of Voter Registrations in PDF Format

Number of Voters	Cost
1-2,000 voters	\$20
2,001 +	\$0.01 x number of voters, not to exceed \$5,000

a. This list can be requested without districts and should contain the following information: parish, registration number, ward, precinct, name, party, age, sex, race, last-vote-date, residence, and mailing addresses. If requested, the list will provide telephone numbers.

b. This list can be requested with districts and should contain the same information above plus the following information: congressional, senatorial, representative, police jury/council, justice of the peace, school board, city district, district court, Public Service Commission, Board of Elementary and Secondary Education, tax ward district, and eight special districts. If requested, the list will provide telephone numbers.

c. This list can be ordered for delivery via electronic mail or CD-ROM. Each duplicate copy of the CD-ROM costs one-fourth the cost of the original.

2. Mailing Labels in PDF Format

Number of Voters	Cost
1-2,000 voters	\$20
2,001 +	\$0.01 x number of voters, not to exceed \$5,000

a. Label formatted pdf files may be ordered with the following information:

- i. voter's name and mailing address only; or
- ii. voter's name, mailing address, ward and precinct.

b. The mailing labels in pdf format can be ordered for delivery via electronic mail or CD-ROM. Each duplicate copy of the CD-ROM costs one-fourth the cost of the original.

3. List of Voter Registrations in Text Format

Number of Voters	Cost
1-2,000	\$20
2,001 +	\$0.01 x number of voters, not to exceed \$5,000

a. The data is in text format.

b. The text format list should provide the following information: parish, name, ward, precinct, party, residence and mailing addresses, sex, race, age, status, registration, date, registration number, last 20 dates voted, and all district information.

c. If requested, the telephone number will be provided.

d. The text format list can be ordered for delivery via electronic mail or CD-ROM. Each duplicate copy of the CD-ROM costs one-fourth the cost of the original.

4. Delivery. The minimum cost for the delivery service shall be \$7.50 per shipment.

5. Special Requests. The prices above apply to requests using the standard criteria. A \$100 per hour programming charge will be added for any "special request." Registrars of voters must check with the information technology section of the department prior to agreeing to a request that does not conform to the standard criteria.

D. The client shall review the list immediately upon receipt. If there is a problem with the list, the client must immediately notify the department or registrar of voters. If the client has a valid reason for seeking a new list or getting a refund, the client has seven days to return the original voter registration list to the department or registrar of voters to receive a new list or a refund. If the original list has been reproduced, no refund will be issued and a new list will be subject to the appropriate costs. If the list was delivered via electronic mail, the list must be deleted prior to receiving a new list or getting a refund. If the reasoning is determined to be justifiable by the department, a new list will be provided or a refund issued.

E. Notwithstanding any provision of this Section to the contrary, a statewide voter registration list may be available electronically to the state chair of a political party recognized pursuant to R.S. 18:441 from the department by

subscription agreement. Such statewide voter registration list shall be transmitted electronically on a quarterly basis at a subscription rate of \$7,500 per year payable to the Department of State.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:31, 18:441 and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:704 (April 2008), amended LR 40:372 (February 2014).

Tom Schedler  
Secretary of State

1402#047

**RULE**

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

**Tripletail—Harvest Regulations (LAC 76:VII.379)**

The Wildlife and Fisheries Commission does hereby adopt a Rule, LAC 76:VII.379, Tripletail—Harvest Regulations. Authority for adoption of this Rule is included in R.S. R.S. 56:6(25)(a), R.S. 56:326.1, R.S. 56:326.3, and R.S. 56:320.2(C).

**Title 76**

**WILDLIFE AND FISHERIES**

**Part VII. Fish and Other Aquatic Life**

**Chapter 3. Saltwater Sport and Commercial Fishery  
§379. Tripletail—Harvest Regulations**

**A. Recreational Take and Possession Limits**

1. The recreational bag limit for the possession of tripletail (*Lobotes surinamensis*) whether caught within or without Louisiana waters shall be five fish per person, per day.

**B. Commercial Take and Possession Limits**

1. No person shall take, harvest, land, or possess aboard a harvesting vessel tripletail in excess of a recreational bag limit unless that person is in possession and has in his immediate possession a valid commercial fishing license, commercial gear licenses (if applicable) and a valid commercial vessel license. The holder of such valid commercial licenses (if applicable) shall not take, possess, land, sell, barter, trade or exchange or attempt to take, sell, barter, trade or exchange tripletail, whole or eviscerated, in excess of 100 pounds on any one day or on any trip, or from any trip. For the purposes of this Section:

*Trip*—any fishing trip, regardless of number of days duration, that begins with departure from a dock, berth, beach, shoreline, seawall or ramp.

2. No person aboard any vessel shall transfer or cause the transfer of tripletail between vessels on state or federal waters.

3. No person shall sell, purchase, barter, trade or exchange or attempt to sell, purchase, barter, trade or exchange tripletail, whole or eviscerated, in excess of 100 pounds, except that such limitation shall not apply to the resale of tripletail by a validly licensed wholesale/retail seafood dealer who purchased such tripletail in compliance with the regulations and requirements of this Section and in compliance with other requirements of law.

C. Size Limits

1. The recreational and commercial minimum size limit for tripletail (*Lobotes surinamensis*) shall be 18 inches total length.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25) (a), R.S. 56:326.1, R.S. 56:326.3, and R.S. 56:320.2(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 40:3730 (February 2014).

Billy Broussard  
Vice Chairman

1402#045

**RULE**

**Workforce Commission  
Office of Unemployment Insurance Administration**

Employment Security Law (LAC 40:IV.303 and 364)

Pursuant to the authority granted in R.S. 23:1653 and R.S. 23:1654, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Workforce Commission has adopted §303 and §364. The purpose of promulgating §303 is to clarify the training requirements for newly hired administrative law judges. The purpose of promulgating §364 is to provide clarity in regard to the appeal rights associated with reciprocal offsets.

**Title 40**

**LABOR AND EMPLOYMENT**

**Part IV. Employment Security**

**Subpart 1. Board of Review**

**Chapter 3. Employment Security Law**

**§303. Training of Administrative Law Judges**

A. Prior to participation in any claim resolution, newly hired administrative law judges will participate in web-based and/or in-person training on: agency policy and precedent, benefits analysis, the unemployment insurance system, the appeals process, and the proper methods for conducting hearings and writing decisions according to federal quality standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653 et seq.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Unemployment Insurance Administration, LR 40:374 (February 2014).

**§364. Reciprocal Offset**

A. An appeal of a determination to offset unemployment benefits under R.S. 23:1665.2 shall be limited to the authority of the administrator of the Louisiana Workforce Commission to offset against benefits payable to the claimant and shall be conducted in accordance with R.S. 23:1629 and R.S. 23:1630. All issues concerning the validity of the overpayment shall be directed by the claimant to the requesting state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1653 et seq.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Unemployment Insurance Administration, LR 40:374 (February 2014).

Curt Eysink  
Executive Director

1402#027

**RULE**

**Workforce Commission  
Office of Unemployment Insurance**

Board of Review—Notice of Hearing (LAC 40:IV.111)

Pursuant to the authority granted in R.S. 23:1653, R.S. 23:1654, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Workforce Commission has amended §111. The purpose of the amendment to §111 is to remove obsolete nomenclature from the body of the Section and to comply with newly legislated Act 39 which reduces the notice of hearing requirement from 10 days to 7 days.

**Title 40**

**LABOR AND EMPLOYMENT**

**Part IV. Employment Security**

**Subpart 1. Board of Review**

**Chapter 1. General Provisions**

**§111. Notice of Hearing**

A. A notice of hearing shall be mailed to all parties to the appeal at least seven days prior to the date of the hearing, specifying the place, date and time of the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1631.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:486 (June 1989), amended by the Department of Employment and Training, Office of Employment Security, LR 17:36 (January 1991), amended by the Workforce Commission, Office of Unemployment Insurance, LR 40:374 (February 2014).

Curt Eysink  
Executive Director

1402#028

**RULE**

**Workforce Commission  
Office of Workers' Compensation**

Fee Schedule Update  
(LAC 40:I:306, 307, 4119, 4339, 5101,  
5127, 5157, 5315, 5321, and 5399)

The Louisiana Workforce Commission, Office of Workers' Compensation, pursuant to the authority vested in the Director of the Office of Workers' Compensation by R.S. 23:1310.1 and in accordance with applicable provisions of the Administrative provisions Act, has amended LAC 40:I:306;307; 4119; 4339; 5101;5127;5157;5315;5321;5399.

In July of 2013 the Office of Workers' Compensation (OWC) updated the Current Procedural Terminology (CPT) and Healthcare Common Procedure Coding System (HCPCS) codes in order to be consistent with the American Medical Association (AMA). In doing so, numerous codes were added and deleted; however, the rules associated with the Current Dental Terminology (CDT) and Physical Medicine (which references physical and occupational therapist codes) were omitted in the updates. The Rule will replace the obsolete rules and guidelines associated with the CDT and Physical Medicine codes.

The Rule will also delete duplicate codes, fix codes with incorrect pricing and add inadvertently omitted codes in order to be consistent with the AMA.

**Title 40**

**LABOR AND EMPLOYMENT**

**Part I. Workers' Compensation Administration**

**Subpart 1. General Administration**

**Chapter 3. Electronic Billing**

**§306. Electronic Medical Billing and Payment Companion Guide**

A. - J. ...

\*\*\*

*NDAS-National Dental Advisory Service*—glossary of dental benefit technology, medical terminology for TMJ and oral surgery billing, and common dental terms utilized for pricing.

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1310.1.

**HISTORICAL NOTE:** Promulgated by the Louisiana Workforce Commission, Office of Workers Compensation Administration, LR 39:331 (February 2013), amended LR 40:375.

**§307. Billing Code Sets**

A. - A.7. ...

8. "Physical Therapy"/"Occupational Therapy Codes: Codes specified in Title 40 of the LAC covering physical therapy and occupational therapy services.

9. - 10. ....

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1203.2.

**HISTORICAL NOTE:** Promulgated by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 37:3544 (December 2011), amended LR 40:375 (February 2014).

**Chapter 41. Durable Medical Equipment and Supplies Reimbursement Schedule, Billing Instructions, and Maintenance Procedures**

Editor's Note: Other Sections applying to this Chapter can be found in Chapter 51.

**§4119. Maximum Allowance Schedules**

A. Durable Medical Equipment

State of Louisiana Office of Workers' Compensation Schedule of Maximum Allowances for Durable Medical Equipment				
HCPCS	Description	Purchase New	Purchase Used	Rental
***				
E0464	Press supp vent noninv int			\$2,132
***				

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1034.2.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), amended by the Workforce Commission, Office of Workers' Compensation, LR 39:1841 (July 2013), LR 40:375.

**Subpart 2. Medical Guidelines**

**Chapter 43. Prosthetic and Orthopedic Equipment**

**§4339. Schedule of Maximum Allowances and Procedural Codes**

A. - A.3. ...

B. Prosthetic and Orthopedic Equipment

Office of Workers' Compensation Schedule of Maximum Allowances for Prosthetic and Orthopedic Equipment			
HCPCS	Description	Purchase New	
***			
L8040	Nasal prosthesis		\$3,559
L8040	Nasal prosthesis	KM	\$3,381
L8040	Nasal prosthesis	KN	\$1,424
L8041	Midfacial prosthesis		\$4,290
L8041	Midfacial prosthesis	KM	\$4,076
L8041	Midfacial prosthesis	KN	\$1,716
L8042	Orbital prosthesis		\$4,820
L8042	Orbital prosthesis	KM	\$4,579
L8042	Orbital prosthesis	KN	\$1,928
L8043	Upper facial prosthesis		\$5,399
L8043	Upper facial prosthesis	KM	\$5,129
L8043	Upper facial prosthesis	KN	\$2,160
L8044	Hemi-facial prosthesis		\$5,977
L8044	Hemi-facial prosthesis	KM	\$5,678
L8044	Hemi-facial prosthesis	KN	\$2,391
L8045	Auricular prosthesis		\$3,933
L8045	Auricular prosthesis	KM	\$3,736
L8045	Auricular prosthesis	KN	\$1,572
L8046	Partial facial prosthesis		\$3,856
L8046	Partial facial prosthesis	KM	\$3,663
L8046	Partial facial prosthesis	KN	\$1,543
L8047	Nasal septal prosthesis		\$1,976
L8047	Nasal septal prosthesis	KM	\$1,878
L8047	Nasal septal prosthesis	KN	\$791
***			

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1034.2.

**HISTORICAL NOTE:** Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), amended by the Workforce Commission, Office of Workers' Compensation, LR 39:1847 (July 2013), LR 40:375.

**Chapter 51. Medical Reimbursement Schedule**

**§5101. Statement of Policy**

A. - B.3. ...

4. Statements of charges shall be made in accordance with standard coding methodology as established by these rules, ICD-9-CM, HCPCS, CPT-4, CDT-1, NDAS coding manuals. Unbundling or fragmenting charges, duplicating or over-itemizing coding, or engaging in any other practice for the purpose of inflating bills or reimbursement is strictly prohibited. Services must be coded and charged in the manner guaranteeing the lowest charge applicable. Knowingly and willfully misrepresenting services provided to workers' compensation claimants is strictly prohibited.

5. - 8. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), amended by the Workforce Commission, Office of Workers' Compensation, LR 40:375 (February 2014).

**§5127. Physical Medicine**

A. - A.1.b. ...  
 c. services must be billed using the appropriate national CPT codes as listed in this manual.

A.2. - B.3.b. ...

C. Assessment

1. Billing. The initial, written assessment developed by the therapist must be reported to the carrier using procedure code, 97001 or 97003.

2. Reimbursement

a. Only one initial assessment per injury may be reimbursed. Reimbursement for the use of additional initial assessment time is not allowed.

b. Reimbursement for reassessment shall be recommended only once in a seven day period. Reassessment for established patients shall be billed under 97002 or 97004.

c. Assessment of the patient's status includes assessment of the neuromuscular system. Therefore, reimbursement must not be made for neuromuscular testing codes, extremity testing codes and/or range of motion codes except for those testing procedures identified by the following code: 97535 or 97755.

D. - D.1.b.ii. ...

2. Reimbursement

a. No more than one visit per day for the purpose of therapy may be reimbursed.

b. The carrier should compare the billing with the plan of care to ensure that only the services that are itemized in the plan of care are reimbursed.

c. Since the Hubbard Tank or Therapeutic Pool is designed for full body immersion, unless full body immersion is medically necessary and prescribed, Procedure Codes 97036 must not be reimbursed.

d. Prior written authorization must be obtained when billing for more than eight modalities, procedures or combination in one physical and occupational therapy session.

e. Therapeutic exercises and procedures codes 97150, 97110, 97530 are to utilized by physical therapists when billing for therapeutic exercise and procedures such as, but not limited to, joint mobilization, gait training, muscle re-education, activities of daily living, patient education, etc.

B. Table 2

Maximum Fee Allowance Schedule Office of Workers' Compensation						
CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
* * *						
21116		Injection, jaw joint X-ray	0	\$114		
21120		Reconstruction of chin	90	\$620		
* * *						
24071		Exc arm/elbow les sc 3 cm/>	90	\$843		
24073		Exc arm/elbow les sc 3 cm/>	90	\$1438		
24075		Ex arm/elbow tum deep 5 cm/>	90	\$433		

E. - F. ...

G. Fabrications of Orthotics

1. Evaluation of orthotics shall be billed according to §5127.C.

2. Fabrication and fitting of orthotics shall be billed under 97530 or 97760 as a PT/OT procedure.

3. Supplies shall be billed according to §5127.F.

H. Test and Measurements

1. Reimbursement for extremity testing, muscle testing and range of motion measurements shall be billed according to §5127.C.

2. Procedure codes 97755 shall be used when testing is performed by means of mechanical equipment. These procedure codes shall include print out of test results with report.

a. Prior authorization is required to bill 97755 if testing exceeds 30 minutes for single joint, single plane; or, 45 minutes for single joint multiple plane; or, 45 minutes for multiple joint, multiple plane for noninvolved side.

b. Prior authorization is required to bill 97755 if re-testing exceeds 15 minutes for single joint, single plane; or 30 minutes for single joint multiple plane; or, 30 minutes for multiple joint, multiple plane for noninvolved side.

I. - I.4.e. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), amended by the Workforce Commission, Office of Workers' Compensation, LR 40:376 (February 2014).

**§5157. Maximum Reimbursement Allowances**

A. Table 1

Maximum Fee Allowance Schedule Office of Workers' Compensation				
CPT Code	Mod	Description	Global Days	Maximum Allowance
* * *				
00635		Anesth, lumbar puncture		4 + TM
00640		Anesth, spine manipul		3 + TM
* * *				
01991		Anesth nerve block/inj		3 + TM
01992		Anesth n block/inj prone		5 + TM
01996		Daily mgmt epidur/subarach drug adm		\$3
01999		Unlisted anesthesia procedre		BR

Maximum Fee Allowance Schedule Office of Workers' Compensation						
CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
24076		Remove arm/elbow lesion	90	\$734		
24077		Remove tumor of arm/elbow	90	\$1,617		
* * *						
31750		Repair of windpipe	90	\$1,347		
31755		Repair of windpipe	90	\$3,686		
31760		Repair of windpipe	90	\$2,432		
* * *						
33692		Repair of heart defects	90	\$3,874		
33694		Repair of heart defects	90	\$4,153		
* * *						
35876		Removal of clot in graft	90	\$1,612		
35879		Revise graft w/vein	90	\$2,022		
* * *						
38780		Remove abdomen lymph nodes	90	\$2,432		
38790		Inject for lymphatic X ray	0	\$757		
* * *						
51727		Cystometrogram w/up	0	\$425		
51728	26	Cystometrogram w/vp	0	\$217		
51728	TC	Cystometrogram w/vp	0	\$431		
51728		Cystometrogram w/vp	0	\$648		
51729	26	Cystometrogram w/vp&up	0	\$264		
51729	TC	Cystometrogram w/vp&up	0	\$442		
51729		Cystometrogram w/vp&up	0	\$707		
* * *						
58290		Vag hyst complex	90	\$2,434		
58291		Vag hyst incl t/o complex	90	\$2,637		
58292		Vag hyst t/o & repair compl	90	\$2,785		
58294		Vag hyst w/enterocele compl	90	\$2,582		
58300		Insert intrauterine device	0	\$136		
58301		Remove intrauterine device	0	\$90		
* * *						
58346		Insert heyman uteri capsule	90	\$937		
* * *						
58353		Endometr ablate thermal	10		\$2,065	\$459
58356		Endometrial cryoablation	10		\$3,878	\$727
* * *						
63268		Excise intraspinal lesion	90	\$2,286		
63270		Excise intraspinal lesion	90	\$3,285		
* * *						
64565		Implant neuroelectrodes	10	\$181		
64566		Neuroeltrd stim post tibial		\$275		
* * *						
70492	TC	Contrast cat of neck tissue		\$507		
70496	26	Ct angiography head		\$174		
70496	TC	Ct angiography head		\$881		
70496		Ct angiography head		\$1,055		
70498	26	Ct angiography neck		\$174		
70498	TC	Ct angiography neck		\$919		
70498		Ct angiography neck		\$1,093		
70540		Magnetic image, face, neck		\$963		
70540	26	Magnetic image, face, neck		\$159		
70540	TC	Magnetic image, face, neck		\$804		
70542	26	Mri orbit/face/neck w/dye		\$161		
70542	TC	Mri orbit/face/neck w/dye		\$807		
70542		Mri orbit/face/neck w/dye		\$969		
70543	26	Mri orb/fac/nck w/o & w/dye		\$213		
70543	TC	Mri orb/fac/nck w/o & w/dye		\$966		
70543		Mri orb/fac/nck w/o & w/dye		\$1,180		
70544	26	Mr angiography head w/o dye		\$120		
70544	TC	Mr angiography head w/o dye		\$849		
70544		Mr angiography head w/o dye		\$969		
70545	26	Mr angiography head w/dye		\$119		
70545	TC	Mr angiography head w/dye		\$829		
70545		Mr angiography head w/dye		\$948		

Maximum Fee Allowance Schedule Office of Workers' Compensation						
CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
70546	26	Mr angiograph head w/o&w/dye		\$180		
70546	TC	Mr angiograph head w/o&w/dye		\$1,281		
70546		Mr angiograph head w/o&w/dye		\$1,461		
70547	26	Mr angiography neck w/o dye		\$120		
70547	TC	Mr angiography neck w/o dye		\$849		
70547		Mr angiography neck w/o dye		\$968		
70548	26	Mr angiography neck w/dye		\$120		
70548	TC	Mr angiography neck w/dye		\$910		
70548		Mr angiography neck w/dye		\$1,030		
70549	26	Mr angiograph neck w/o&w/dye		\$179		
70549	TC	Mr angiograph neck w/o&w/dye		\$1,286		
70549		Mr angiograph neck w/o&w/dye		\$1,465		
70551		Magnetic image, brain		\$963		
70551	26	Magnetic image, brain		\$159		
70551	TC	Magnetic image, brain		\$804		
70552		Magnetic image, brain		\$1,155		
70552	26	Magnetic image, brain		\$192		
70552	TC	Magnetic image, brain		\$964		
70553		Magnetic image, brain		\$2,039		
70553	26	Magnetic image, brain		\$255		
70553	TC	Magnetic image, brain		\$1,785		
70554	26	Fmri brain by tech		\$211		
70554	TC	Fmri brain by tech		\$818		
70554		Fmri brain by tech		\$1,029		
70555		Fmri brain by phys/psych		\$261		
70557		Mri brain w/o dye		\$348		
70558		Mri brain w/dye		\$327		
70559		Mri brain w/o & w/dye		\$330		
71275		Ct angiography chest		\$836		
71550		Magnetic image, chest		\$976		
		***				
71550	TC	Magnetic image, chest		\$804		
71551	26	Mri chest w/dye		\$173		
71551	TC	Mri chest w/dye		\$944		
71551		Mri chest w/dye		\$1,117		
71552	26	Mri chest w/o & w/dye		\$224		
71552	TC	Mri chest w/o & w/dye		\$1,165		
71552		Mri chest w/o & w/dye		\$1,389		
71555		Magnetic imaging/chest		\$991		
72191		Ct angiograph pelv w/o&w/dye		\$885		
72192		Cat scan of pelvis		\$540		
		***				
74301	TC	X-rays at surgery add- on		BR		
74305		X-ray bile ducts, pancreas		\$102		
		***				
78282	TC	Gi protein loss exam		BR		
78290		Meckel's divert exam		\$292		
		***				
78414	TC	Non-imaging heart function		BR		
78428		Cardiac shunt imaging		\$246		
		***				
88363		Xm archive tissue molec anal			\$73	\$32
		***				
92240	TC	Icg angiography.....		\$77		
92250		Eye exam with photos		\$63		
92250	26	Eye exam with photos		\$49		
92250	TC	Eye exam with photos		\$13		
92260		Ophthalmoscopy/dynamometry		\$77		
		***				
93279	26	Pm device progr eval snpl		\$34		
		***				
99050		Medical services, after hours		BR		
		***				
99143		Mod cs by same phys < 5 yrs		BR		

Maximum Fee Allowance Schedule Office of Workers' Compensation						
CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
99144		Mod cs by same phys 5 yrs +		BR		
99145		Mod cs by same phys add-on		BR		
99148		Mod cs diff phys < 5 yrs		BR		
99149		Mod cs diff phys 5 yrs +		BR		
99150		Mod cs diff phys add-on		BR		
* * *						
99301		Nursing facility care		\$121		
99302		Nursing facility care		\$156		
99303		Nursing facility care		\$213		
99304		Nursing facility care init		\$190		
99305		Nursing facility care init		\$270		
99306		Nursing facility care init		\$342		
99307		Nursing fac care subseq		\$90		
99308		Nursing fac care subseq		\$140		
99309		Nursing fac care subseq		\$184		
99310		Nursing fac care subseq		\$273		
99311		Nursing fac care, subseq		\$68		
99312		Nursing fac care, subseq		\$102		
99313		Nursing fac care, subseq		\$138		
99315		Nursing fac discharge day		\$120		
* * *						
99385		Preventive visit,new,18-39			\$264	\$198
* * *						
99396		Preventive visit,est,40-64		\$255		
* * *						

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), LR 27:314 (March 2001), amended by the Workforce Commission, Office of Workers' Compensation, LR 39:1854 (July 2013), LR 40:379 (February 2014).

**Chapter 53. Dental Care Services, Reimbursement Schedule and Billing Instructions**

Editor's Note: Other Sections applying to this Chapter can be found in Chapter 51.

**§5315. Coding System**

A. - A.4. ...

\* \* \*  
(312) 440-2500

5. NDAS Manual

National Dental Advisory Service  
P.O. Box 510949  
Milwaukee, WI 53203  
(800) 669-3337

6. Relative Values for Dentists

Relative Value Studies, Inc.  
P.O. Box 6431  
Denver, Colorado 80206  
(303) 329-9787

B. CDT-1 Coding

1. For convenience, the current *Dental Terminology*, First Edition (CDT-1) procedure codes are divided into 12 categories of service. Additional coding systems such as

ICD-9, CPT, HCPCS and NDAS coding may also be used in the dental office.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, LR 19:1166 (September 1993), amended LR 20:1298 (November 1994), amended by the Workforce Commission, Office of Workers' Compensation, LR 40:379 (February 2014).

**§5321. Maximum Allowable Reimbursement**

A. ...

1. the seventieth percentile in the current edition of the National Dental Advisory Service (NDAS) Comprehensive Fee Report, utilizing the average of geographic multipliers for Louisiana as published in the NDAS report;

2. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, LR 19:1167 (September 1993), amended LR 20:1298 (November 1994), amended by the Workforce Commission, Office of Workers' Compensation, LR 40:379 (February 2014).

**§5399. Schedule for Maximum Allowances for Dental Services**

CDT Code	Description	Maximum Reimbursement
D0120	Periodic oral evaluation—established patient	50
D0140	Limited oral evaluation—problem focused	75
D0145	Oral evaluation—patient under 3yrs & counseling with primary caregiver	69
D0150	Comprehensive oral evaluation—new or established patient	88



CDT Code	Description	Maximum Reimbursement
D0160	Detailed & Extensive oral evaluation—problem focused, by report	160
D0170	Re-evaluation—limited, problem focused (established patient; not post-operative visit)	70
D0180	Comprehensive periodontal evaluation—new or established patient	95
D0210	Intraoral—complete series (including bitewings)	128
D0220	Intraoral—periapical first film	28
D0230	Intraoral—periapical each additional film	24
D0240	Intraoral—occlusal films	42
D0250	Intraoral—first film	67
D0260	Extraoral—first film	55
D0270	Bitewing—single film	28
D0272	Bitewing—two films	45
D0273	Bitewing—three films	55
D0274	Bitewing—four films	65
D0277	Vertical bitewings—7 to 8 films	97
D0290	Posterior-anterior or lateral skull & facial bone survey film	135
D0310	Sialography	389
D0320	Temporomandibular joint films, including injection	592
D0321	Other temporomandibular joint films, by report	210
D0322	Tomographic survey	530
D0330	Panoramic film	110
D0340	Cephalometric film	125
D0350	Oral/facial photographic images	71
D0360	Cone beam CT—craniofacial data capture	589
D0362	Cone beam CT—two-dimensional image reconstruction using existing data, includes multiple images	359
D0363	Cone beam CT—three-dimensional image reconstruction using existing data, includes multiple images	398
D0415	Collection of microorganisms for culture and sensitivity	186
D0416	Viral culture	168
D0417	Collection and preparation of saliva sample for laboratory diagnostic testing	167
D0418	Analysis of saliva sample	150
D0421	Genetic test for susceptibility to oral diseases	136
D0425	Caries susceptibility tests	95
D0431	Adjunctive pre-diagnostic test that aids in detection of mucosal abnormalities including premalignant and malignant lesions, not to include cytology or biopsy procedures	71
D0460	Pulp vitality tests	55
D0470	Diagnostic casts	109
D0472	Accession of tissue, gross examination, preparation and transmission of written report	118
D0473	Accession of tissue, gross examination and microscopic examination, preparation and transmission of written report	165
D0474	Accession of tissue, gross examination and microscopic examination including assessment of surgical margins for presence of disease, preparation and transmission of written report	184
D0480	Accession of exfoliative cytologic smears, microscopic examination, preparation and transmission of written report	176
D0486	Accession of transepithelial cytologic sample, microscopic examination, preparation and transmission of written report	150
D0475	Decalcification procedure	195
D0476	Special stains for microorganisms	289

CDT Code	Description	Maximum Reimbursement
D0477	Special stains not for microorganisms	296
D0478	Immunohistochemical stains	175
D0479	Tissue in-situ hybridization, including interpretation	231
D0481	Electron microscopy—diagnostic	188
D0482	Direct immunofluorescence	105
D0483	Indirect immunofluorescence	123
D0484	Consultation on slides prepared elsewhere	168
D0485	Consultation, including preparation of slides from biopsy material supplied by referring source	180
D0502	Other oral pathology procedures, by report	170
D0999	Unspecified diagnostic procedure, by report	IR
D1110	Prophylaxis—adult	90
D1120	Prophylaxis—child	66
D1203	Topical application of fluoride—child	37
D1204	Topical application of fluoride—adult	37
D1206	Topical fluoride varnish; therapeutic application for moderate to high caries risk patients	45
D1310	Nutritional counseling for control of dental disease	70
D1320	Tobacco counseling for the control and prevention of oral disease	82
D1330	Oral hygiene instructions	55
D1351	Sealant—per tooth	54
D1352	Preventative resin restoration in a moderate to high caries risk patient—permanent tooth	IR
D1510	Space maintainer—fixed—unilateral	317
D1515	Space maintainer—fixed—bilateral	432
D1520	Space maintainer—removable—unilateral	390
D1525	Space maintainer—removable—bilateral	495
D1550	Re-cementation of space maintainer	83
D1555	Removal of fixed space maintainer	79
D2140	Amalgam—one surface, primary or permanent	138
D2150	Amalgam—two surfaces, primary or permanent	176
D2160	Amalgam—three surfaces, primary or permanent	214
D2161	Amalgam—four surfaces, primary or permanent	251
D2330	Resin-based composite—one surface, anterior	160
D2331	Resin-based composite—two surfaces, anterior	200
D2332	Resin-based composite—three surfaces, anterior	249
D2335	Resin-based composite—four or more surfaces or involving incisal angle (anterior)	312
D2390	Resin-based composite crown—anterior	450
D2391	Resin-based composite—one surface, posterior	177
D2392	Resin-based composite—two surfaces, posterior	230
D2393	Resin-based composite—three surfaces, posterior	284
D2394	Resin-based composite—four or more surfaces posterior	341
D2410	Gold foil—one surface	635
D2420	Gold foil—two surfaces	692
D2430	Gold foil—three surfaces	806
D2510	Inlay—metallic—one surface	833
D2520	Inlay—metallic—two surfaces	892
D2530	Inlay—metallic—three or more surfaces	965
D2542	Onlay—metallic—two surfaces	990
D2543	Onlay—metallic—three surfaces	1015
D2544	Onlay—metallic—four or more surfaces	1050
D2610	Inlay—porcelain/ceramic—one surface	907
D2620	Inlay—porcelain/ceramic—two surfaces	950

CDT Code	Description	Maximum Reimbursement
D2630	Inlay—porcelain/ceramic—three or more surfaces	995
D2642	Onlay—porcelain/ceramic—two surfaces	1008
D2643	Onlay—porcelain/ceramic—three surfaces	1049
D2644	Onlay—porcelain/ceramic—four or more surfaces	1094
D2650	Inlay—resin based—one surface	869
D2651	Inlay—resin based—two surfaces	904
D2652	Inlay—resin based—three or more surfaces	940
D2662	Onlay—resin based—two surfaces	944
D2663	Onlay—resin based—three surfaces	983
D2664	Onlay—resin based—four or more surfaces	1025
D2710	Crown—resin-based composite (indirect)	940
D2712	Crown—3/4 resin-based composite (indirect)	999
D2720	Crown—resin with high noble metal	1061
D2721	Crown—resin with predominantly base metal	998
D2722	Crown—resin with noble metal	1015
D2740	Crown—porcelain/ceramic substrate	1132
D2750	Crown—porcelain fused to high noble metal	1100
D2571	Crown—porcelain fused predominantly base metal	1029
D2752	Crown—porcelain fused to noble metal	1050
D2780	Crown—3/4 cast high noble metal	1063
D2781	Crown—3/4 cast predominantly base metal	1027
D2782	Crown—3/4 cast noble metal	1030
D2783	Crown—3/4 porcelain /ceramic	1100
D2790	Crown—full cast high noble metal	1100
D2791	Crown—full cast predominantly base metal	997
D2792	Crown—full cast noble metal	1045
D2794	Crown—titanium	1076
D2799	Provisional crown	437
D2910	Recement inlay, only, or partial coverage restoration	108
D2915	Recement cast or prefabricated post and core	114
D2920	Recement crown	109
D2930	Prefabricated stainless steel crown—primary tooth	271
D2931	Prefabricated stainless steel crown—permanent tooth	325
D2932	Prefabricated resin crown	351
D2933	Prefabricated stainless steel crown with resin window	363
D2934	Prefabricated esthetic coated stainless tell crown—primary tooth	372
D2940	Protective restoration	120
D2950	Core buildup, including any pins	271
D2951	Pin retention—per tooth, in addition to restoration	75
D2952	Post and core in addition to crown, indirectly fabricated	422
D2953	Each additional indirectly fabricated post—same tooth	312
D2954	Prefabricated post and core in addition to crown	335
D2955	Post removal (not in conjunction with endodontic therapy)	291
D2957	Each additional prefabricated post—same tooth	200
D2960	Labial veneer (resin laminate)—chairside	658
D2961	Labial veneer (resin laminate)—laboratory	975
D2962	Labial veneer (porcelain laminate)—laboratory	1150
D2970	Temporary crown (fractured tooth)	375
D2971	Additional procedures to construct new crown under existing partial denture framework	169
D2975	Coping	597

CDT Code	Description	Maximum Reimbursement
D2980	Crown repair, by report	293
D2999	Unspecified restorative procedure, by report	IR
D3110	Pulp cap—direct (excluding final restoration)	83
D3120	Pulp cap—indirect (excluding final restoration)	84
D3220	Therapeutic pulpotomy (excluding final restoration)—removal of pulp coronal to the dentinocemental junction and application of medication	198
D3221	Pulpal debridement, primary and permanent teet	234
D3222	Partial pulpotomy for apexogenesis—permanet tooth with incomplete root development	298
D3230	Pulpal therapy (resorbable filling)—anterior , primary tooth (excluding final restoration)	275
D3240	Pulpal therapy (resorbable filling)—posterior , primary tooth (excluding final restoration)	312
D3310	Endodontic therapy, anterior tooth (excluding final restoration)	725
D3320	Endodontic therapy, bicuspid tooth (excluding final restoration)	842
D3330	Endodontic therapy, molar tooth (excluding final restoration)	1009
D3331	Treatment of root canal obstruction: non-surgical access	611
D3332	Incomplete endodontic therapy; inoperable, unrestorable or fractured tooth	444
D3333	Internal root repari of perforation defects	350
D3346	Retreatment of previous root canal therapy—anterior	850
D3347	Retreatment of previous root canal therapy—bicuspid	970
D3348	Retreatment of previous root canal therapy—molar	1132
D3351	Apexification/recalcification/pulpal regeneration—initial visit (apical closure/calcific repair of perforations, root resorption, pulp space disinfection, etc)	362
D3352	Apexification/recalcification/pulpal regeneration—interim medication replacement (apical closure/calcific repair of perforations, root resorption, pulp space disinfection, etc)	258
D3353	Apexification/recalcification/pulpal regeneration—final visit (includes completed root canal therapy—apical closure/calcific repair of perforations, root resorption, pulp space disinfection, etc)	542
D3354	Pupal regeneration—(completion of regenerative treatment in an immature permanent tooth with a necrotic pulp); does not include final restoration	IR
D3410	Apicoectomy/periradicular surgery— anterior	700
D3421	Apicoectomy/periradicular surgery— bicuspid (first root)	780
D3425	Apicoectomy/periradicular surgery—molar (first root)	895
D3426	Apicoectomy/periradicular surgery—(each additional root)	400
D3430	Retrograde filling—per root	280
D3450	Root amputation—per root	483
D3460	Endodontic endosseous implant	1524
D3470	Intentional reimplantation (including necessary splinting)	796
D3910	Surgical procedure for isolation of tooth with rubber dam	235
D3920	Hemisection (including any root removal), not including root canal therapy	474

CDT Code	Description	Maximum Reimbursement
D3950	Canal preparation and fitting of preformed dowel or post	258
D3999	Unspecified endodontic procedure, by report	IR
D4210	Gingivectomy or gingivoplasty—four or more contiguous teeth or tooth bounded spaces per quadrant	626
D4211	Gingivectomy or gingivoplasty—one to three contiguous teeth or tooth bounded spaces per quadrant	290
D4230	Anatomical crown exposure—four or more contiguous teeth per quadrant	698
D4231	Anatomical crown exposure—one to three contiguous teeth per quadrant	596
D4240	Gingival flap procedure, including root planing—one to three contiguous teeth or tooth bounded spaces per quadrant	738
D4241	Gingival flap procedure, including root planing—four or more contiguous teeth or tooth bounded spaces per quadrant	635
D4245	Apically positioned flap	819
D4249	Clinical crown lengthening—hard tissue	751
D4260	Osseous surgery (including flap entry and closure)—four or more contiguous teeth or tooth bounded spaces per quadrant	1074
D4261	Osseous surgery (including flap entry and closure)—one to three contiguous teeth or tooth bounded spaces per quadrant	890
D4263	Bone replacement graft—each additional site in quadrant	727
D4264	Bone replacement graft—first site in quadrant	555
D4265	Biologic materials to aid in soft and osseous tissue regeneration	550
D4266	Guided tissue regeneration—resorbable barrier, per site	831
D4267	Guided tissue regeneration—nonresorbable barrier, per site (includes membrane removal)	984
D4268	Surgical revision procedure, per tooth	810
D4270	Pedical soft tissue graft procedure	826
D4271	Free soft tissue graft procedure (including donor site surgery)	895
D4273	Subepithelial connective tissue graft procedures, per tooth	1088
D4274	Distal or proximal wedge procedure (when not performed in conjunction with surgical procedures in the same anatomical area)	670
D4275	Soft tissue allograft	969
D4276	Combined connective tissue and double pedicle graft, per tooth	1085
D4320	Provisional splinting—intracoronary	508
D4321	Provisional splinting—extracoronary	466
D4341	Periodontal scaling and root planing—four or more teeth per quadrant	251
D4342	Periodontal scaling and root planing—one to three teeth per quadrant	185
D4355	Full mouth debridement to enable comprehensive evaluation and diagnosis	183
D4381	Localized delivery of antimicrobial agents via a controlled release vehicle into diseased crevicular tissue, per tooth, by report	140
D4910	Periodontal maintenance	139
D4920	Unscheduled dressing change (by someone other than treating dentist)	100
D4999	Unspecified periodontal procedure, by report	IR
D5110	Complete denture—maxillary	1689
D5120	Complete denture—mandibular	1700
D5130	Immediate denture—maxillary	1831
D5140	Immediate denture—mandibular	1849

CDT Code	Description	Maximum Reimbursement
D5211	Maxillary partial denture—resin base (including any conventional clasps, rests and teeth)	1350
D5212	Mandibular partial denture—resin base (including any conventional clasps, rests and teeth)	1350
D5213	Maxillary partial denture—cast base framework with resin denture bases (including any conventional clasps, rests and teeth)	1781
D5214	Mandibular partial denture—cast base framework with resin denture bases (including any conventional clasps, rests and teeth)	1780
D5225	Maxillary partial denture—flexible base (including any clasps, rests and teeth)	1566
D5226	Mandibular partial denture—flexible base (including any clasps, rests and teeth)	1552
D5281	Removable unilateral partial denture—one piece cast metal (including clasps and teeth)	995
D5410	Adjust complete denture—maxillary	89
D5411	Adjust complete denture—mandibular	88
D5421	Adjust partial denture—maxillary	88
D5422	Adjust partial denture—mandibular	88
D5510	Repair broken complete denture base	208
D5520	Replace missing or broken teeth—complete denture (each tooth)	186
D5610	Repair resin denture base	202
D5620	Repair cast framework	291
D5630	Repair or replace broken clasp	262
D5640	Replace broken teeth—per tooth	184
D5650	Add tooth to existing partial denture	224
D5660	Add clasp to existing partial denture	268
D5670	Replace all teeth and acrylic on cast metal framework (maxillary)	735
D5671	Replace all teeth and acrylic on cast metal framework (mandibular)	750
D5710	Rebase complete maxillary denture	591
D5711	Rebase complete mandibular denture	585
D5720	Rebase maxillary partial denture	563
D5721	Rebase mandibular partial denture	562
D5730	Reline complete maxillary denture (chairside)	372
D5731	Reline complete mandibular denture (chairside)	369
D5740	Reline maxillary partial denture (chairside)	364
D5741	Reline mandibular partial denture (chairside)	368
D5750	Reline complete maxillary denture (laboratory)	475
D5751	Reline complete mandibular denture (laboratory)	475
D5760	Reline maxillary partial denture (laboratory)	469
D5761	Reline mandibular partial denture (laboratory)	472
D5810	Interim complete denture (maxillary)	848
D5811	Interim complete denture (mandibular)	853
D5820	Interim partial denture (maxillary)	690
D5821	Interim partial denture (mandibular)	690
D5850	Tissue conditioning, maxillary	204
D5851	Tissue conditioning, mandibular	205
D5860	Overdenture—complete, by report	2121
D5861	Overdenture—partial, by report	2048
D5862	Precision attachment, by report	700
D5867	Replacement of replaceable part of semi-precision or precision attachment (male or female component)	385
D5875	Modification of removable prosthesis following implant surgery	393

CDT Code	Description	Maximum Reimbursement
D5899	Unspecified removable prosthodontic procedure, by report	IR
D5911	Facial moulage (sectional)	IR
D5912	Facial moulage (complete)	IR
D5913	Nasal prosthesis	IR
D5914	Auricular prosthesis	IR
D5915	Orbital prosthesis	IR
D5916	Ocular prosthesis	IR
D5919	Facial prosthesis	IR
D5923	Ocular prosthesis, interim	IR
D5924	Cranial prosthesis	IR
D5925	Facial augmentation implant prosthesis	IR
D5926	Nasal prosthesis, replacement	IR
D5957	Auricular prosthesis, replacement	IR
D5958	Orbital prosthesis, replacement	IR
D5929	Facial prosthesis, replacement	IR
D5931	Obturator prosthesis, surgical	IR
D5932	Obturator prosthesis, definitive	IR
D5933	Obturator prosthesis, modification	IR
D5934	Mandibular resection prosthesis with guide flange	IR
D5935	Mandibular resection prosthesis without guide flange	IR
D5936	Obturator prosthesis interim	IR
D5937	Trismus appliance (not for TMD treatment)	746
D5951	Feeding aid	844
D5952	Speech aid prosthesis, pediatric	IR
D5953	Speech aid prosthesis, adult	IR
D5954	Palatal augmentation prosthesis	IR
D5955	Palatal lift prosthesis, definitive	IR
D5958	Palatal lift prosthesis, interim	IR
D5959	Palatal lift prosthesis, modification	IR
D5960	Speech aid prosthesis modification	IR
D5982	Surgical stent	450
D5983	Radiation carrier	IR
D5984	Radiation shield	IR
D5985	Radiation cone locator	IR
D5986	Fluoride gel carrier	210
D5987	Commissure splint	IR
D5988	Surgical splint	770
D5991	Topical medicament carrier	226
D5992	Adjust maxillofacial prosthetic appliance, by report	IR
D5993	Maintenance and cleaning of maxillofacial prosthesis (extra or intraoral) other than required adjustments, by report	IR
D5999	Unspecified maxillofacial prosthesis, by report	IR
D6190	Radiographic/surgical implant index, by report	375
D6010	Surgical placement of implant body: endosteal implant	2001
D6012	Surgical placement of interim implant body for transitional prosthesis: endosteal implant	1577
D6040	Surgical placement: eosteal implant	8380
D6050	Surgical placement: transosteal implant	5807
D6100	Implant removal, by report	760
D6055	Connecting bar—implant supported abutment support	2900
D6506	Prefabricated abutment—includes placement	789
D6057	Custom abutment—includes placement	952
D6053	Implant/abutment supported removable denture for completely edentulous arch	2790
D6054	Implant/abutment supported removable denture for partially edentulous arch	2751
D6078	Implant/abutment supported fixed denture for completely edentulous arch	5335
D6079	Implant/abutment supported fixed denture for partially edentulous arch	3800

CDT Code	Description	Maximum Reimbursement
D6058	Abutment supported porcelain/ceramic crown	1479
D6059	Abutment supported porcelain/ceramic crown (high noble metal)	1479
D6060	Abutment supported porcelain fused to metal crown (predominantly base metal)	1361
D6061	Abutment supported porcelain fused to metal crown (noble metal)	1382
D6062	Abutment supported cast metal crown (high noble metal)	1432
D6063	Abutment supported cast metal crown (predominantly base metal)	1317
D6064	Abutment supported cast metal crown (noble metal)	1366
D6094	Abutment supported crown—(titanium)	1376
D6065	Implant supported porcelain/ceramic crown	1543
D6066	Implant supported porcelain fused to metal crown (titanium, titanium alloy, high noble metal)	1545
D6067	Implant supported metal crown (titanium, titanium alloy, high noble metal)	1575
D6068	Abutment supported retainer for porcelain/ceramic FPD	1469
D6069	Abutment supported retainer for porcelain fused to metal FPD (high noble metal)	1474
D6070	Abutment supported retainer for porcelain fused to metal FPD (predominantly base metal)	1384
D6071	Abutment supported retainer for porcelain fused to metal FPD (noble metal)	1384
D6072	Abutment supported retainer for cast metal FPD (high noble metal)	1451
D6073	Abutment supported retainer for porcelain cast metal FPD (predominantly base metal)	1384
D6074	Abutment supported retainer for cast metal FPD (noble metal)	1384
D6194	Abutment supported retainer crown for FPD (titanium)	1392
D6075	Implant supported retainer for ceramic FPD	1529
D6076	Implant supported retainer for porcelain fused to metal FPD (titanium, titanium alloy or high noble metal)	1538
D6077	Implant supported retainer for cast metal FPD (titanium, titanium alloy or high noble metal)	1587
D6080	Implant maintenance procedures, including removal of prosthesis, cleansing of prosthesis and abutments and reinsertion of prosthesis	297
D6090	Repair implant supported prosthesis, by report	742
D6095	Repair implant abutment, by report	731
D6091	Replacement of semi-precious or precision attachment (male or female component) of implant/abutment supported prosthesis, per attachment	631
D6092	Recent implant/abutment supported crown	160
D6093	Recent implant/abutment supported fixed partial denture	182
D6199	Unspecified implant procedure, by report	IR
D6205	Pontic—indirect resin based composite	988
D6210	Pontic—cast high noble metal	1089
D6211	Pontic—cast predominately base metal	998
D6212	Pontic—cast noble metal	1041
D6214	Pontic—titanium	1100
D6240	Pontic—porcelain fused to high noble metal	1100
D6241	Pontic—porcelain fused to predominantly base metal	1024
D6242	Pontic—porcelain fused to noble metal	1051
D6245	Pontic—porcelain/ceramic	1140
D6250	Pontic—resin with high noble metal	1058

CDT Code	Description	Maximum Reimbursement
D6251	Pontic—resin with predominantly base metal	1049
D6252	Pontic—resin with noble metal	1040
D6253	Provisional pontic	769
D6254	Interim pontic	IR
D6545	Retainer—cast metal for resin bonded fixed prosthesis	852
D6548	Retainer—porcelain/ceramic for resin bonded fixed prosthesis	950
D6600	Inlay—porcelain/ceramic, two surfaces	1000
D6601	Inlay—porcelain/ceramic, three or more surfaces	1052
D6602	Inlay—cast high noble metal, two surfaces	1015
D6603	Inlay—cast high noble metal, three or more surfaces	1050
D6604	Inlay—predominantly base metal, two surfaces	994
D6605	Inlay—predominantly base metal, three or more surfaces	1046
D6606	Inlay—cast noble metal, two surfaces	998
D6607	Inlay—cast noble metal, three or more surfaces	1050
D6624	Inlay—titanium	1080
D6608	Onlay—porcelain/ceramic, two surfaces	1061
D6609	Onlay—porcelain/ceramic, three or more surfaces	1127
D6610	Onlay—cast high noble metal, two surfaces	1074
D6611	Onlay—cast high noble metal, three or more surfaces	1111
D6612	Onlay—predominantly base metal, two surfaces	1038
D6613	Onlay—predominantly base metal, three or more surfaces	1095
D6614	Onlay—cast noble metal, two surfaces	1050
D6615	Onlay—cast noble metal, three or more surfaces	1102
D6634	Onlay—titanium	1125
D6710	Crown—indirect resin based composite	1025
D6720	Crown—resin with high noble metal	1056
D6721	Crown—resin with predominantly base metal	1032
D6722	Crown—resin with noble metal	1050
D6740	Crown—porcelain/ceramic	1146
D6750	Crown—porcelain fused to high noble metal	1107
D6751	Crown—porcelain fused to predominantly base metal	1010
D6752	Crown—porcelain fused to noble metal	1050
D6780	Crown—3/4 cast high noble metal	1075
D6781	Crown—3/4 cast predominantly base metal	1038
D6782	Crown—3/4 cast noble metal	1050
D6783	Crown—3/4 porcelain/ceramic	1100
D6790	Crown—full cast high noble metal	1085
D6791	Crown—full cast predominantly base metal	997
D6792	Crown—full cast noble metal	1040
D6794	Crown—titanium	1059
D6793	Provisional retainer crown	523
D6795	Interim retainer crown	IR
D6920	Connector bar	995
D6930	Recement fixed partial denture	171
D6940	Stress breaker	435
D6950	Precision attachment	650
D6970	Post and core in addition to fixed partial denture retainer, indirectly fabricated	433
D6972	Prefabricated post and core in addition to fixed partial denture retainer	344
D6973	Core build up for retainer, including any pins	275
D6975	Coping—metal	700
D6976	Each additional indirectly fabricated post—same tooth	290

CDT Code	Description	Maximum Reimbursement
D6977	Each additional prefabricated post—same tooth	204
D6980	Fixed partial denture repair, by report	387
D6985	Pediatric partial denture, fixed	915
D6999	Unspecified fixed prosthodontic procedure, by report	IR
D7111	Extraction, coronal remnants—deciduous tooth	135
D7140	Extraction, erupted tooth or exposed root (elevation and/or forceps removal)	174
D7210	Surgical removal of erupted tooth requiring removal of bone and/or sectioning of tooth, and including elevation of mucoperiosteal flap if indicated	275
D7220	Removal of impacted tooth—soft tissue	315
D7230	Removal of impacted tooth—partially bony	395
D7240	Removal of impacted tooth—completely bony	484
D7241	Removal of impacted tooth—completely bony, with unusual surgical complications	576
D7250	Surgical removal of residual tooth roots (cutting procedure)	304
D7251	Coronectomy—intentional partial tooth removal	IR
D7260	Oroantral fistula closure	1026
D7261	Primary closure of a sinus perforation	757
D7270	Tooth reimplantation and/or stabilization of accidentally avulsed or displaced tooth	561
D7272	Tooth transplantation (includes reimplantation from one site to another and splinting and/or stabilization)	746
D7280	Surgical access of an unerupted tooth	482
D7282	Mobilization of erupted or malpositioned tooth to aid eruption	526
D7283	Placement of device to facilitate eruption of impacted tooth	523
D7285	Biopsy of oral tissue—hard (bone, tooth)	437
D7286	Biopsy of oral tissue—soft	320
D7287	Exfoliative cytological sample collection	184
D7288	Brush biopsy—transepithelial sample collection	195
D7290	Surgical repositioning of teeth	528
D7291	Transseptal fibrotomy/surpa crestal fibrotomy, by report	315
D7292	Surgical placement: temporary anchorage device [screw retained plate] requiring surgical flap	3300
D7293	Surgical placement: temporary anchorage device requiring surgical flap	2528
D7294	Surgical placement: temporary anchorage device without surgical flap	1619
D7295	Harvest of bone for use in autogenous grafting procedure	IR
D7310	Alveoplasty in conjunction with extractions—four or more teeth or tooth spaces, per quadrant	295
D7311	Alveoplasty in conjunction with extractions—one to three teeth or tooth spaces, per quadrant	309
D7320	Alveoplasty not in conjunction with extractions—four or more teeth or tooth spaces, per quadrant	443
D7321	Alveoplasty not in conjunction with extractions—one to three teeth or tooth spaces, per quadrant	437
D7340	Vestibuloplasty—ridge extension (secondary epithelialization)	1164
D7350	Vestibuloplasty—ridge extension (including soft tissue graft, muscle reattachment, revision of soft tissue attachment and management of hypertrophied and hyperplastic tissue)	2467

CDT Code	Description	Maximum Reimbursement
D7410	Excision of benign lesion up to 1.25 cm	415
D7411	Excision of benign lesion greater than 1.25 cm	630
D7412	Excision of benign lesion, complicated	850
D7413	Excision of malignant lesion greater than 1.25 cm	751
D7414	Excision of malignant lesion up to 1.25 cm	1132
D7415	Excision of malignant lesion, complicated	1253
D7465	Destruction of lesion(s) by physical or chemical method, by report	459
D7440	Excision of malignant tumor—lesion diameter up to 1.25cm	720
D7441	Excision of malignant tumor—lesion greater than 1.25cm	1224
D7450	Removal of benign odontogenic cyst or tumor—lesion diameter up to 1.25cm	588
D7451	Removal of benign odontogenic cyst or tumor—lesion diameter greater than 1.25cm	782
D7460	Removal of benign nonodontogenic cyst or tumor—lesion diameter greater than 1.25cm	573
D7461	Removal of benign nonodontogenic cyst or tumor—lesion diameter up to 1.25cm	874
D7470	Removal of lateral exostosis (maxilla or mandible)	653
D7472	Removal of torus palatinus	859
D7473	Removal of torus mandibularis	761
D7485	Surgical reduction of osseous tuberosity	755
D7490	Radial resection of maxilla or mandible	8006
D7510	Incision and drainage of abscess—intraoral soft tissue	236
D7511	Incision and drainage of abscess—intraoral soft tissue—complicated (includes drainage of multiple fascial spaces)	367
D7520	Incision and drainage of abscess—extraoral tissue	169
D7521	Incision and drainage of abscess—extraoral tissue—complicated (includes drainage of multiple fascial spaces)	630
D7530	Removal of foreign body from mucosa, skin, or subcutaneous alveolar tissue	364
D7540	Removal of reaction producing foreign bodies, musculoskeletal system	708
D7550	Partial ostectomy/sequestrectomy for removal of non-vital bone	600
D7560	Maxillary sinusotomy for removal of tooth fragment or foreign body	1308
D7610	Maxilla—open reduction (teeth immobilized, if present)	4464
D7620	Maxilla—closed reduction (teeth immobilized, if present)	3450
D7630	Mandible—open reduction (teeth immobilized, if present)	4576
D7640	Mandible—closed reduction (teeth immobilized, if present)	3483
D7650	Malar and/or zygomatic arch—open reduction	3924
D7660	Malar and/or zygomatic arch—closed reduction	3277
D7670	Alveolus closed reduction may include stabilization of teeth	1746
D7671	Alveolus open reduction may include stabilization of teeth	1298
D7680	Facial bones—complicated reduction with fixation and multiple surgical approaches	6555
D7710	Maxilla open reduction	4568
D7720	Maxilla—closed reduction	3462
D7730	Mandible—open reduction	4826
D7740	Mandible—closed reduction	3636
D7750	Malar and/or zygomatic arch—open reduction	4230
D7760	Malar and/or zygomatic arch—closed reduction	6044

CDT Code	Description	Maximum Reimbursement
D7770	Alveolus open reduction stabilization of teeth	2794
D7771	Alveolus closed reduction stabilization of teeth	1958
D7780	Facial bones—complicated reduction with fixation and multiple surgical approaches	8587
D7810	Open reduction of dislocation	4271
D7820	Closed reduction of dislocation	644
D7830	Manipulation under anesthesia	990
D7840	Condylectomy	5466
D7850	Surgical discectomy, with/without implant	5356
D7852	Disc repair	5541
D7854	Synovectomy	5278
D7856	Myotomy	3505
D7858	Joint reconstruction	IR
D7860	Arthrotomy	IR
D7865	Arthroplasty	IR
D7870	Arthrocentesis	562
D7871	Non-arthroscopic lysis and lavage	IR
D7872	Arthroscopy—diagnosis, with or without biopsy	IR
D7873	Arthroscopy—surgical: lavage and lysis of adhesions	IR
D7874	Arthroscopy—surgical: disc repositioning and stabilization	IR
D7875	Arthroscopy—surgical: synovectomy	IR
D7876	Arthroscopy—surgical: discectomy	IR
D7877	Arthroscopy—surgical: debridement	IR
D7880	Occlusal orthotic device, by report	990
D7899	Unspecified TMD therapy, by report	IR
D7910	Suture of recent small wounds up to 5 cm	300
D7911	Complicated suture—up to 5 cm	486
D7912	Complicated suture—greater than 5 cm	792
D7920	Skin graft (identify defect covered, location and type of graft)	2677
D7940	Osteoplasty—for orthognathic deformities	4123
D7941	Osteotomy—mandibular rami	9139
D7943	Osteotomy—mandibular rami with bone graft; includes obtaining the graft	8623
D9744	Osteotomy—segmented or subapical	7006
D7945	Osteotomy—body of mandible	6983
D7946	LeFort I (maxilla—total)	8251
D7947	LeFort I (maxilla—segmented)	8393
D7948	LeFort II or LeFort III (osteoplasty of facial bones for midface hypoplasia or retrusion)-without bone graft	9586
D7949	LeFort II of LeFort III—with bone graft	11832
D7950	Osseous, osteoperiosteal or cartilage graft of the mandible or maxilla—autogenous or nonautogenous, by report	3116
D7951	Sinus augmentation with bone or bone substitutes	3200
D7953	Bone replacement graft for ridge preservation—per site	800
D7955	Repair of maxillofacial soft and/or hard tissue defect	3807
D7960	Frenulectomy—also known as frenectomy or frenotomy—separate procedure not incidental to another procedure	450
D7936	Frenuloplasty	499
D7970	Excision of hyperplastic tissue—per arch	517
D7971	Excision of pericoronal gingiva	258
D7972	Surgical reduction of fibrous tuberosity	796
D7980	Sialolithotomy	843
D7981	Excision of salivary gland, by report	IR
D7982	Sialodochoplasty	1749
D7983	Closure of salivary fistula	1528
D7990	Emergency tracheotomy	1482
D7991	Coronoidectomy	4056
D7995	Synthetic graft—mandible or facial bones, by report	IR

CDT Code	Description	Maximum Reimbursement
D7996	Implant-mandible for augmentation purposes (excluding alveolar ridge), by report	IR
D7997	Appliance removal (not by dentist who place appliance), includes removal of archbar	350
D7998	Intraoral placement of a fixation device not in conjunction with a fracture	2572
D7999	Unspecified oral surgery procedure, by report	IR
D8010	Limited orthodontic treatment of the primary dentition	2149
D8020	Limited orthodontic treatment of the transitional dentition	2459
D8030	Limited orthodontic treatment of the adolescent dentition	2901
D8040	Limited orthodontic treatment of the adult dentition	3237
D8050	Interceptive orthodontic treatment of the primary dentition	2590
D8060	Interceptive orthodontic treatment of the transitional dentition	2796
D8070	Comprehensive orthodontic treatment of the transitional dentition	5200
D8080	Comprehensive orthodontic treatment of the adolescent dentition	5250
D8090	Comprehensive orthodontic treatment of the adult dentition	5308
D8210	Removable appliance therapy	861
D8220	Fixed appliance therapy	968
D8660	Pre-orthodontic treatment visit	384
D8670	Periodic orthodontic treatment bisit (as part of contract)	263
D8680	Orthodontic retention (removal of appliances, construction and placement of retainers(s))	532
D8690	Orthodontic treatment (alternative billing to a contract fee)	283
D8691	Repair of orthodontic appliance	210
D8692	Replacement of lost or broken retainer	330
D8693	Rebonding or recementing; and/or repair as require, of fixed retainers	356
D8999	Unspecified orthodontic procedure, by report	IR
D9110	Palliative (emergency) treatment of dental pain—minor procedure	126
D9120	Fixed partial denture sectioning	250
D9210	Local anesthesia not in conjunction with operative or surgical procedures	74
D9211	Regional block anesthesia	96
D9212	Trigeminal division block anesthesia	272
D9215	Local anesthesia in conjunction with operative or surgical procedures	65
D9220	Deep sedation/general anesthesia—first 30 minutes	392
D9221	Deep sedation/general anesthesia—each additional 15 minutes	174
D9230	Inhalation of nitrous oxide / anxiolysis analgesia	79
D9241	Intravenous conscious sedation/analgesia—first 30 minutes	416
D9242	Intravenous conscious sedation/analgesia—each additional 15 minutes	169
D9248	Non-intravenous conscious sedation	325
D9310	Consultation—diagnostic services provided by dentist or physician other than requesting dentist or physician	129
D9410	House/extended care facility call	246
D9420	Hospital or ambulatory surgery center call	299
D9430	Office visit for observation (during regularly scheduled hours)—no other services performed	76

CDT Code	Description	Maximum Reimbursement
D9440	Office visit after regularly scheduled hours	179
D9450	Case presentation, detailed and extensive treatment planning	145
D9610	Therapeutic parental drug, single administration	111
D9612	Therapeutic parental drug, two or more administrations, different medications	193
D9630	Other drugs and/or medicaments, by report	49
D9910	Application of desensitizing medicament	63
D9911	Application of desensitizing resin for cervical and/or root surface, per tooth	79
D9920	Behavior management, by report	160
D9930	Treatment of complications (post-surgical)—unusual circumstances, by report	132
D9940	Occlusal guard, by report	600
D9941	Fabrication of athletic mouthguard	254
D9942	Repair and/or reline of occlusal guard	250
D9950	Occlusion analysis—mounted case	344
D9951	Occlusal adjustment—limited	182
D9952	Occlusal adjustment—complete	687
D9970	Enamel microabrasion	202
D9971	Odontoplasty 1-2 teeth; includes removal of enamel projections	176
D9972	External bleaching—per arch	328
D9973	External bleaching—per tooth	231
D9974	Internal bleaching—per tooth	291
D9999	Unspecified adjunctive procedure, by report	IR

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:1167 (September 1993), amended LR 20:1298 (November 1994), amended by the Workforce Commission, Office of Workers' Compensation, LR 39:2043 (July 2013), LR 40:379 (February 2014).

Curt Eysink  
Executive Director

1402#026

### RULE

#### Workforce Commission Office of Workers' Compensation

Notice of Payment, Modification, Suspension, Termination or Controversion of Compensation or Medical Benefits (LAC 40:I.6631)

In accordance with R.S. 49:950 et seq., that the Louisiana Workforce Commission, Office of Workers' Compensation, pursuant to the authority vested in the director of the Office of Workers' Compensation by R.S. 23:1310.1 and in accordance with applicable provisions of the Administrative Procedure Act, has amended LAC 40:I.6631. The amendments alter the existing form LWC-WC-1002, which is the form by which payors currently report a Notice of Payment to the injured worker and the Office of Workers' Compensation Administration ("OWCA"). The amendments to the current LWC-WC-1002 are made in accordance with R.S. 23:1201.1 (Act 337 of the 2013 Legislative Session). The new LWC-WC-1002 is more expansive and payors will use the form to report any initial payment, modification, suspension, termination or controversion of compensation or medical benefits to the injured worker and the OWCA.





**Title 40**  
**LABOR AND EMPLOYMENT**  
**Part I. Workers' Compensation Administration**  
**Subpart 3. Hearing Rules**

**§6631. Notice of Payment, Modification, Suspension,  
Termination or Controversion of Compensation  
or Medical Benefits**

**Chapter 66. Miscellaneous**  
**Subchapter E. Forms**

EMPLOYER/PAYOR MAIL TO:  
OFFICE OF WORKERS' COMPENSATION  
POST OFFICE BOX 94040  
BATON ROUGE, LA 70804-9040

1. Employee Social Security No. \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_
2. Payor Claim No.: \_\_\_\_\_
3. Date of Injury/Illness \_\_\_\_\_
4. Date of Notice: \_\_\_\_\_

**NOTICE OF PAYMENT, MODIFICATION, SUSPENSION, TERMINATION OR CONTROVERSION  
OF COMPENSATION OR MEDICAL BENEFITS**

5. Purpose of Form (check one):  
Initial Payment \_\_\_ Modification \_\_\_ Suspension \_\_\_ Termination \_\_\_ Controversion \_\_\_
6. (a) Employee Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_
- (b) Employee Representative Name (if known) \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_
- (c) Employer Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_
7. Effective Date of Initial Payment, Modification, Suspension, Termination or Controversion: \_\_\_\_\_ / \_\_\_\_\_ /20 \_\_\_\_\_
8. Description of Injury/Occupational Disease: \_\_\_\_\_
9. Average Weekly Wage: \$ \_\_\_\_\_
10. Payment/Modification (check one):      Initial Payment \_\_\_      Modification \_\_\_
- Indemnity Benefits are to be paid as follows:
- A. Permanent Total Disability (PTD)\_\_\_ Temporary Total Disability (TTD)\_\_\_ (check one) benefits at the rate of \$ \_\_\_\_\_ per week;
- B. Supplemental Earnings Benefits (SEB) paid at the rate of \$ \_\_\_\_\_ per \_\_\_\_\_ based on a wage earning capacity of \$ \_\_\_\_\_; OR
- SEB paid at the rate of \$ \_\_\_\_\_ per \_\_\_\_\_ dependent on wages as reflected in LWC-WC-1020's to be submitted by employee each month;
- C. Reduced PTD\_\_\_ TTD\_\_\_ SEB\_\_\_ (check one) at the rate of \$ \_\_\_\_\_ due to employee's receipt of (check applicable item):
- \_\_\_\_ Social Security Benefits at the rate of \$ \_\_\_\_\_ per \_\_\_\_\_;
- \_\_\_\_ Other Workers' Compensation Benefits at the rate of \$ \_\_\_\_\_ per \_\_\_\_\_;
- \_\_\_\_ Employer Funded Disability Benefits at the rate of \$ \_\_\_\_\_ per \_\_\_\_\_;
- \_\_\_\_ Unemployment Insurance Benefits
- \_\_\_\_ Third Party Recovery in the amount of \$ \_\_\_\_\_
- \_\_\_\_ 50% reduction of compensation based on Employee's refusal to cooperate with Vocational Rehabilitation
- \_\_\_\_ Reduction due to child support order
- \_\_\_\_ Other (Describe): \_\_\_\_\_
- D. Permanent Partial Disability (PPD) Benefits of \$ \_\_\_\_\_ per week payable for \_\_\_\_\_ weeks.
- E. Death Benefits have begun in the amount of \$ \_\_\_\_\_ per week, representing \_\_\_\_\_ % of AWW.

Employee Name \_\_\_\_\_  
Date of injury/illness \_\_\_\_\_

11. Suspension/Termination

Indemnity and/or Medical Benefits have been suspended/terminated due to:

\_\_\_\_ Employee's refusal to submit to a medical examination;

\_\_\_\_ Employee's refusal to execute a Choice of Physician form;

\_\_\_\_ Fraud

\_\_\_\_ Dispute over Compensability (Describe): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_ Employee's refusal to return the form LWC-WC-1025 or LWC-WC-1020;

\_\_\_\_ Released to return to work full duty;

\_\_\_\_ Employee able to earn 90% of pre-accident average weekly wage; or

\_\_\_\_ Other (Describe): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. Controversion

Employee's rights to Indemnity and/or Medical Benefits are disputed and have been denied because Employer/Payor disputes:

\_\_\_\_ Compensable Work Accident;

\_\_\_\_ Compensable Injury;

\_\_\_\_ Employment Relationship;

\_\_\_\_ Causation;

\_\_\_\_ Disability;

\_\_\_\_ Fraud;

\_\_\_\_ Jurisdiction; or

\_\_\_\_ Other (Describe): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. Notice Submitted By:

Signature of Preparer: \_\_\_\_\_

Printed name: \_\_\_\_\_

Position/Affiliation: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

14. Please provide the following information:

Payor/Self Insured Employer Name: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

**NOTICE OF DISAGREEMENT**  
(to be completed by Employee/Employee Representative)

MAIL TO: Employee Social Security No.: \_\_\_\_\_ - \_\_\_\_ - \_\_\_\_\_  
The preparer for Employer/Payor  
at the address listed in Section 13  
of the LWC-WC-1002. Date of Notice of Disagreement: \_\_\_\_\_

Payor Claim No. (if known): \_\_\_\_\_  
Date of Injury/Illness: \_\_\_\_\_

**BASIS OF DISAGREEMENT**

1. Average Weekly Wage is incorrect. The correct AWW amount is \$\_\_\_\_\_.
2. The type of workers' compensation indemnity benefits is incorrect. The correct type is PTD/TTD/SEB/PPD (circle one).
3. The amount/rate of workers' compensation indemnity benefits is incorrect. The correct amount is \$\_\_\_\_\_ per \_\_\_\_\_.
4. The basis for Employer/Payor's suspension/termination/controversion of benefits is incorrect because (describe):  
\_\_\_\_\_  
\_\_\_\_\_
5. Other (describe): \_\_\_\_\_  
\_\_\_\_\_

6. Notice Submitted By:

Employee Name: \_\_\_\_\_  
Telephone \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

Employee Representative \_\_\_\_\_  
La. Bar Roll No. \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

Signature \_\_\_\_\_  
Printed name: \_\_\_\_\_

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:286 (February 1999), amended by the Workforce Commission, Office of Workers Compensation, LR 40:387 (February 2014).

Curt Eysink  
Executive Director

1402#029

# Notices of Intent

## NOTICE OF INTENT

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

Horticulture and Quarantine Programs  
(LAC 7:XV.127)

Under the enabling authority of R.S. 3:1652 and in accordance with the Administrative Procedure Act R.S. 49:950 et seq., the Department of Agriculture and Forestry intends to amend the rules and regulations (proposed action) set out below, establishing a quarantine for the following citrus pests: citrus greening disease (CG), also known as Huanglongbing disease of citrus, caused by the bacterial pathogen *Candidatus Liberibacter spp.*; Asian citrus psyllid (ACP), *Diaphorina citri Kuwayama*; and citrus canker disease (CC) caused by the bacterial pathogens *Xanthomonas axonopodis pv. citri* and *Xanthomonas axonopodis pv. aurantifolii*. The state entomologist has determined that CG, ACP and CC have been found in this state and may be prevented, controlled, or eradicated by quarantine.

CG, ACP and CC pose an imminent peril to the health and welfare of the Louisiana commercial citrus industry due to their ability to infest rutaceous plants. This industry has a farm value of \$2.4-\$5 million in southeastern Louisiana in the form of citrus nursery stock, and \$5.1 million in the form of commercial citrus fruit in the state. CG renders the fruit unmarketable and ultimately causes the death of infested plants. The ACP moves CG from one plant to another, thereby infesting new plants and spreading CG. CC causes premature leaf and fruit drop, twig dieback and tree decline in citrus trees and is spread by wind-driven rain or through the movement of infected plants. Failure to prevent, control, or eradicate these pests threatens to destroy Louisiana's commercial citrus industry and the growing and harvesting of citrus by citizens of Louisiana for their own private use.

Louisiana's commercial citrus industry adds \$7.5-\$10 million dollars to the state's agriculture economy each year. Sales of citrus trees and plants by nursery stock dealers to private individuals also are important to the state's economy. The loss of the state's commercial citrus industry and privately owned citrus trees and fruit would be devastating to the state's economy and to its private citizens. The quarantines established by these regulations are necessary to prevent the spread of CG, ACP and CC to citrus production areas in Louisiana that are outside of the current areas where these pests have been found.

For these reasons, the outbreak of CG, ACP and CC in Louisiana present an imminent peril to the health, safety and welfare of Louisiana's citizens and the state's commercial and private citrus industry. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop

and fruit diseases by imposing the quarantines set out in these regulations.

This Rule shall have the force and effect of law five days after its promulgation in the official journal of the state.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XV. Plant Protection and Quarantine

##### Chapter 1. Crop Pests and Diseases

##### Subchapter B. Nursery Stock Quarantines

##### §127. Citrus Nursery Stock, Scions and Budwood

A. - C.6. ...

D. Citrus Greening Disease Quarantine

1. The department issues the following quarantine because the state entomologist has determined that citrus greening disease (CG), also known as Huanglongbing disease of citrus, caused by the bacterial pathogen *Candidatus Liberibacter spp.*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

2. Quarantined Areas. The quarantined areas in this state are the parishes of Orleans and Washington, and any other areas found to be infested with CG. The declaration of any other specific parishes or areas shall be published in the official journal of the state and in the *Louisiana Register*.

3. Regulated Materials. The following materials are hosts of CG and their movement is prohibited from CG-quarantined areas due to the presence of CG:

a. all plants and plant parts, including but not limited to nursery stock, cuttings, budwood, and propagative seed (but excluding fruit), of: *Aegle marmelos*, *Aeglopsis chevalieri*, *Afraegle gabonensis*, *Afraegle paniculata*, *Amyris madrensis*, *Atalantia spp.* (including *Atalantia monophylla*), *Balsamocitrus dawei*, *Berbera (=Murraya) koenigii*, *Calodendrum capense*, *Choisya ternata*, *Choisya arizonica*, *X Citroncirus webberi*, *Citropsis articulata*, *Citropsis gillettiana*, *Citrus madurensis* (= *X Citrofortunella microcarpa*), *Citrus spp.*, *Clausena anisum-olens*, *Clausena excavata*, *Clausena indica*, *Clausena lansium*, *Eremocitrus glauca*, *Eremocitrus hybrid*, *Esenbeckia berlandieri*, *Fortunella spp.*, *Limonia acidissima*, *Merrillia caloxylon*, *Microcitrus australasica*, *Microcitrus australis*, *Microcitrus papuana*, *X Microcitronella spp.*, *Murraya spp.*, *Naringi crenulata*, *Pamburus missionis*, *Poncirus trifoliata*, *Severinia buxifolia*, *Swinglea glutinosa*, *Tetradium ruticarpum*, *Toddalia asiatica*, *Triphasia trifolia*, *Vepris (=Toddalia) lanceolata*, and *Zanthoxylum fagara*;

b. any other products, materials, articles, or means of conveyance, if an inspector determines that it presents a risk of spreading CG, and after the inspector provides written notification to the person in possession of the products, materials, articles, or means of conveyance that it is subject to the restrictions of the regulations.

E. Asian Citrus Psyllid Quarantine

1. The department issues the following quarantine because the state entomologist has determined that Asian citrus psyllid (ACP), *Diaphorina citri Kuwayama*, has been

found in this state and may be prevented, controlled, or eradicated by quarantine.

## 2. Quarantined Areas

a. The United States Department of Agriculture (USDA) has quarantined the entire state of Louisiana for interstate movement of regulated materials.

b. The department has quarantined the following areas within this state for intrastate movement of regulated materials: the parishes of Jefferson, Orleans, Lafourche, Plaquemines, St. Bernard, St. Charles, St. James, St. Tammany, Tangipahoa, Terrebonne, and any other areas found to be infested with ACP. The declaration of any other specific parish or areas shall be published in the official journal of the state and in the *Louisiana Register*.

3. Regulated Materials. The following materials are hosts of ACP and the interstate and intrastate movement of these materials is prohibited from the ACP-quarantined areas listed in Paragraph E.2 due to the presence of ACP:

a. all plants and plant parts, including but not limited to nursery stock, cuttings, and budwood, except seed and fruit, of *Aegle marmelos*, *Aeglopsis chevalieri*, *Afraegle gabonensis*, *Afraegle paniculata*, *Amyris madrensis*, *Atalantia* spp. (including *Atalantia monophylla*), *Balsamocitrus dawei*, *Berbera* (= *Murraya*) *koenigii*, *Calodendrum capense*, *Choisya ternata*, *Choisya arizonica*, *X Citroncirus webberi*, *Citropsis articulata*, *Citropsis gillettiana*, *Citrus madurensis* (= *X Citrofortunella microcarpa*), *Citrus* spp., *Clausena anisum-olens*, *Clausena excavata*, *Clausena indica*, *Clausena lansium*, *Eremocitrus glauca*, *Eremocitrus hybrid*, *Esenbeckia berlandieri*, *Fortunella* spp., *Limonia acidissima*, *Merrillia caloxylon*, *Microcitrus australasica*, *Microcitrus australis*, *Microcitrus papuana*, *X Microcitronella* spp., *Murraya* spp., *Naringi crenulata*, *Pamburus missionis*, *Poncirus trifoliata*, *Severinia buxifolia*, *Swinglea glutinosa*, *Tetradium ruticarpum*, *Toddalia asiatica*, *Triphasia trifolia*, *Vepris* (= *Toddalia*) *lanceolata*, and *Zanthoxylum fagara*;

b. any other products, materials, articles, or means of conveyance, if an inspector determines that it presents a risk of spreading ACP, and after the inspector provides written notification to the person in possession of the products, materials, articles, or means of conveyance that it is subject to the restrictions of the regulations;

c. regulated materials originating from ACP-quarantined areas are prohibited entry into or through free areas of Louisiana, except as provided in Subsection D of this Section;

d. exceptions—to be eligible to move from quarantined areas, regulated materials must meet the following requirements.

i. Fruit may move interstate with no additional requirements. Fruit may move intrastate from areas quarantined for ACP to citrus-producing areas not under quarantine for ACP if cleaned using normal packinghouse procedures.

ii. Regulated culinary and decorative materials such as fresh curry leaves (*Berbera* (= *Murraya*) *koenigii*) intended for consumption, (instead of the treatments specified in Subparagraph b of this Paragraph), or mock orange leaves (*Murraya paniculata*) incorporated into leis or floral arrangements, must be treated prior to interstate or intrastate movement in accordance with the Animal and

Plant Health Inspection Service's (APHIS) treatment schedule T101-n-2 (methyl bromide fumigation treatment for external feeding insects on fresh herbs) at the times and rates specified in the treatment manual and must be safeguarded until movement. As an alternative to methyl bromide fumigation, regulated materials originating from an area not quarantined for CG may be irradiated in accordance with 7 CFR 305.

iii. Nursery stock of regulated plants listed in 3.a may be moved in accordance with the following requirements.

(a). Nursery stock of regulated plants may be moved interstate if moved in accordance with all requirements of 7 CFR 301.76 and the citrus nursery stock protocol. Persons wishing to move nursery stock interstate must enter into a compliance agreement with APHIS to move regulated materials. Compliance agreements may be arranged by contacting the Louisiana state plant health director, PPQ-APHIS-USDA, at 4354 South Sherwood Blvd., Suite 150D, Baton Rouge, LA 70816 or telephone (225) 298-5410.

(b). Nursery stock of regulated plants may be moved intrastate from ACP quarantined areas to non-quarantined areas of Louisiana if moved in accordance with conditions set forth in a departmental compliance agreement. Any person engaged in the business of growing or handling regulated materials must enter into a compliance agreement with the department if the regulated materials are to be moved to ACP-free areas of Louisiana.

## F. Citrus Canker Disease Quarantine

1. The department issues the following quarantine because the state entomologist has determined that citrus canker disease (CC), caused by the bacterial pathogen *Xanthomonas axonopodis* pv. *citri* (Xac A, A\* and AW) with synonyms *X. citri* pv. *citri*, or *X. citri* subsp. *citri* or *X. campestris* pv. *citri* or *X. smithii* subsp. *citri*; and *X. axonopodis* pv. *aurantifolii* (Xac B and C) with a synonym *X. fuscans* subsp. *aurantifolii*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

2. No regulated materials as defined in this Subsection shall be moved out of any area of this state that is listed in this subsection as a quarantined area for CC, except as provided in this Subsection.

3. Any person violating this quarantine shall be subject to imposition of the remedies and penalties provided for in R.S. 3:1653 for any violation of this quarantine.

4. Quarantined areas in this state include:

a. the entire parish of Orleans;

b. the portions of Jefferson, Plaquemines and St. Charles Parishes bounded by a line beginning at the intersection of the Orleans and Plaquemines Parish line located in the center of the Mississippi River near St. Bernard State Park; then moving west, following the Orleans Parish line to the intersection of the Orleans Parish line with River Road; then moving west on River Road and following River Road parallel to the western border of the Mississippi River to the point where River Road becomes Highway 11; then following Highway 11 until it reaches the point immediately east of East Walker Road; then moving west following East Walker Road and crossing Highway 23 to the intersection of Highway 23 and Walker Road; then moving

west following Walker Road to the intersection of East Bayou Road; then moving north following East Bayou Road to the intersection of the service road servicing the intracoastal waterway west closure complex; then moving west-southwest along an imaginary line that intersects with the Jefferson Parish line running through Lake Salvador; then moving northeast, following the Jefferson Parish line to the intersection of the parish line with Highway 18; then moving southwest following Highway 18 (River Road) to the intersection of Interstate Highway 310; then moving north following Interstate Highway 310 across the Mississippi River and continuing on to the Interstate Highway 310/Interstate Highway 10 interchange; then moving east following Interstate Highway 10 to its intersection with the Jefferson Parish line; then moving north following the Jefferson Parish line until reaching the south shoreline of Lake Ponchartrain; then moving east following the south shoreline of Lake Ponchartrain until its intersection with the Orleans Parish line; then moving south following the Orleans Parish line and following said parish line to the point of beginning;

c. a declaration of quarantine for CC covering any other specific parishes or areas of this state shall be published in the official journal of the state and in the *Louisiana Register*.

5. Regulated materials are hosts of CC and their movement is prohibited from quarantined areas due to the presence of CC. Regulated materials include:

a. all plants or plant parts, including fruit and seeds, of any of the following: all species, clones, cultivars, strains, varieties, and hybrids of the genera citrus and fortunella, and all clones, cultivars, strains, varieties, and hybrids of the species *Clausena lansium*, and *Poncirus trifoliata*, and *Swinglea glutinosa*. The most common of these are lemon, pummelo, grapefruit, key lime, Persian lime, tangerine, satsuma, tangor, citron, sweet orange, sour orange, mandarin, tangelo, ethrog, kumquat, limequat, calamondin, trifoliolate orange, tabog, and wampi;

b. all containerized citrus nursery stock plants of all types listed in Subparagraph 3.a above;

c. grass, plant, and tree clippings;

d. any other product, article, or means of conveyance, of any character whatsoever, not covered by Subparagraph a of this Section, when it is determined by an inspector that it presents a risk of spread of citrus canker and the person in possession thereof has actual notice that the product, article, or means of conveyance is subject to the provisions of this CC quarantine.

6. To be eligible to move from quarantined areas to non-quarantined areas within or outside of Louisiana, regulated materials must meet the following requirements.

a. Regulated fruit may be moved intrastate from a quarantined area for processing into a product other than fresh fruit if all of the following conditions are met.

i. The regulated fruit is accompanied by a document that states the location of the grove in which the regulated fruit was produced, the variety and quantity of regulated fruit being moved intrastate, the address to which the regulated fruit will be delivered for processing, and the date the intrastate movement began.

ii. The regulated fruit and any leaves and litter are completely covered, or enclosed in containers or in a compartment of a vehicle, during the intrastate movement.

iii. The vehicles, covers, and any containers used to carry the regulated fruit intrastate are treated in accordance with federal requirements before leaving the premises where the regulated fruit is unloaded for processing,

iv. All leaves, litter, eliminations, and culls collected from the shipment of regulated fruit at the processing facility are either incinerated at the processing facility or buried at a public landfill that is fenced, prohibits the removal of dumped material, and covers dumped material with dirt at the end of every day that dumping occurs.

b. Regulated fruit may be moved intrastate from a quarantined area for packing, either for subsequent interstate movement with a limited permit or for export from the United States, if all of the following conditions are met.

i. The regulated fruit is accompanied by a document that states the location of the multi-block identification in which the regulated fruit was produced, the variety and quantity of regulated fruit being moved intrastate, the address to which the regulated fruit will be delivered for packing, and the date the intrastate movement began.

ii. The regulated fruit and any leaves and litter are completely covered, or enclosed in containers or in a compartment of a vehicle, during the intrastate movement.

iii. The vehicles, covers, and any containers used to carry the regulated fruit intrastate are treated in accordance with federal requirements before leaving the premises where the regulated fruit is unloaded for packing.

iv. Any equipment that comes in contact with the regulated fruit at the packing plant is treated in accordance with federal requirements before being used to handle any fruit eligible for interstate movement to commercial citrus-producing areas.

v. All leaves and litter collected from the shipment of regulated fruit at the packing plant are either incinerated at the packing plant or buried at a public landfill that is fenced, prohibits the removal of dumped material, and covers dumped material with dirt at the end of every day that dumping occurs. All culls collected from the shipment of regulated fruit are either processed into a product other than fresh fruit, incinerated at the packing plant, or buried at a public landfill that is fenced, prohibits the removal of dumped material, and covers dumped material with dirt at the end of every day that dumping occurs. Any culls moved intrastate for processing must be completely covered, or enclosed in containers or in a compartment of a vehicle, during the intrastate movement, and the vehicles, covers, and any containers used to carry the regulated fruit must be treated in accordance with federal requirements before leaving the premises where the regulated fruit is unloaded for processing.

c. Regulated fruit produced in a quarantined area or moved into a quarantined area for packing may be moved interstate with a certificate issued and attached in accordance with federal requirements if all of the following conditions are met.

i. The regulated fruit was packed in a commercial packinghouse whose owner or operator has entered into a compliance agreement with USDA-APHIS-PPQ in accordance with federal requirements.

ii. The regulated fruit was treated in accordance with federal requirements.

iii. The regulated fruit is practically free of leaves, twigs, and other plant parts, except for stems that are less than 1 inch long and attached to the fruit.

iv. If the fruit is repackaged after being packed in a commercial packinghouse and before it is moved interstate from the quarantined area, the person that repackages the fruit must enter into a compliance agreement with USDA-APHIS-PPQ and must issue and attach a certificate for the interstate movement of the fruit in accordance with federal requirements.

d. Regulated fruit that is not eligible for movement under Paragraph iii of this SECTION may be moved interstate only for immediate export. The regulated fruit must be accompanied by a limited permit issued in accordance with federal requirements and must be moved in a container sealed by USDA-APHIS-PPQ directly to the port of export in accordance with the conditions of the limited permit.

e. Grass, tree, and plant clippings may be moved intrastate from the quarantined area for disposal in a public landfill, for composting in a recycling facility, or treatment at a treatment facility, including livestock feed treatment facilities, if all of the following conditions are met.

i. The public landfill, recycling facility, or treatment location is located within the quarantined area.

ii. The grass, tree, or plant clippings are completely covered during the movement from the quarantined area to the public landfill, recycling facility, or treatment facility.

iii. Any public landfill used is fenced, prohibits the removal of dumped material, and covers dumped material with dirt at the end of every day that dumping occurs.

f. All vehicles, equipment, and other articles used in providing inspection, maintenance, harvesting, or related services in any grove containing regulated plants or regulated trees, or in providing landscaping or lawn care services on any premises containing regulated plants or regulated trees, must be treated in accordance with federal requirements upon leaving the grove or premises. All personnel who enter the grove or premises to provide these services must be treated in accordance with federal requirements upon leaving the grove or premises.

g. Regulated nursery stock may be moved intrastate or interstate from a quarantined area if all of the following conditions are met.

i. The nursery in which the nursery stock is produced has entered into a compliance agreement in which it agrees to meet the relevant construction standards, sourcing and certification requirements, cleaning, disinfecting, and safeguarding requirements, labeling requirements, and recordkeeping and inspection requirements specified in federal regulations. The compliance agreement may also specify additional conditions under which the nursery stock must be grown, maintained, and shipped, as determined by regulatory

officials, to prevent the dissemination of citrus canker. The compliance agreement will also specify that regulatory officials may amend the agreement.

ii. An inspector has determined that the nursery has adhered to all terms and conditions of the compliance agreement.

iii. The nursery stock is accompanied by a certificate issued in accordance with federal regulations.

iv. The nursery stock is completely enclosed in a sealed container that is clearly labeled with the certificate and is moved in that container.

v. A copy of the certificate is attached to the consignee's copy of the accompanying waybill.

h. Regulated nursery stock produced in a nursery located in a quarantined area that is not eligible for movement under this section may be moved intrastate or interstate only for immediate export. The regulated nursery stock must be accompanied by a limited permit issued in accordance with federal regulations and must be moved in a container sealed by USDA-APHIS-PPQ directly to the port of export in accordance with the conditions of the limited permit.

i. Regulated seed may be moved intrastate or interstate from a quarantined area if all of the following conditions are met.

i. The source plants are not from an area quarantined for citrus greening.

ii. During the two years before the movement date, no plants or plant parts infected with or exposed to citrus canker were found in the grove or nursery producing the fruit from which the regulated seed was extracted.

iii. The regulated seed was treated in accordance with federal regulations.

iv. The regulated seed is accompanied by a certificate issued in accordance with federal regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 40:

#### **Family Impact Statement**

It is anticipated that the proposed action will have no significant effect on the:

1. stability of the family;
2. authority and rights of parents regarding the education and supervision of their children;
3. functioning of the family;
4. family earnings and family budget;
5. behavior and personal responsibility of children; or
6. ability of the family or a local government to perform the function as contained in the proposed action.

#### **Poverty Impact Statement**

It is anticipated that the proposed action will have no significant effect on:

1. household income, assets, and financial security;
2. early childhood or educational development;
3. employment and workforce development;
4. taxes and tax credits; or
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### Small Business Statement

It is anticipated that the proposed action will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed action to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

### Public Comments

Interested persons may submit written comments, data, opinions, and arguments regarding the proposed action. Written submissions are to be directed to Tad Hardy, Assistant Commissioner, Office of Agricultural and Environmental Sciences, Department of Agriculture and Forestry; telephone (225) 922-1234; fax # (225) 237-5553; mailing address, 5825 Florida Boulevard, Baton Rouge, LA 70806. The written submissions must be received no later than 4 p.m. on March 27, 2014. No preamble regarding the proposed action is available.

Mike Strain DVM  
Commissioner

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Horticulture and Quarantine Programs

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences is adopting amendments to LAC 7: XV. §127 to include the addition of three citrus pests or diseases of quarantine significance: Asian citrus psyllid, citrus greening disease, and citrus canker disease. The proposed action includes establishing the regulated areas within Louisiana, listing the regulated articles, establishing mitigative measures for products to be certified, and restricting movement of regulated articles. The proposed action is necessary to reduce or prohibit the spread of these pests and diseases in order to protect Louisiana's citrus industry. The proposed action will increase expenditures of the Department of Agriculture and Forestry by approximately \$25,420 in FY 14, \$16,523 in FY 15, and \$17,184 in FY 16. FY 14 implementation costs include the printing of brochures and other outreach materials, distribution of these materials, training costs for staff, and travel costs for press days and other outreach opportunities.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed action is not anticipated to have a direct material effect on governmental revenues.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Commercial citrus nursery stock producers will experience increased costs if they grow stock within the quarantined areas. The anticipated economic benefit to commercial citrus nursery stock producers is that the mandatory inspections and treatments will allow them to ship their product without restrictions. There may be some commercial citrus fruit packers, and retailers who sell citrus nursery stock, who will be affected if they are within the quarantined areas. Landscapers, arborists and other lawn maintenance professionals who perform services on properties where regulated items are grown

will be affected by certain provisions within the quarantine due to increased costs.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action is not anticipated to have a material effect on competition or employment.

Dane Morgan  
Assistant Commissioner  
1402#048

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment  
Standards and Practices (LAC 28: CXI.113)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 118—Statewide Assessment Standards and Practices*: §113, Transition to Standards-Based Assessments in English Language Arts and Mathematics. The policy outlines the schedule for implementing new assessments based on Louisiana state standards.

#### Title 28

#### EDUCATION

#### Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

#### Chapter 1. General Provisions

#### §113. Transition to Standards-Based Assessments in English Language Arts and Mathematics

A. Beginning with the 2014-2015 school year, the LDE shall implement standards-based assessments in English language arts and mathematics based on nationally recognized standards approved by BESE that represent the knowledge and skills needed for students to successfully transition to postsecondary education and the workplace. Rigorous student achievement standards shall be set with reference to test scores of the same grade levels nationally. The rigor of each standards-based assessment, at a minimum, shall be comparable to national achievement tests, including but not limited to, the national assessment of education progress.

B. For grades 3-8, standards-based assessments in English language arts and mathematics shall be developed by LDE or developed by LDE in collaboration with other states implementing nationally recognized standards that represent the same level of rigor as BESE-approved standards.

C. The LDE shall utilize summative online assessments in grades 3-8 that may be administered using computers, laptops, and tablets, and multiple operating systems, according to the schedule set forth in this section. Prior to the spring 2015 statewide testing administration for grades 3-8, all schools shall participate in at least one online testing simulation facilitated by the LDE to determine technology readiness.

D. For the 2014-2015 school year only, students in grades 3 and 4 shall participate in the paper administration



of the state assessments unless an LEA chooses to administer the online assessment to these grades and informs the LDE by a deadline determined by the LDE.

E. Beginning with the 2014-2015 school year, students in grades 5-8 shall participate in the online administration of the state assessments.

1. For the 2014-2015 school year only, if a school has participated in the testing simulation and is determined by the LDE to be unable to administer online assessments, the LEA may apply to the state superintendent of education for a one-year waiver of the online testing requirement.

2. Students enrolled in a school that is awarded a waiver of the online testing requirement shall participate in the paper administration of the assessment.

F. Beginning with the 2015-2016 school year, students in grades 3-8 shall participate in the online administration of the state assessments.

G. The assessments shall use multiple item types to measure student learning, including but not limited to, selected-response, constructed-response, technology-enhanced, and complex performance tasks.

H. The statewide assessment program shall include and make available multiple accommodations for students with exceptionalities as set forth in their individual education plan.

I. The assessments shall offer retake opportunities for testing irregularities and students requiring remediation and retesting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:

#### **Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the

purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., March 11, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletin 118—Statewide Assessment Standards and Practices**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The administration of online assessments will require schools to meet a minimal standard of technology that is consistent with basic technology expectations to support classroom teaching and learning in the 21st century. School technology readiness assessments conducted by the LDE reveal that a substantial majority of schools meet the technology specifications for the new assessments. A simulation of the online tests will be conducted in fall 2014 to further identify technology needs. While there will be no additional costs to the state for administering the new assessments, some LEAs could see an increase in expenditures related to upgrades necessary to meet minimum technology standards. Schools support technology in a variety of ways, using federal, state, local, and philanthropic funds; as such the anticipated costs and source of revenues is indeterminable.

The policy outlines the schedule for implementing new assessments based on Louisiana state standards. The new assessments will be administered online in grades 5 through 8 beginning in 2014-2015. School districts may request a waiver to use paper and pencil assessments for the first year of administration.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no determinable effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1402#032

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV.2318, 2333, 2341, 2345, 2353, 2355, 2361, 2363, and 2369)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2318, The College Diploma; §2333, Art; §2341, English; §2345, Foreign Language; §2353, Mathematics; §2355, Music; §2361, Science; §2363, Social Studies; and §2369, Theatre Arts. The proposed policy revisions align the high school courses required for the college diploma with the courses required for TOPS as listed in Act 359 of the 2013 Regular Session of the Legislature.

**Title 28  
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for School Administrators**

**Chapter 23. Curriculum and Instruction**

**Subchapter A. Standards and Curricula**

**§2318. The College Diploma**

A. - B.7.a. ...

C. Minimum Course Requirements

1. For incoming freshmen in 2008-2009 and beyond who are completing the Louisiana basic core curriculum, the minimum course requirements for graduation shall be the following:

NOTE: For courses indicated with \*, an Advanced Placement (AP) or International Baccalaureate (IB) course designated in §2325 may be substituted.

a. - e.i. ...

f. physical education—1 1/2 units:

i. shall include physical education I, or adapted physical education for eligible special education students;

ii. a maximum of 4 units of physical education may be used toward graduation.

NOTE: The substitution of JROTC and school sponsored athletic extracurricular activities is permissible.

g. - h. ...

2. For incoming freshmen in 2008-2009 through 2013-2014 who are completing the Louisiana Core 4

Curriculum, the minimum course requirements shall be the following.

NOTE: For courses indicated with \*, an advanced placement (AP) or international baccalaureate (IB) course designated in §2325 may be substituted.

a. - k.iv. ...

3. For incoming freshmen in 2014-2015 and beyond who are completing the college diploma, the minimum course requirements shall be the following:

a. English—four units:

i. English I;

ii. English II;

iii. one of the following:

(a). English III;

(b). AP English language arts and composition;

(c). English III IB;

iv. one of the following:

(a). English IV;

(b). AP English literature and composition;

(c). English IV IB;

b. mathematics—four units:

i. algebra I;

ii. geometry;

iii. algebra II;

NOTE: Integrated mathematics I, II, and III may be substituted for the algebra I, geometry, and algebra II sequence.

iv. one of the following:

(a). algebra III;

(b). advanced math—functions and statistics;

(c). advanced math—pre-calculus;

(d). pre-calculus;

(e). math methods I IB (mathematical studies

SL);

(f). calculus;

(g). AP calculus AB;

(h). math methods II IB;

(i). AP calculus BC;

(j). AP statistics;

(k). IB further mathematics HL; or

(l). IB mathematics HL;

c. science—four units:

i. biology I;

ii. chemistry I;

iii. two units chosen from the following:

(a). earth science;

(b). environmental science;

(c). physical science;

(d). agriscience II—the elective course agriscience I is a pre-requisite;

(e). one of:

(i). chemistry II;

(ii). AP chemistry;

(iii). IB chemistry II;

(f). one of:

(i). AP environmental science;

(ii). IB environmental systems;

(g). one of:

(i). physics I;

(ii). AP physics B;

(iii). IB physics I;

(h). one of:

- (i). AP physics C: electricity and magnetism;
- (ii). AP physics C: mechanics;
- (iii). IB physics II;
- (i). AP physics I and AP physics II;
- (j). one of:
  - (i). biology II;
  - (ii). AP biology;
  - (iii). IB biology II;
- d. social studies—4 units:
  - i. one unit chosen from:
    - (a). U.S. history;
    - (b). AP U.S. history;
    - (c). IB U.S. history;
  - ii. one unit chosen from:
    - (a). one unit of civics with a section on free enterprise; or
    - (b). one-half unit of:
      - (i). government; or
      - (ii). AP U.S. government and politics: comparative; or
      - (iii). AP U.S. government and politics: United States; and
    - (c). one-half unit of:
      - (i). economics;
      - (ii). AP macroeconomics; or
      - (iii). AP microeconomics;
  - iii. two units chosen from:
    - (a). one of:
      - (i). European history; or
      - (ii). AP European history;
      - (iii). western civilization;
    - (b). one of:
      - (i). world geography;
      - (ii). AP human geography; or
      - (iii). IB geography;
    - (c). one of:
      - (i). world history;
      - (ii). AP world history; or
      - (iii). world history i;
    - (d). IB economics;
  - e. foreign language—two units:
    - i. two units from the same language;
  - f. art—one unit chosen from the following:
    - i. art (§2333);
    - ii. music (§2355);
    - iii. dance (§2337);
    - iv. theatre (§2369);
    - v. speech III and IV—one unit combined;
    - vi. fine arts survey;
  - g. physical education—1 1/2 units. They shall include:
    - i. physical education I and II;
    - ii. adapted physical education I and II for eligible special education students;
    - iii. JROTC I, II, III, or IV; or
    - iv. physical education I (1 unit) and 1/2 unit of marching band, extracurricular sports, cheering, or dance team;
  - h. health education—1/2 unit;
  - i. electives—three units;
  - j. total—24 units.

4. - 6.a.vi. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, and R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:

**§2333. Art**

A. Art course offerings shall be as follows.

Course Title(s)	Units
Art I, II, III, IV	1 each
AP Art Studio 3-D Design	1
AP Art History	1
Talented Art I, II, III, IV	1 each
AP Studio Art: 2-D Design	1
AP Studio Art: 3-D Design	1
AP Studio Art: Drawing	1
Art Design III IB	1
Art Design IV IB	1

B. Art I is a prerequisite to art II and art III.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 31:3069 (December 2005), LR 37:2132 (July 2011), LR 40:

**Subchapter B. Academic Programs of Study**

**§2341. English**

A. The English course offerings for the college diploma shall be as follows.

Course Title(s)	Units
English I, II, III, and IV	1 each
Business English (for incoming freshmen prior to 2008-2009)	1
Senior Applications in English	1
Reading I (elective credit)	1
Reading II (elective credit)	1
English as a Second Language (ESL) I, II, III, and IV (elective credit)	1 each
AP English Language Arts and Composition	1
AP English Literature and Composition	1
English III IB	1
English IV IB	1

B. The English course offerings for the career diploma shall be as follows.

Course Title(s)	Units
English I, II, III, and IV	1 each
Senior Applications in English	1
Technical Reading and Writing	1
Business English	1
Business Communications	1
Using Research in Careers	1/2 unit
American Literature	1/2 unit
Film in America	1/2 unit
Reading I (elective credit)	1
Reading II (elective credit)	1
English as a Second Language (ESL) I, II, III, and IV (elective credit)	1 each
Course(s) developed by the LEA and approved by BESE	1

C. Only students who have limited English proficiency are permitted to enroll in English as a second language (ESL) courses.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 33:2605 (December 2007), LR 36:1492 (July 2010), LR 40:

### §2345. Foreign Languages

A. The foreign language course offerings shall be as follows.

Course Title(s)	Units
French I, II, III, IV, V	1 each
German I, II, III, IV, V	1 each
Italian I, II, III, IV, V	1 each
Latin I, II, III, IV, V	1 each
Russian I, II, III, IV, V	1 each
Spanish I, II, III, IV, V	1 each
American Sign Language I, II, III, IV	1 each
Greek I, II, III, IV	1 each
Chinese I, II, III, IV	1 each
Japanese I, II, III, IV	1 each
Hebrew I, II, III, IV	1 each
Arabic I, II, III, IV	1 each
AP Chinese Language and Culture	1
AP French Language and Culture	1
AP German Language and Culture	1
AP Italian Language and Culture	1
AP Japanese Language and Culture	1
AP Latin	1
AP Spanish Language and Culture	1
French IV IB	1
French V IB	1
Spanish IV IB	1
Spanish V IB	1

B. Teachers of American sign language shall have a valid Louisiana teaching certificate and documentation of the following:

1. provisional level certification from the American Sign Language Teachers Association (ASLTA); or
2. certificate of interpretation (CI) from the Registry of Interpreters of the Deaf (RID); or
3. certificate of transliteration (CT) from the RID; or
4. certified deaf interpreter certification (CDI) from the RID; or
5. level IV or V certificate of competence from the National Association of the Deaf (NAD); or
6. level IV or V official documentation of the videotaped version of the educational interpreter performance assessment (EIPA).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 273, and R.S. 17:284.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 36:1996 (September 2010), LR 38:759 (March 2012), LR 38:2364 (September 2012), LR 40:

### §2353. Mathematics

A. The mathematics course offerings for the College Diploma shall be as follows.

Course Title(s)	Units
Advanced Math—Pre-Calculus	1
Advanced Math—Functions and Statistics	1

Course Title(s)	Units
Algebra I, II	1 each
Applied Algebra I	1
Algebra I—Part 1	1
Algebra I—Part 2	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics	1
Geometry	1
Applied Geometry	1
Integrated Mathematics I, II, III	1 each
Pre-Calculus	1
Probability and Statistics	1
Math Essentials	1
AP Calculus BC	1
AP Calculus AB	1
AP Statistics	1
Math Methods I IB (Mathematical Studies SL)	1
Math Methods II IB (Mathematics SL)	1
IB Further Mathematics HL	1
IB Mathematics HL	1

B. The mathematics course offerings for the career diploma shall be as follows.

Course Title(s)	Units
Algebra I	1
Algebra I—Part 1	1
Algebra I—Part 2	1
Applied Algebra I	1
Geometry	1
Applied Geometry	1
Financial Mathematics	1
Technical Math	1
Medical Math	1
Applications in Statistics and Probability	1
Algebra II	1
Advanced Math—Pre-Calculus	1
Discrete Mathematics	1
Math Essentials	1
Course(s) developed by the LEA and approved by BESE	1

C. Financial mathematics may be taught by teachers certified in business education.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:2605 (December 2007), LR 34:1609 (August 2008), LR 35:2322 (November 2009), LR 36:1493 (July 2010), LR 38:760 (March 2012), LR 40:

### §2355. Music

A. The music course offerings shall be as follows.

Course Title(s)	Units
Applied Music	1
Beginning Band	1
Beginning Choir	1
Sectional Rehearsal	1
Studio Piano I, II, III	1 each
Studio Strings I, II, III	1 each
Intermediate Band	1
Intermediate Choir	1
Advanced Band	1
Advanced Choir	1
Beginning Orchestra	1
Intermediate Orchestra	1
Advanced Orchestra	1
Small Vocal Ensemble	1

Course Title(s)	Units
Wind Ensemble	1
Jazz Ensemble	1
Guitar Class	1
Piano Class	1
Music Theory I, II	1 each
Music and Media	1
Music and Technology	1
Talented Music I, II, III, IV	1 each
AP Music Theory	1
Music I IB	1
Music II IB	1
Marching Band	1/2

B. Advanced choir, advanced band, advanced orchestra, intermediate choir, intermediate band, intermediate orchestra, studio strings III, sectional rehearsal, small vocal ensemble, wind ensemble, applied music, jazz ensemble, and studio piano III are performance classes with new literature each year; they may be repeated more than once.

C. Approval by LDE is required before private piano and studio strings instruction can be given for credit.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 31:3069 (December 2005), LR 33:2354 (November 2007), LR 37:2133 (July 2011), LR 40:

### §2361. Science

A. The science course offerings for the college diploma shall be as follows.

Course Title(s)	Units
Aerospace Science	1
Agriscience II	1
Anatomy and Physiology	1
Biology I, II	1 each
Chemistry I, II	1 each
Earth Science	1
Environmental Science	1
Integrated Science	1
Physical Science	1
Physics I, II	1 each
Physics of Technology I, II	1 each
Approved IBC-related courses for those students who meet the requirement	1 each
AP Chemistry	1
IB Chemistry II	1
AP Environmental Science	1
IB Environmental Systems	1
AP Physics B	1
IB Physics I	1
AP Physics C: Electricity and Magnetism	1
AP Physics C: Mechanics	1
IB Physics II	1
AP Physics I and II	1/2 each
AP Biology	1
IB Biology II	1

B. The science course offerings for the career diploma shall be as follows.

Course Title(s)	Units
Aerospace Science	1
Agriscience II	1
Anatomy and Physiology	1
Biology	1
Chemistry	1
Earth Science	1
Environmental Science	1

Integrated Science	1
Physical Science	1
Physics	1
Physics of Technology I, II	1 each
Food Science	1
Forensic Science	1
Allied Health Science	1
Basic Body Structure and Function	1
Basic Physics with Applications	1
Animal Science	1
Biotechnology in Agriculture	1
Environmental Studies in Agriculture	1
Health Science II	1
EMT—Basic	1
Course(s) developed by the LEA and approved by BESE	1 each

C. Students may not take both integrated science and physical science.

D. Agriscience I is a prerequisite for agriscience II and is an elective course.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1297 (June 2005), amended LR 33:2605 (December 2007), LR 36:1494 (July 2010), LR 40:

### §2363. Social Studies

A. The social studies course offerings for the college diploma shall be as follows.

Course Title(s)	Units
American Government	1
American History	1
Civics	1
Economics	1
Free Enterprise	1/2
Law Studies	1
Psychology	1
Sociology	1
AP European History	1
African American Studies	1
Approve IBC-related courses for those students who meet the requirement	1 each
AP U.S. History	1
IB U.S. History	1
AP US Government and Politics: Comparative	1/2
AP US Government and Politics: United States	1/2
AP Macroeconomics	1/2
AP Microeconomics	1/2
AP Human Geography	1
IB Geography	1
AP World History	1
World History IB	1
IB Economics	1

B. The social studies course offerings for the career diploma shall be as follows.

Course Title(s)	Units
American Government	1
American History	1
Civics	1
Economics	1
Free Enterprise	1/2
Law Studies	1
Psychology	1
Sociology	1
African American Studies	1
Child Psychology and Parenthood Education	1
Course(s) developed by the LEA and approved by BESE	1

C. Economics may be taught by a teacher certified in business education.

D. Free enterprise and the one credit civics course shall include instruction in personal finance. Such instruction shall include but shall not be limited to the following components:

1. income;
2. money management;
3. spending and credit;
4. savings and investing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.3, R.S. 17:274, R.S. 17:274.1, and R.S. 17:274-274.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 31:3072 (December 2005), LR 33:431 (March 2007), LR 33:2606 (December 2007), LR 36:1495 (July 2010), LR 37:1131 (April 2011), LR 40:

**§2369. Theatre Arts**

A. The theatre arts course offerings shall be as follows.

Course Title(s)	Units
Theatre I, II, III, IV	1 each
Technical Theatre	1
Theatre Design and Technology	1
Talented Theatre I, II, III, IV	1 each
Film Study I IB	1
Film Study II IB	1
Theatre I IB	1

B. Theatre II, III, and IV are performance classes with new literature each year; they may be repeated more than once.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 31:3070 (December 2005), LR 37:2133 (July 2011), LR 40:

**Family Impact Statement**

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

**Poverty Impact Statement**

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

**Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., March 11, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES  
RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
The proposed policy revisions do not impact costs for state or local governmental units.  
The proposed policy revisions align the high school courses required for the College Diploma with the courses required for TOPS as listed in Act 359 of the 2013 Regular Session of the Legislature.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
This policy will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no determinable effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1402#033

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs  
(LAC 28:XLV.105, 107, 307, 701, and 1301)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs*: §105. State Adoption of National Accreditation Standards; §107. The Partnership Agreements; §307. Level III Approval; §701. Introduction; and §1130. Acronyms. The proposed policy will update the state partnership with the Council for Accreditation of Educator Preparation (CAEP) and authorize the State Superintendent of Education to sign a seven-year partnership agreement between the state and CAEP to conduct joint state program approval and CAEP accreditation reviews.

**Title 28  
EDUCATION**

**Part XLV. Bulletin 996—Standards for Approval of  
Teacher and/or Educational Leader  
Preparation Programs**

**Chapter 1. Introduction**

**§105. State Adoption of National Accreditation  
Standards**

A. - B. ...

C. In July 2013, NCATE and TEAC merged to become the Council for Accreditation of Educator Preparation (CAEP). The state has adopted the standards prescribed by CAEP. These standards are available on the CAEP website, [www.caepnet.org](http://www.caepnet.org).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6) and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1731 (August 2002), amended LR 30:2452 (November 2004), LR 35:2327 (November 2009), LR 40:

**§107. The Partnership Agreements**

A. - B. ...

C. In July 2013, NCATE and TEAC merged to form the Council for Accreditation of Educator Preparation (CAEP). In January 2014, BESE authorized John White, State Superintendent of Education, to sign a seven-year partnership agreement between the state and the Council for Accreditation of Educator Preparation to conduct joint state

program approval and CAEP accreditation reviews. The CAEP/State Partnership Agreement formalizes current practice and provides the state greater input into the review process.

D. Teacher and/or educational leader preparation programs at public and private institutions of higher education must pursue accreditation by the Council for Accreditation of Educator Preparation (CAEP).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1731 (August 2002), amended LR 30:2452 (November 2004), LR 35:2327 (November 2009), LR 40:

**Chapter 3. State Approval for Public and Private  
University Teacher and/or Educational  
Leader Preparation Units**

**§307. Level III Approval  
[Formerly §207]**

A. - B. ...

C. Within three years or less from the time at which an institution is notified of eligibility for candidacy, the unit must host a joint visit with a national accreditation agency and state representatives (see guidelines provided by the state-approved national accrediting agency, identified in §107 of this document).

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2452 (November 2004), amended LR 35:2327 (November 2009), LR 37:560 (February 2011), LR 40:

**Chapter 7. Louisiana State Standards for Teacher  
Preparation Programs**

**§701. Introduction  
[Formerly §301]**

A. Each teacher preparation program seeking approval from the Board of Elementary and Secondary Education (BESE) is required to incorporate and adhere to CAEP standards and to track closely the CAEP accreditation process. It is the responsibility of the teacher preparation program to prepare and present a clear description of how it is responding to each of the Louisiana standards within the accreditation process.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1731 (August 2002), amended LR 30:2454 (November 2004), LR 35:2329 (November 2009), LR 37:563 (February 2011), LR 40:

**Chapter 13. Identifications of Acronyms**

**§1301. Acronyms  
[Formerly §601]**

A. Listed below are the full identifications of acronyms used in this publication.

*BESE*—Board of Elementary and Secondary Education.

*BOR*—Board of Regents.

*CAEP*—Council for Accreditation of Educator Preparation

*CCSS*—Common Core State Standards

*CHEA*—Council for Higher Education.

*IEP*—Individualized Education Plan.

*PK-3*—Pre-kindergarten through third grade.

*K-12*—kindergarten through twelfth grade.

*LDOE*—Louisiana Department of Education.

*LEAP 21*—Louisiana Educational Assessment Program for the 21st century.

*LSDAS*—Louisiana School and District Accountability System.

*NCATE*—National Council for the Accreditation of Teacher Education.

*PK-12*—pre-kindergarten through twelfth grade.

*TEAC*—Teacher Education Accreditation Council.

*USDOE*—U.S. Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1736 (August 2002), amended LR 30:2459 (November 2004), LR 35:2331 (November 2009), LR 36:754 (April 2010), LR 37:566 (February 2011), LR 40:

### **Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

### **Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word “poverty” means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., March 11, 2014 to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed policy will update the state partnership with the Council for Accreditation of Educator Preparation (CAEP) and authorize the State Superintendent of Education to sign a seven-year partnership agreement between the state and CAEP to conduct joint state program approval and CAEP accreditation reviews. Current policy requires that teacher and/or leadership preparation programs at public and private institutions of higher education pursue national accreditation through the National Council for Accreditation of Teacher Education (NCATE) or Teacher Education Accreditation Council (TEAC). July 1, 2013, marked the *de facto* consolidation of NCATE and TEAC, making the Council for Accreditation of Educator Preparation (CAEP) the new sole specialized accreditor for educator preparation programs. In order to maintain a partnership with a nationally recognized educator preparation body, Louisiana must enter into a partnership agreement with CAEP.

With the previous accreditation process, the state paid a yearly fee to both NCATE and TEAC. This fee was based on the number of institutions within the state. The state will now pay one fee to CAEP, based on the number of institutions within the state participating in the accreditation process. In addition to the yearly fee, the partnership stipulates that the accreditation team(s) be composed of national and state members. The state is responsible for costs incurred in the training of Louisiana team members (lodging, meals, presenters, printing, etc.). CAEP will negotiate with the state on a cost-recovery basis regarding fees and expenses for training to include presenters from CAEP. It is not possible to estimate these expenses.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections.



III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1402#034

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Office of the Governor  
Real Estate Commission**

Post License Education (LAC 46:LXVII.5527)

Editor's Note: This Notice of Intent is being reprinted due to an error upon submission. The original Notice of Intent can be viewed in its entirety on page 3141 of the November 20, 2013 *Louisiana Register*.

Under the authority of the Louisiana Real Estate License Law, R.S. 37:1430 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Real Estate Commission has initiated procedures to amend LAC 46:LXVII.5527, to mandate the use of a standardized 45-hour post-license education course, developed by the Louisiana Real Estate Commission, in lieu of the currently prescribed course outline.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LXVII. Real Estate**

**Subpart 1. Real Estate**

**Chapter 55. Real Estate Vendors; Post-licensing and Continuing Education**

**§5527. Post License Education Courses**

A. The commission shall prescribe the 45-hour post-license curriculum offered by approved education vendors.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1431 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 37:3021 (October 2011), amended LR 38:3172 (December 2012), LR 40:

**Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the February 20, 2014 *Louisiana Register*. The proposed Rule has no known impact on family, formation, stability, or autonomy.

**Poverty Impact Statement**

The proposed Rule has no known impact on poverty as described in R.S. 49:973.

**Public Comments**

Interested parties are invited to submit written comments on the proposed regulations to Stephanie Boudreaux, Louisiana Real Estate Commission, P.O. Box 14785, Baton Rouge, LA 70898-4785 or 9071 Interline Avenue, Baton

Rouge, LA 70809 or sboudreaux@lrec.state.la.us, through March 13, 2014, at 4:30 p.m.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Post License Education**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local governmental unit expenditures. The purpose of the proposed rule change is to mandate the use of a standardized 45-hour post-license education course, developed by the Louisiana Real Estate Commission, in lieu of the currently prescribed course outline. This mandate will ensure that the same course content, approach, and principles are employed by real estate schools and education vendors in their course presentations, thereby ensuring a consistent learning opportunity throughout the state.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The mandated course material will be provided at no charge and will relieve schools and vendors of the responsibilities, expense, and time associated with individualized course development and maintenance.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Bruce Unangst  
Executive Director  
1402#015

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Addictive Disorder Regulatory Authority**

Certified Addiction Counselor  
Registered Addiction Counselor  
(LAC 46:LXXX.703 and 705)

Notice is hereby given that the Department of Health and Hospitals, Addictive Disorder Regulatory Authority (ADRA), has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and intends to amend LAC 46:LXXX.703, Certified Addiction Counselor (CAC) and LAC 46:LXXX.705, Registered Addiction Counselor (RAC) of the Addictive Disorder Regulatory Authority.

The Addictive Disorder Practice Act is found at R.S. 37:3386-3390.6. R.S. 37:3387.1(B) authorizes the ADRA to adopt and promulgate rules which govern certified addiction counselors; R.S. 37:3387.1(F) authorizes the ADRA to prescribe other qualifications and requirements for certified addiction counselor as may be appropriate for the protection of the public or the enhancement of professional services. R.S. 37:3387.2(B) authorizes the ADRA to adopt and promulgate rules which govern registered addiction counselors; R.S. 37:3387.2(F) authorizes the ADRA to

prescribe other qualifications and requirements for registered addiction counselors as may be appropriate for the protection of the public or the enhancement of professional services. R.S. 37:3388.4(A)(5) and (12) authorize the Addictive Disorder Regulatory Authority to promulgate rules for administration and carrying out provisions of the Addictive Disorder Practice Act. These amendments are adopted in accordance therewith.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LXXX. Substance Abuse Counselors**

#### **Chapter 7. Credentials for License/ Certification/Registration**

#### **§703. Certified Addiction Counselor (CAC)**

A. - A.12. ...

B. The scope of practice for the CAC shall include the rendering of professional guidance to individuals suffering from an addictive disorder to assist them in gaining an understanding of the nature of their disorder and developing and maintaining a responsible lifestyle. The CAC may not practice independently and may not render a diagnostic impression. The scope shall also include making referrals to appropriate professionals, providing counseling to family members and, as appropriate, to others affected by the individual's addictive disorder, and the utilization of KSA and core functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3387.1(B) and (F) and R.S. 37:3388.4(A)(5) and (12).

HISTORICAL NOTE: Promulgated by the Department of and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, LR 31:649 (March 2005), amended by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 40:

#### **§705. Registered Addiction Counselor (RAC)**

A. - A.11. ...

B. The scope of practice for the RAC shall include the rendering of professional guidance to individuals suffering from an addictive disorder to assist them in gaining an understanding of the nature of their disorder and developing and maintaining a responsible lifestyle. The RAC may not practice independently and may not render a diagnostic impression. The scope shall also include making referrals to appropriate professionals, providing counseling to family members and, as appropriate, to others affected by the individual's addictive disorder, and the utilization of KSA and core functions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3387.2(B) and (F) and R.S. 37:3388.4(A)(5) and (12).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Addictive Disorders, Addictive Disorder Regulatory Authority, LR 31:650 (March 2005), amended by the Department of Health and Hospitals, Addictive Disorder Regulatory Authority, LR 40:

#### **Family Impact Statement**

The proposed Rule changes have no impact on family formation, stability or autonomy, as described in R.S. 49.972.

#### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and

kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word *poverty* means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Public Comments**

Interested persons may submit written comments to LaMiesa D. Bonton, Executive Director, Addictive Disorder Regulatory Authority, 4919 Jamestown Avenue, Suite 203, Baton Rouge, LA 70808. All comments must be received no later than 5 p.m., on March 12, 2014.

LaMiesa Bonton  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Certified Addiction Counselor, Registered Addiction Counselor**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Other than the Rule publication costs, which are estimated to be \$164 in FY 14, it is not anticipated that the proposed Rule amendments will result in any material costs or savings to the Addictive Disorder Regulatory Authority (ADRDA) or any state or local governmental unit. The proposed Rule changes to §§703 and 705 are to clarify the scopes of practice for the Certified Addiction Counselor (CAC) and Registered Addiction Counselor in an effort to eliminate ambiguity and to ensure proper treatment and practice in the field of addiction.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated effect on revenue collections of state or local governmental units as result of this Rule change.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

There is no anticipated effect on competition and employment as a result of this Rule change.

LaMiesa Bonton  
Executive Director  
1402#049

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

Moderate Sedation, Minimal Education Requirements,  
Facilities, Personnel and Equipment  
(LAC 46:XXXIII.1505, 1509, and 1511)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760 (8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.1505, 1509, and 1511.

The Louisiana state Board of Dentistry is amending LAC 46:XXXIII.1505 and 1509 to remove the limited permit to administer moderate sedation with parenteral drugs. In addition, the board amending LAC 46:XXXIII.1511 to reorganize the Rule for clarification.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Profession**

**Chapter 15. Anesthesia/Analgesia Administration**

**§1505. Moderate Sedation with Parenteral Drugs**

A. In order to receive a permit to administer moderate sedation with parenteral drugs the dentist shall:

1. meet all of the minimal educational requirements specified in LAC 46:XXXIII.1509; and

2. successfully complete a personally attended advanced training program beyond the pre-doctoral dental school level accredited by the Commission on Dental Accreditation of the American Dental Association which includes anesthesiology and related academic subjects as required in §1505 of this Chapter; or

3. utilize the services of a third-party medical doctor or doctor of osteopathy, who specializes in anesthesiology, third-party certified registered nurse anesthetist, or an oral and maxillofacial surgeon who is permitted by the board to administer moderate sedation, deep sedation, and general anesthesia provided that the third-party anesthetist must remain on the premises of the dental facility until any patient given parenteral drugs is sufficiently recovered; or

4. successfully complete a board-approved personally attended continuing education course as described in part III of the American Dental Association guidelines for teaching the comprehensive control of pain and anxiety in dentistry provided the applicant has held a license to practice dentistry for a minimum of three years. The board has determined that 80 hours of clinical airway management would be a

minimum to achieve competency as described in part III of the previously mentioned guidelines.

B. In addition to the requirements of Subsection A of this Section, the dentist must provide proof of current certification in cardiopulmonary resuscitation, course "advanced cardiac life support" (ACLS) as defined by the American Heart Association, or its equivalent. The board will only accept an ACLS course which includes a practical component which is personally attended.

C. In addition to the requirements of Subsections A and B, the dentist shall provide proof of current certification in pediatric advanced life support (PALS) when administering sedation to patients under the age of 13. The board will only accept a PALS course which includes a practical component which is personally attended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 22:1216 (December 1996), LR 33:2653 (December 2007), LR 38:1958 (August 2012), LR 39:90 (January 2013), LR 40:

**§1509. Minimal Educational Requirements for the  
Granting of Permits to Administer Nitrous  
Oxide Inhalation Analgesia, Moderate Sedation  
with Parenteral Drugs and General  
Anesthesia/Deep Sedation**

A. - A.3. ...

B. Moderate Sedation with Parenteral Drugs

1. To be granted a moderate sedation with parenteral drugs permit, the applicant's training must be personally attended. Online or correspondence courses are not acceptable; and the applicant must submit verification of successful completion of formal post-doctoral training in the use of parenteral drugs via the intramuscular (IM), submucosal (SM), intranasal (IN), subcutaneous (SC), and moderate IV sedation routes of administration and competency to handle all emergencies relating to parenteral sedation providing such program consists of a minimum of 60 hours of instruction and 100 hours of clinical experience which includes at least 20 documented cases of parenteral sedation.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 22:1216 (December 1996), LR 32:244 (February 2006), LR 37:590 (February 2011), LR 37:2151 (July 2011), LR 38:1958 (August 2012), LR 39:90 (January 2013), LR 40:

**§1511. Required Facilities, Personnel and Equipment  
for Sedation Procedures**

A. - A.7.d. ...

e. pulse oximeter when parenteral or enteral moderate sedation on a patient is performed;

f. working electrocardiograph and defibrillator when general anesthesia or deep sedation is utilized.

8. - 8.i. ...

j. oxygen; and

k. 50 percent dextrose or other antihypoglycemic.

B. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 20:659 (June 1994), amended LR 32:244 (February 2006), LR 37:1407 (May 2011), 39:91 (January 2013), LR 39:2753 (October 2013), LR 40:

**Family Impact Statement**

There will be no family impact in regard to issues set forth in R.S. 49:972.

**Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

**Public Comments**

Interested persons may submit written comments on these proposed rule changes to Peyton B. Burkhalter, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice.

**Public Hearing**

A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of the publication of this notice.

Peyton B. Burkhalter  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Moderate Sedation, Minimal Education Requirements, Facilities, Personnel and Equipment**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be a one-time cost to the Board of \$500 in FY 14 for publication of the proposed rules in the State Register. There are no estimated costs or savings to local governmental units from the proposed rules.

The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.1505 and .1509 to remove the "limited" permit to administer moderate sedation with parenteral drugs for dentists. This change is being made because there are no longer training courses available to dentists for the "limited" permit. The only training courses that are available to dentists are for the "full" permit. Therefore, a dentist receiving the required training to obtain a permit to administer sedation with parenteral drugs qualifies for the full permit offered by the board.

Additionally, the board is amending LAC 46:XXXIII.1511 for clarification. The requirement for a dentist to have a working electrocardiograph and defibrillator when general anesthesia or deep sedation is utilized was listed under drugs that must be in an emergency kit. Therefore, the rule is being amended to move that requirement under the facilities and equipment that must be available for sedation procedures, rather than including it in the list of emergency drugs required.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections by the board.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There are no estimated costs or economic benefits as a result of these rule changes.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There is no estimated effect on competition and employment as a result of the proposed rule changes.

Peyton B. Burkhalter  
Executive Director  
1402#082

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

**Procedural Requirements (LAC 46:XXXIII.1809)**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760 (8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.1809.

The Louisiana state Board of Dentistry is amending LAC 46:XXXIII.1809 to set forth a timeframe for which a background check is valid.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

**Part XXXIII. Dental Health Profession**

**Chapter 18. Criminal History Records Information**

**§1809. Procedural Requirements**

A. - C. ...

D. All background check results shall be valid for a period of six months or until the license is issued, whichever is earlier.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(6), (8) and 37:763.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 28:1780 (August 2002), amended LR 39:86 (January 2013), LR 40:

**Family Impact Statement**

There will be no family impact in regard to issues set forth in R.S. 49:972.

**Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

**Public Comments**

Interested persons may submit written comments on the proposed rule change to Peyton B. Burkhalter, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice.

**Public Hearing**

A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of the publication of this notice.

Peyton B. Burkhalter  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Procedural Requirements**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There will be a one-time cost to the Board of \$500 in FY 14 for publication of the proposed rules in the State Register. There are no estimated costs or savings to local governmental units from the proposed rules. The proposed rule change establishes a timeframe not to exceed six months for which licensure applicants' background checks are valid.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
There will be no effect on revenue collections by the board.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
Any applicant in the State of Louisiana who fails to supply the Louisiana State Board of Dentistry with the appropriate documentation in support of his or her application would be affected by this rule change. This rule change sets forth a six-month timeframe for which a background check is valid or until the license is issued, whichever is earlier. Any delays in the granting of a license that extend past six months will necessitate the board to conduct an additional background check which will cost the applicant an additional \$100. To the degree that any applicants are required to submit to an additional background check, the Board will realize an increase in revenues of \$100 each (used for administrative processing and payment for the background check by the Office of State Police).
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
There is no estimated effect on competition and employment.

Peyton B. Burkhalter  
Executive Director  
1402#081

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Dentistry**

Standard Precautions (LAC 46:XXXIII.1202 and 1203)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760 (8), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.1202 and 1203.

The Louisiana state Board of Dentistry is amending LAC 46:XXXIII.1202 and 1203 to conform with the rules promulgated by the Federal Centers for Disease Control guidelines for the prevention of the transmission of blood borne pathogens in a dental setting.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XXXIII. Dental Health Profession**

**Chapter 12. Transmission Prevention of Hepatitis B  
Virus, Hepatitis C Virus, and Human  
Immunodeficiency Virus**

**§1202. Definitions**

A. As used in this Chapter, the following terms shall have the meanings specified.

\* \* \*

*Standard Precautions*—those generally accepted infection control practices defined by the Federal Centers for Disease Control as *standard precautions* in addition to proper hygiene by the dental health care provider; the use of personal protective equipment including, but not limited to, gloves, masks, eye protection, and gowns; proper cleaning and decontamination of patient care equipment; cleaning and disinfection of environmental surfaces and injury prevention through engineering controls or safer work practices.

\* \* \*

*Universal Precautions*—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:741 (July 1992), amended LR 21:572 (June 1995), LR 40:

**§1203. Standard Precautions**

A. All dental health care providers shall strictly observe recognized standard precautions as currently recommended by the Federal Centers for Disease Control to minimize the risk of transmission of HBV, HCV or HIV or other blood borne pathogens during any patient encounter with a patient's bodily fluids.

B. In the event that the Federal Centers for Disease Control issue a new version of their recommendations for standard precautions, the board will take into consideration the nature of the changes to those recommendations and establish a reasonable period of time in which dental health care providers must comply with any new or altered recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8) and R.S. 37:1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18:742 (July 1992), amended LR 21:572 (June 1995), LR 40:

**Family Impact Statement**

There will be no family impact in regard to issues set forth in R.S. 49:972.

**Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

**Public Comments**

Interested persons may submit written comments on these proposed rule changes to Peyton B. Burkhalter, Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA

70130. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice.

### Public Hearing

A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of the publication of this notice.

Peyton B. Burkhalter  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Standard Precautions

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one-time cost to the Board of \$500 in FY 14 for publication of the proposed rules in the State Register. There are no estimated costs or savings to local governmental units from the proposed rules. The proposed rule changes adjust the nomenclature of the Code to conform to rules promulgated by the Federal Center for Disease Control Guidelines for the prevention of the transmission of blood borne pathogens in a dental setting.

### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits relative to this rule change.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule changes.

Peyton Burkhalter  
Executive Director  
1402#080

John D. Carpenter  
Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health and Hospitals Board of Medical Examiners

Perfusionists; General, Licensure  
and Certification and Practice

(LAC 46:XLV.251-255, 2701-2751, and 5801-5811)

Notice is hereby given in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1270, and the Louisiana Perfusion Licensure Act, R.S. 37:1331-1343, that the Louisiana State Board of Medical Examiners (Board) intends to adopt rules respecting the general regulation, licensure, certification and practice of perfusionists, Title 46, (Professional And Occupational Standards), Part XLV (Medical Professions), Subpart 1 (General) Chapter 1 (Fees and Costs), Subchapter O, §§251-255, Subpart 2 (Licensure and Certification) Chapter 27, §§2701-2751 and Subpart 3 (Practice) Chapter 58, §§5801-5811.

## Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part XLV. Medical Professions

#### Subpart 1. General

#### Chapter 1. Fees and Costs

##### Subchapter O. Perfusionists Fees

##### §251. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the board's issuance of a license or provisional license to practice perfusion in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 40:

##### §253. Licenses and Permit

A. For processing an application for a license as a licensed perfusionist a fee of \$300 shall be payable to the board.

B. For processing an application for a provisional license as a perfusionist a fee of \$200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343, 37:1270, 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 40:

##### §255. Renewals and Extensions

A. For processing an application for renewal of a licensed perfusionist's license a fee of \$150 shall be payable to the board.

B. For processing an extension of a provisional license as a perfusionist a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 40:

#### Subpart 2. Licensure and Certification

#### Chapter 27. Perfusionists

##### Subchapter A. General Provisions

##### §2701. Scope of Chapter

A. The rules of this Chapter govern the licensing of perfusionists in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

##### §2703. Definitions

A. As used in this Chapter, unless the context clearly states otherwise, the following terms and phrases shall have the meanings specified.

*Advisory Committee on Perfusion or Committee*—the committee established in R.S. 37:1339.

*American Board of Cardiovascular Perfusion or ABCP*—the national credentialing entity for the perfusionist profession, or its successor.

*Applicant*—a person who has applied to the board for a license or provisional license to practice perfusion.

*Board*—the Louisiana State Board of Medical Examiners.

*Good Moral Character*—as applied to an applicant, means that an applicant has not, prior to or during the pendency of an application to the board been guilty of any act, omission, condition or circumstance which would provide legal cause for the denial, suspension or revocation

of a perfusionist's license; the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to material fact or omits to state any fact or matter that is material to the application; and the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent or misleading in achieving or obtaining any of the qualifications for a license required by this Chapter.

*Extracorporeal Circulation*—the diversion of a patient's blood through a heart-lung machine or similar device that assumes the functions of the patient's heart, lungs, kidney, liver or other organs.

*License*—the lawful authority to engage in the practice of perfusion in this state, as evidenced by a certificate duly issued by and under the official seal of the board as a licensed perfusionist or provisional licensed perfusionist.

*Licensed Perfusionist*—a perfusionist who is currently licensed by the board to practice perfusion in this state.

*Perfusion*—the functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular, circulatory, respiratory systems or other organs, or a combination of those activities, and to ensure the safe management of physiologic functions by monitoring and analyzing the parameters including, but not limited to, the following activities conducted upon the written prescription or verbal order of a physician and/or provided in accordance with perfusion protocols:

a. the use of extracorporeal circulation, long-term cardiopulmonary support techniques, including extracorporeal carbon dioxide removal and extracorporeal membrane oxygenation, and associated therapeutic and diagnostic techniques;

b. counterpulsation, ventricular assistance, autotransfusion, blood conservation techniques, myocardial and organ preservation, extracorporeal life support, and isolated limb perfusion;

c. blood management techniques, advanced life support, and other related functions;

d. in the performance of the acts described in this Subparagraph:

i. the administration of pharmacological agents, therapeutic agents, blood products or anesthetic agents through the extracorporeal circuit as ordered by a physician;

ii. the performance and use of:  
(a). anticoagulation monitoring and analysis;  
(b). physiologic monitoring and analysis;  
(c). blood gas and chemistry monitoring and analysis;

(d). hematologic monitoring and analysis;

(e). hypothermia;

(f). hyperthermia;

(g). hemoconcentration and hemodilution; and

(h). hemodialysis.

iii. The observation of signs and symptoms related to perfusion services, the determination of whether the signs and symptoms exhibit abnormal characteristics and the implementation of appropriate reporting, perfusion protocols or changes in or the initiation of an emergency.

*Perfusionist*—an individual who is qualified by academic and clinical education, to operate the

extracorporeal circulation equipment during any medical situation where it is necessary to support or replace a person's cardiopulmonary, circulatory or respiratory function. A perfusionist is responsible for the selection of appropriate equipment and techniques necessary for support, treatment, measurement, or supplementation of the cardiopulmonary and circulatory system of a patient, including the safe monitoring, analysis, and treatment of physiologic conditions.

*Perfusion Licensure Act or Act*—R.S. 37:1331-1343, as may be amended or supplemented.

*Perfusion Protocols*—perfusion related policies and protocols developed or approved by a licensed health facility or a physician through collaboration with administrators, licensed perfusionists, and other health care professionals. Such protocols shall be in writing, kept current, maintained at the health facility or by the physician and produced at the board's request.

*Physician*—an individual who is currently licensed by the board to practice medicine in the state of Louisiana.

*Provisional Licensed Perfusionist*—an individual who is provisionally licensed under this Chapter to engage in perfusion under the supervision and direction of a licensed perfusionist. A provisional license is of determinate, limited duration and implies no right or entitlement to the issuance of a license as a licensed perfusionist.

*Supervision and Direction*—responsible direction and control by a licensed perfusionist for the proper performance of perfusion services by a provisional licensed perfusionist. Such supervision shall not be construed to require the immediate physical presence of the licensed perfusionist; however, the licensed perfusionist shall be accessible on-site or immediately available by telephone, telecommunications or other electronic means to furnish assistance and direction at all times that a provisional licensed perfusionist performs perfusion.

*Supervising Perfusionist*—an individual who is currently licensed by the board under this Chapter as a licensed perfusionist, who provides supervision and direction to a provisional licensed perfusionist.

*United States Government*—any department, agency or bureau of the United States Armed Forces or Veterans Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

## **Subchapter B. Requirements and Qualifications for Licensure**

### **§2705. Scope of Subchapter**

A. The rules of this Subchapter govern and prescribe the requirements, qualifications and conditions requisite to eligibility for licensure as a licensed perfusionist and provisional licensed perfusionist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

### **§2707. Licensed Perfusionist**

A. The board may issue a license to practice as a licensed perfusionist to an individual who has made application to the board. To be eligible for licensure as a licensed perfusionist an applicant shall:

1. be at least 18 years of age;
2. be of good moral character;
3. be a high school graduate or have the equivalent of a high school diploma;
4. be a graduate of a perfusion education program, the educational standards of which have been established by the Accreditation Committee for Perfusion Education, and accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP), or their successors or such other accrediting organization as the board may subsequently approve.

5. have passed the clinical perfusion certification examination offered by the American Board of Cardiovascular Perfusion, or its successor organization;

6. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the United States Citizenship and Immigration Services of the United States, Department of Homeland Security, under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the regulations thereunder (8 C.F.R.);

7. satisfy the applicable fees as prescribed by Chapter 1 of these rules;

8. satisfy the procedures and requirements for application provided by Subchapter C of this Chapter; and

9. not be otherwise disqualified for licensure by virtue of the existence of any grounds for denial of licensure as provided by the Act or in Chapter 58 of these rules.

B. An individual who meets all of the requirements set forth in Subsection A of this Section, save for §2707.A.4 and 5, may nevertheless be licensed by the board provided the applicant:

1. as of July 1, 2003, was operating cardiopulmonary bypass systems during cardiac surgical cases in a licensed health care facility in this state as the applicant's primary function; and

2. is actively engaged in the practice of perfusion consistent with applicable law.

C. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **§2709. Recognition of Perfusion Education Programs**

A. Graduation from an accredited perfusion education program is among the required qualifications for licensure as a perfusionist. This qualification shall be deemed to be satisfied if, as of the date of the applicant's graduation, such program is accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP).

B. A perfusion education program that is not accredited, or whose accreditation has been revoked or suspended by CAAHEP, shall be deemed unacceptable to qualify applicants for licensure in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **§2711. License by Reciprocity**

A. The board may issue a license to practice as a licensed perfusionist to an applicant who holds a current, unrestricted license to practice as a perfusionist duly issued by the licensing authority of another state, the District of Columbia, or a territory of the United States, and meets and satisfies all of the qualifications, procedures and requirements specified by Section 2707 of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **§2713. Provisional License**

A. The board may issue a license to practice as a provisional licensed perfusionist to an individual who has made application to the board. To be eligible for a provisional license an applicant shall:

1. meet and satisfy all of the qualifications, procedures and requirements specified by Section 2707 of this Subchapter, save for passage of the certification examination in clinical perfusion offered by the American Board of Cardiovascular Perfusion; and

2. identify a supervising licensed perfusionist who has agreed to provide supervision and direction at all times during which the applicant provides perfusion services as a provisional licensed perfusionist. A provisional licensed perfusionist may have multiple supervising perfusionists provided; however, the individual identified in an application to the board as the supervising perfusionist shall be deemed to be the primary supervising perfusionist.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for a provisional license shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **Subchapter C. Application**

##### **§2715. Purpose and Scope**

A. The rules of this Subchapter govern the procedures and requirements for application to the board for a license to practice as a licensed perfusionist or provisional licensed perfusionist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

##### **§2717. Application Procedure**

A. Application for licensure or provisional licensure shall be made in a format approved by the board.

B. Applications and instructions may be obtained from the board's web page or by personal or written request to the board.

C. An application under this Chapter shall include:

1. proof documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in this Chapter;



2. one recent photograph of the applicant;
3. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;
4. criminal history record information;
5. payment of the applicable fee as provided in Chapter 1 of these rules; and
6. such other information and documentation as the board may require.

D. An applicant for a provisional license shall, in addition, cause written verification of a supervising licensed perfusionist's agreement to provide supervision and direction to be submitted in a format and manner prescribed by the board.

E. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

F. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document or item required by the application. The board may, at its discretion, require a more detailed or complete response to any request for information set forth in the application as a condition to consideration of an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **§2719. Effect of Application**

A. The submission of an application for licensure to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each governmental agency to which the applicant has applied for any license, permit, certificate or registration, each person, firm, corporation, organization or association by whom or with whom the applicant has been employed as a perfusionist, each physician whom the applicant has consulted or seen for diagnosis or treatment, and each professional or trade organization to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensure to the board shall equally constitute and operate as a consent by the applicant to the disclosure and release of such information and documentation as a waiver by the applicant of any privileges or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensure to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in the manner so directed by the board if the board has reasonable grounds to believe that the applicant's capacity to act as a perfusionist with reasonable skill or safety may be compromised by physical or mental condition, disease or infirmity, and the applicant shall be deemed to have waived all objections as to the admissibility or disclosure of findings, reports or recommendations pertaining thereto on the grounds of privileges provided by law.

C. The submission of an application for licensure to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations or governmental entities pursuant to this Section, to any person, firm, corporation, association or governmental entity having a lawful, legitimate and reasonable need therefor, including, without limitation, the perfusion licensing authority of any state, the American Board of Cardiovascular Perfusion, the Louisiana Department of Health and Hospitals, federal, state, county or parish and municipal health and law enforcement agencies and the Armed Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **Subchapter D. Examination**

##### **§2721. Purpose and Scope**

A. The rules of this Subchapter govern the procedures and requirements applicable to the examination for licensure as a licensed perfusionist in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

##### **§2723. Designation of Examination**

A. The examination accepted by the board for licensure as a licensed perfusionist is the certification examination for clinical perfusion administered by the American Board of Cardiovascular Perfusion or its successor, or such other certifying entity as the board may subsequently approve.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

##### **§2725. Restriction, Limitation on Examinations**

A. An applicant who fails to obtain a passing score upon taking any part of the American Board of Cardiovascular Perfusion's certification examination four times shall not thereafter be considered for licensure until successfully completing such continuing education or additional training as may be recommended by the advisory committee and approved by the board or as the board may otherwise determine appropriate. For multiple failures beyond four attempts such education or training may include, without limitation, repeating all or a portion of any didactic and/or clinical training required for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

##### **§2727. Passing Score**

A. An applicant will be deemed to have successfully passed the examination accepted by the board if he or she attains a score equivalent to that required by American Board of Cardiovascular Perfusion (ABCP) as a passing score.

B. Applicants shall be required to authorize the ABCP to release their test scores to the board each time the applicant-examinee attempts the examination according to the procedures for such notification established by the ABCP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

**Subchapter E. Licensure Issuance, Termination,  
Renewal, Reinstatement and Inactive  
Status**

**§2729. Issuance of License**

A. If the qualifications, requirements and procedures prescribed or incorporated in this Chapter are met to the satisfaction of the board, the board shall license the applicant to practice perfusion in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

**§2731. Expiration of Licenses**

A. Every license issued by the board to a licensed perfusionist shall expire, and thereby become null, void and to no effect two years following its issuance on the last day of the month in which the licensee was born.

B. Every provisional license issued by the board shall be effective for two years and shall expire and become null and void on the earlier of:

1. two years from the date of issuance;
2. the date on which the board takes action following notice of:
  - a. the applicant's certification in clinical perfusion by virtue of the successful completion of the ABCP examination; or
  - b. the applicant's fourth unsuccessful attempt to pass any part of the ABCP examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

**§2733. Renewal of License, Extension of Provisional License**

A. Every license issued by the board to a licensed perfusionist shall be renewed every two years on or before the last day of the month in which the licensee was born by submitting to the board:

1. a renewal application in a format prescribed by the board;
2. documentation of satisfaction of the continuing requirement prescribed by Subchapter G of this Chapter;
3. the renewal fee prescribed in Chapter 1 of these rules; and
4. such other information or documentation as the board may require.

B. An applicant previously licensed by the board in accordance with §2707.B of this Chapter shall, in addition to satisfying the requirements of Subsection A of this Section, provide written documentation in a form and manner deemed acceptable to the board from one or more physicians, supervisors and/or hospital administrators, affirming that since his or her last renewal the applicant has been actively engaged in the practice of perfusion and has been primarily responsible for providing perfusion services in a licensed health care facility in this state.

C. Renewal applications and instructions may be obtained from the board's web page or upon personal or written request to the board.

D. Provisional License. A provisional license is not subject to renewal but may be extended at the discretion of the board upon a request which:

1. is submitted in writing;
2. is signed by the provisional licensed perfusionist and by the licensed perfusionist on file with the board as the applicant's supervising licensed perfusionist;
3. is received by the board at least 30 days prior to the expiration of the provisional license; and
4. identifies a life-threatening or significant medical condition or another extenuating circumstance deemed acceptable to the board.

E. The duration of any such extension shall be set by the board in its discretion but shall in no instance exceed the original term of the provisional license. Such an extension may be conditioned upon any terms or conditions that the board may deem appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

**§2735. Reinstatement of License**

A. A perfusionist's license which has expired for less than five years from the date of expiration may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be submitted in a format approved by the board and be accompanied by:

1. a statistical affidavit in a form provided by the board;
2. a recent photograph;
3. documentation of at least 15 hours of continuing education, not less than 5 of which shall be in Category I activities meeting the standards prescribed by the ABCP or such other organization as the board may subsequently approve, for each year that the license was expired;
4. such other information and documentation as is referred to or specified in this Chapter or as the board may require to evidence qualification for licensure; and
5. the renewal fee set forth in Chapter 1 of these rules, plus a penalty computed as follows:
  - a. if the application for reinstatement is made less than two years from the date of license expiration, the penalty shall be equal to the renewal fee;
  - b. if the application for reinstatement is made more than two years from the date of license expiration, the penalty shall be equal to twice the renewal fee.

C. A perfusionist whose license has lapsed and expired for a period in excess of two years, during which the applicant has not been licensed or engaged in the practice of perfusion in any state shall, in addition, be required to perform such continuing education or additional training as may be recommended by the advisory committee and approved by the board or as the board may otherwise determine to be appropriate.

D. A perfusionist whose license has lapsed and expired for a period in excess of five years is not eligible for

reinstatement consideration but may apply to the board for an initial license pursuant to the applicable rules of this Chapter.

E. A provisional license is not subject to reinstatement.

F. A request for reinstatement may be denied by virtue of the existence of any grounds for denial of licensure as provided by the Act or these rules.

G. The burden of satisfying the board as to the qualifications and eligibility of the applicant for reinstatement of the license as a licensed perfusionist shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

### **§2737. Inactive License Status**

A. A perfusionist's license may be placed on inactive status by giving notice to the board in writing, at least thirty days prior to the time prescribed for license renewal, on forms prescribed by the board. A perfusionist whose license is on inactive status shall be excused from payment of renewal fees and shall not practice perfusion in this state. Any individual who engages in practice while on inactive status shall be subject to administrative action under R.S. 37:1341.

B. A license on inactive status may be reinstated to active status upon application to the board, upon:

1. payment of the current renewal fee;

2. documentation of at least 15 hours of continuing education, not less than 5 of which shall be in Category I activities meeting the standards prescribed by the ABCP or such other organization that the board may subsequently approve, for each year that the license was placed on inactive status; and

3. such other information and documentation as is referred to or specified in this Chapter or as the board may require to evidence qualification for licensure.

C. A perfusionist whose license has been inactive for a period in excess of two years, during which the applicant has not been licensed or engaged in the practice of perfusion in any state shall, in addition, be required to perform such continuing education or additional training as may be recommended by the advisory committee and approved by the board or as the board may determine to be appropriate.

D. A perfusionist whose license has been inactive in excess of five years is not eligible for reinstatement to active status but may apply to the board for an initial license pursuant to the applicable rules of this Chapter.

E. A request for reinstatement to active status may be denied by virtue of the existence of any grounds for denial of licensure as provided by the Act or these rules.

F. A provision license is not subject to placement on inactive license status.

G. The burden of satisfying the board as to the qualifications and eligibility of the applicant for reinstatement to active status as a licensed perfusionist shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates

and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

### **Subchapter F. Advisory Committee**

#### **§2739. Organization; Authority**

A. The Advisory Committee on Perfusion (the "committee") as established, appointed and organized pursuant to R.S. 37:1339 of the Act, is hereby recognized by the board.

B. The committee shall:

1. have such authority as is accorded to it by the Act;

2. function as prescribed by the Act;

3. advise the board on issues affecting the licensing of perfusionists and on the regulation of perfusion in this state;

4. perform such other functions and provide such additional advice as the board may request; and

5. receive reimbursement for travel expenses incurred during attendance at committee meetings and other business of the committee when authorized by the board.

C. Committee Meetings, Officers. The advisory committee shall meet at least once each calendar year, or more frequently as may be deemed necessary by a quorum of the committee or by the board. The presence of four members shall constitute a quorum of the committee. The committee shall elect from among its members a chair and a vice-chair. The chair, or in the chair's absence or unavailability, the vice-chair, shall call, designate the date, time and place and preside at all meetings of the committee and record, or cause to be recorded, accurate and complete minutes of all meetings of the committee and shall cause copies of the same to be provided to the board.

D. Confidentiality. In discharging the functions authorized under this Section the committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the committee members relative to individual applicants or licensees pursuant to this Section shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone other than the board any confidential information or documents obtained when acting as agents of the board without first obtaining the written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

### **Subchapter G. Continuing Education**

#### **§2741. Scope of Subchapter**

A. The rules of this Subchapter provide the continuing education requirement necessary for licensure renewal as a licensed perfusionist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **§2743. Continuing Educational Requirement**

A. A licensed perfusionist shall, within each two year period in which he or she holds a license, successfully complete a minimum of thirty units of continuing education,

not less than ten of which shall be in Category I courses meeting the standards prescribed by the ABCP.

B. For purposes of this Chapter, one continuing education unit is equivalent to 50 minutes of participation in an organized continuing education program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **§2745. Approval of Program Sponsors**

A. Any program, course, seminar, workshop or other activity meeting the standards prescribed by the ABCP, the American Medical Association ("AMA"), any AMA recognized medical specialty certification organization, the Louisiana State Medical Society or the Louisiana Hospital Association, shall be deemed approved for purposes of satisfying the continuing education requirement of this Subchapter.

B. Upon the recommendation of the advisory committee, or on its own motion, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as approved continuing education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **§2747. Documentation Procedure**

A. Documentation of satisfaction of the continuing education requirement prescribed by this Subchapter need not accompany an application for licensure renewal; however, an applicant shall certify the satisfaction of such requirements.

B. A record or certificate of attendance shall be maintained for at least four years from the date of completion of a continuing education program.

C. The board shall randomly select for audit no fewer than 3 percent of the licensees each year for an audit of continuing education activities. In addition, the board or advisory committee has the right to audit any questionable documentation of activities. Verification shall be submitted within thirty days of the notification of audit. A licensee's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

D. Any continuing education not presumptively approved pursuant to §2745 of this Chapter, shall be referred to the advisory committee for its evaluation and recommendations prior to licensure denial or renewal.

E. If the advisory committee determines that a continuing education program does not qualify for recognition by the board or does not qualify for the number of units claimed by the applicant, the board shall give notice of such determination to the applicant. An applicant may appeal the advisory committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **§2749. Failure to Satisfy Continuing Education Requirement; Falsification**

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing education requirement prescribed by these rules shall be given written notice of such failure by the board. The license of the applicant shall remain in full force and effect for a period of 90 days following the mailing of such notice, following which it shall be deemed expired, unrenewed and subject to suspension or revocation without further notice unless the applicant shall have, within such 90 days, furnished the board satisfactory evidence by affidavit that:

1. the applicant has satisfied the applicable continuing education requirement; or

2. the applicant's failure to satisfy the continuing education requirement was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §2751 of this Chapter.

B. A license which has expired by nonrenewal or has been suspended or revoked for failure to satisfy the continuing education requirement of this Subchapter may be reinstated by the board upon application to the board pursuant to §2735 of this Chapter, accompanied by payment of the applicable fees, together with documentation and certification that the applicant has, for each year since the date on which the applicant's license lapsed, expired, or was suspended or revoked, completed 15 units of approved continuing education, no less than 5 of which shall be in Category I courses meeting the standards prescribed by the ABCP.

C. Any licensee who falsely certifies compliance with the continuing education requirement will be subject to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **§2751. Waiver of Requirement**

A. The board may, in its discretion, waive all or part of the continuing education required by these rules in favor of a licensed perfusionist who makes written request for waiver to the board and evidences to its satisfaction a permanent physical disability, illness, financial hardship or other similar extenuating circumstances precluding the individual's satisfaction of the requirement.

B. Any licensed perfusionist submitting a continuing education waiver request is required to do so on or before the date specified for licensure renewal by these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

### **Subpart 3. Practice**

#### **Chapter 58. Perfusionists**

##### **Subchapter A. General Provisions**

#### **§5801. Scope of Chapter**

A. The rules of this Chapter govern the practice of perfusion in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

### **§5803. General Definitions**

A. The definitions set forth in Chapter 27 of these rules shall equally apply to this Chapter, unless the context clearly states otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

### **Subchapter B. Unauthorized Practice, Exemptions, and Designation of Licenses**

#### **§5805. Unauthorized Practice**

A. No individual shall engage or attempt to engage in the practice of perfusion in this state, unless he or she holds a current license or a provisional license issued by the board under Chapter 27 of these rules.

B. An individual who does not hold a current license issued by the board as a licensed perfusionist, or whose license has been suspended, revoked or placed on inactive status, shall not use in conjunction with his or her name the words "Licensed Perfusionist," "LP," or any other similar words, letters, abbreviations or insignia indicating directly or by implication, that he or she is a licensed perfusionist or that the services provided by such individual constitute perfusion.

C. An individual who does not hold a current provisional license issued by the board, or whose provisional license has been suspended or revoked, shall not use in conjunction with his or her name the words "Provisional Licensed Perfusionist," or "PLP" or any other similar words, letters, abbreviations, or insignia indicating directly or by implication, that he or she is a provisional licensed perfusionist or that the services provided by such individual constitute perfusion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **§5807. Exemptions from Licensure**

A. The prohibitions of §5805.A of this Chapter shall not prohibit an individual:

1. who is a qualified perfusionist employed by the United States Government from engaging in the practice of perfusion while acting in the discharge of his or her official duties;

2. who is an appropriately trained and qualified health care provider from:

a. monitoring an extracorporeal membrane oxygenation (ECMO) circuit in conjunction and with the consultation of a licensed perfusionist; or

b. performing autotransfusion under the direct or indirect supervision of a licensed perfusionist.

3. currently licensed in this state as a registered nurse from performing perfusion services;

4. acting under and within the scope of a license issued by the board or another licensing agency of the state of Louisiana;

5. pursuing a course of study as a student in a CAAHEP accredited perfusion education program from performing perfusion services, provided:

a. the service is an integral part of the student's course of study;

b. the service is performed under the direct supervision of licensed perfusionist who is assigned to supervise the student and who is on duty and immediately available in the assigned patient care area; and

c. the student is identified by title, name tag or otherwise which clearly designates the individual's status as a *student* or *trainee*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

### **Subchapter C. Mutual Obligations**

#### **§5809. Mutual Obligations and Responsibilities**

A. A licensed perfusionist and provisional licensed perfusionist shall be obligated to:

1. comply with reasonable requests by the board for personal appearances, information and documentation relative to the functions, activities and performance of the licensed perfusionist or provisional licensed perfusionist;

2. as a licensed perfusionist, practice under the written prescription or verbal orders of a physician and/or pursuant to perfusion protocols as defined by R.S. 37:1333;

3. as a supervising perfusionist, provide supervision and direction for all perfusion services performed by a provisional licensed perfusionist, and insure that all perfusion services provided are appropriate for the individual's level of training and experience;

4. as a provisional licensed perfusionist, practice at all times under the supervision and direction of a licensed perfusionist; and

5. immediately notify the board in writing, of the withdrawal or designation of a new licensed perfusionist to serve as the primary supervising perfusionist for a provisional licensed perfusionist.

B. A licensed perfusionist and provisional licensed perfusionist shall insure compliance with the obligations, responsibilities and provisions set forth in the Act, Chapter 27 and this Chapter, and immediately report any violation or noncompliance thereof to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

### **Subchapter D. Grounds for Administrative Action**

#### **§5811. Causes for Administrative Action**

A. The board may deny, refuse to issue, renew, reinstate or reactivate, or may suspend, revoke or impose probationary terms, conditions and restrictions on the license of a licensed perfusionist or provisional licensed perfusionist if the licensee or applicant has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.

B. As used herein, *unprofessional conduct* by an applicant, licensed perfusionist or provisional licensed perfusionist in this state shall mean and include, but not be limited to:

1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of Louisiana, the United States, or the state in which such conviction or plea was entered;

2. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a misdemeanor under the laws of Louisiana, the United States,

or the state in which such conviction or plea was entered, arising out of the practice of perfusion;

3. fraud, deceit, misrepresentation, or concealment of material facts in procuring or attempting to procure a license or provisional license to engage in the practice of perfusion;

4. providing false testimony before the board or providing false sworn information to the board;

5. the habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;

6. cognitive or clinical incompetency;

7. interdiction by due process of law;

8. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of the practice of perfusion in this state;

9. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading;

10. knowingly performing any act which in any way assists an individual, who is not currently licensed as perfusionist or provisional licensed perfusionist, or otherwise exempt from licensure pursuant to the Act or Chapter 27 of these rules, to engage in the practice of perfusion in this state, or having a professional connection with or lending one's name to an illegal practitioner;

11. delegating the performance of perfusion services to a individual who the licensee knows or has reason to know is not qualified by training, experience or licensure to perform such service;

12. inability to practice perfusion with reasonable competence, skill or safety to patients because of mental or physical illness, condition or deficiency, including but not limited to deterioration through the aging process or excessive use or abuse of drugs, including alcohol;

13. refusal to submit to examination and inquiry by a physician, health care professional, or at an institution designated by the board to inquire into the physical and/or mental fitness and ability of an applicant or licensee to practice perfusion with reasonable skill or safety;

14. failure to respond or to provide information or items within the time requested by the board's staff, respond to a subpoena issued by the board, or to complete an evaluation within the time designated by the board;

15. practicing or otherwise engaging in conduct or functions beyond the scope of licensure authorized by the Act;

16. intentional violation of any federal or state law, parish or municipal ordinance, the state sanitary code, or rule or regulation relative to any contagious or infectious disease;

17. violation of the code of ethics adopted and published by the American Board of Cardiovascular Perfusion;

18. the refusal of the licensing authority of another state to issue, renew, reinstate or reactivate a license or permit to practice perfusion in that state, or the revocation, suspension, or other restriction imposed on a license or permit issued by such licensing authority which prevents, restricts, or conditions practice in that state, or the surrender

of a license or permit issued by another state when criminal or administrative charges are pending or threatened against the holder of such license or permit;

19. violating or helping someone else violate any order, decision, rule or regulation of the board or any provision of the Act.

C. A license or provisional license that has been suspended by the board shall be subject to expiration during suspension.

D. The refusal to issue, renew, reinstate or reactivate a license, or to issue a provisional license, or the imposition of probationary or other conditions upon the holder of a license or provisional license, or on an applicant, may be entered into by consent of the individual and the board or may be ordered by the board in a decision made after a hearing in accordance with the Administrative Procedure Act, R.S. 49:951 et seq., and the applicable rules and regulations of the board.

E. The board may, in its discretion, reinstate the license of a licensed perfusionist or provisional licensed perfusionist that has been suspended or revoked or otherwise restricted, or restore to unrestricted status any license or provisional license subject to probationary terms, conditions or restrictions upon payment, if applicable, of the reinstatement fee and satisfaction of such terms and conditions as may be prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed Rules on the family has been considered. It is not anticipated that the proposed Rules will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

#### **Poverty Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed Rules on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed Rules will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

#### **Public Comments**

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana, 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., March 24, 2014.

#### **Public Hearing**

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Cecilia Mouton, M.D.  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Perfusionists; General,  
Licensure and Certification and Practice**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
The proposed rule changes will result in a one-time expenditure of \$2,624 In FY 14 for printing costs of the Notice of Intent and final Rule. The proposed rules codify existing practices with regard to general licensure and regulation of perfusionists.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed rule changes will not impact revenue collections of state or local governmental units. The rules codify existing agency fees for the issuance of a license and permit as a perfusionist of \$300 and \$200 respectively, and for license and permit renewal of \$150 and \$100.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The proposed rule changes will have no estimated costs or economic benefits to directly affected persons or nongovernmental groups. The proposed rules codify existing practices with regard to general licensure and regulation of perfusionists.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
The proposed rule changes are not anticipated to have an impact on competition or employment in either the public or private sector.

Cecilia Mouton, M.D.  
Executive Director  
1402#023

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

**Adult Dentures Program  
Reimbursement Rate Reduction  
(LAC 50:XXV.701)**

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXV.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for adult denture services to reduce the reimbursement rates (*Louisiana Register*, Volume 39, Number 2).

Due to a budgetary shortfall in state fiscal year 2014, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for adult denture services to reduce the reimbursement rates

(*Louisiana Register*, Volume 39, Number 8). This proposed Rule is being promulgated to continue the provisions of the August 1, 2013 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XXV. Adult Dentures**

**Chapter 7. Reimbursement**

**§701. Fees**

A. - C. ...

D. Effective for dates of service on or after August 1, 2013, the reimbursement for adult denture services shall be reduced by 1.5 percent of the fee amounts on file as of July 31, 2013.

1. Removable prosthodontics shall be excluded from the August 1, 2013 reimbursement rate reduction.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:81 (January 2005), repromulgated LR 31:1589 (July 2005), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:316 (February 2013), LR 40:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 in the event that health care assistance is reduced as a result of diminished provider participation due to the reimbursement rate reductions.

**Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, March 27, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Adult Dentures Program  
Reimbursement Rate Reduction**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$2,313 for FY 13-14, \$3,084 for FY 14-15 and \$3,177 for FY 15-16. It is anticipated that \$246 (\$123 SGF and \$123 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$4,017 for FY 13-14, \$5,044 for FY 14-15 and \$5,195 for FY 15-16. It is anticipated that \$123 will be expended in FY 13-14 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule continues the provisions of the August 1, 2013 Emergency Rule which amended the provisions governing the reimbursement methodology for adult denture services to reduce the reimbursement rates. It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$6,576 for FY 13-14, \$8,128 for FY 14-15 and \$8,372 for FY 15-16.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made for adult denture services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

J. Ruth Kennedy  
Medicaid Director  
1402#066

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Early and Periodic Screening, Diagnosis and Treatment  
Dental Program—Reimbursement Rate Reduction  
(LAC 50:XV.6905)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC

50:XV.6905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for dental services in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program to reduce the reimbursement rates (*Louisiana Register*, Volume 39, Number 4).

Due to a budgetary shortfall in state fiscal year 2014, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for EPSDT dental services to reduce the reimbursement rates (*Louisiana Register*, Volume 39, Number 8). This proposed Rule is being promulgated to continue the provisions of the August 1, 2013 emergency.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

**Subpart 5. Early and Periodic Screening, Diagnosis and Treatment**

**Chapter 69. Dental Services**

**§6905. Reimbursement**

A. - J. ...

K. Effective for dates of service on or after August 1, 2013, the reimbursement fees for EPSDT dental services shall be reduced by 1.5 percent of the rate on file July 31, 2013, unless otherwise stated in this Chapter.

1. The following services shall be excluded from the August 1, 2013 rate reduction:

- a. removable prosthodontics; and
- b. orthodontic services.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1138 (June 2007), amended LR 34:1032 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1890 (September 2009), LR 36:2040 (September 2010), LR 37:1598 (June 2011), LR 39:1048 (April 2013), LR 40:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 in the event that health care assistance is reduced as a result of diminished provider participation due to the reimbursement rate reductions.



**Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, March 27, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Early and Periodic Screening, Diagnosis and Treatment—Dental Program Reimbursement Rate Reduction**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$612,961 for FY 13-14, \$776,236 for FY 14-15 and \$799,734 for FY 15-16. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 13-14 for the state’s administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$1,042,017 for FY 13-14, \$1,269,722 for FY 14-15 and \$1,307,603 for FY 15-16. It is anticipated that \$164 will be expended in FY 13-14 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule continues the provisions of the August 1, 2013 Emergency Rule which amended the provisions governing the reimbursement methodology for early and periodic screening, diagnosis, and treatment dental services (EPSDT) to reduce the reimbursement rates. It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$1,655,306 for FY 13-14, \$2,045,958 for FY 14-15 and \$2,107,337 for FY 15-16.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made for EPSDT dental services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

J. Ruth Kennedy  
Medicaid Director  
1402#067

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Home and Community-Based Services Providers  
Licensing Standards (LAC 48:I.5001, 5003, and 5055)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.5001-5003 and §5055 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2120.2. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the licensing standards governing home and community-based services (HCBS) providers in order to exempt individual direct service workers from the HCBS providers licensing requirements when they contract directly with the statewide management organization in the Louisiana behavioral health partnership to provide respite services (*Louisiana Register*, Volume 38, Number 6).

The department promulgated an Emergency Rule which amended the provisions governing the licensing standards for HCBS providers to revise the definitions and the staffing qualifications (*Louisiana Register*, Volume 40, Number 2). This proposed Rule is being promulgated to continue the provisions of the February 20, 2014 Emergency Rule.

**Title 48**

**PUBLIC HEALTH—GENERAL**

**Part 1. General Administration**

**Subpart 3. Licensing and Certification**

**Chapter 50. Home and Community-Based Services Providers Licensing Standards**

**Subchapter A. General Provisions**

**§5001. Introduction**

A. - C. ...

D. The following entities shall be exempt from the licensure requirements for HCBS providers:

1. any person, agency, institution, society, corporation, or group that solely:
  - a. ...
  - b. provides sitter services; and/or

D.1.c. - D.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:63 (January 2012), amended LR 38:1410 (June 2012), LR 40:

**§5003. Definitions**

\* \* \*

*Sitter Services—*

- 1. services provided by a person who:
  - a. spends time with an individual;
  - b. accompanies such individual on trips and outings;
  - c. prepares and delivers meals to such individual; or
  - d. provides housekeeping services.
- 2. Any person who provides sitter services shall not provide hands-on personal care attendant service with respect to ADLs to the individual.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:64 (January 2012), amended LR 40:

**Subchapter F. Provider Responsibilities**

**§5055. Core Staffing Requirements**

A. - A.2. ...

**B. Administrator Qualifications**

- 1. The administrator shall be a resident of the state of Louisiana and shall have a high school diploma or equivalent, and shall meet the following requirements:
  - a. have a bachelor’s degree, plus a minimum of four years of verifiable experience working in a field providing services to the elderly and/or persons with developmental disabilities; or
  - b. have a minimum of six years of verifiable experience working in a health or social service related business, plus a minimum of four additional years of verifiable experience working in a field providing services to the elderly and/or persons with developmental disabilities.

B.2. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:79 (January 2012), amended LR 40:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

**Public Comments**

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, March 27, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Home and Community-Based  
Services Providers—Licensing Standards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
 

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 13-14. It is anticipated that \$410 (SGF) will be expended in FY 13-14 for the state’s administrative expense for promulgation of this proposed rule and the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 

It is anticipated that the implementation of this proposed rule will not affect revenue collections since the licensing fees, in the same amounts, will continue to be collected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
 

This proposed Rule continues the provisions of the February 20, 2014 Emergency Rule which amended the provisions governing the licensing standards for HCBS providers to revise the definitions and the staffing qualifications. It is anticipated that implementation of this proposed rule will not have economic costs to home and community-based service providers for FY 13-14, FY 14-15, and FY 15-16 since the required licensing fees have not changed but will benefit direct service worker (DSW) providers since DSWs are exempt from these licensing requirements when they contract directly with the Statewide Management Organization in the Louisiana Behavioral Partnership to provide short-term respite services.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
 

This rule has no known effect on competition and employment.

Cecile Castello  
Director  
1402#069

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

LaCHIP Affordable Plan  
Dental Program  
Reimbursement Rate Reduction  
(LAC 50:III.20509)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:III.20509 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for dental services in the LaCHIP Affordable Plan Dental Program in order to reduce the reimbursement fees (*Louisiana Register*, Volume 39, Number 5).

Due to a budgetary shortfall in state fiscal year 2014, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for the LaCHIP Affordable Plan dental services to reduce the reimbursement rates (*Louisiana Register*, Volume 39, Number 8). This proposed Rule is being promulgated to continue the provisions of the August 1, 2013 Emergency Rule.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part III. Eligibility**

**Subpart 11. State Children’s Health Insurance Program  
Chapter 205. Louisiana Children’s Health Insurance  
Program (LaCHIP)—Phase V**

**§20509. Dental Services Reimbursement Methodology**

A. - C. ...

D. Effective for dates of service on or after August 1, 2013, the reimbursement fees for LaCHIP Affordable Plan dental services shall be reduced by 1.5 percent of the rate on file July 31, 2013, unless otherwise stated in this Chapter.

1. The following services shall be excluded from the August 1, 2013 rate reduction:

- a. removable prosthodontics; and
- b. orthodontic services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:1285 (May 2013), amended LR 40:

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S.

49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 in the event that health care assistance is reduced as a result of diminished provider participation due to the reimbursement rate reductions.

**Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Thursday, March 27, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: LaCHIP Affordable Plan  
Dental Program—Reimbursement Rate Reduction**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$2,207 for FY 13-14, \$3,002 for FY 14-15 and \$3,093 for FY 15-16. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 13-14 for the state’s administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$3,867 for FY 13-14, \$4,911 for FY 14-15 and \$5,057 for FY 15-16. It is anticipated that \$164 will be expended in FY 13-14 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage

(FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the August 1, 2013 Emergency Rule which amended the provisions governing the reimbursement methodology for the Louisiana Children's Health Insurance Program (LaCHIP) Affordable Plan dental services to reduce the reimbursement rates. It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid Program by approximately \$6,402 for FY 13-14, \$7,913 for FY 14-15 and \$8,150 for FY 15-16.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, it is anticipated that the implementation of this proposed rule may have a negative effect on employment as it will reduce the payments made for dental services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

J. Ruth Kennedy  
Medicaid Director  
1402#070

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

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

Disciplinary Rules and Procedures for Adult Offenders  
(LAC 22.I.341)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its intent to amend the contents of Section 341, Disciplinary Rules and Procedures for Adult Offenders.

This proposed Rule may be viewed in the Emergency Rule section of this edition of the *Louisiana Register*.

**Family Impact Statement**

Amendment to the current Rule has no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

**Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

**Public Comments**

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on March 12, 2014.

James M. Le Blanc  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Disciplinary Rules and  
Procedures for Adult Offenders**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no fiscal impact on state or local governmental unit expenditures. A rewrite of the Disciplinary Rules and Procedures for Adult Offenders (Rule Book) was undertaken and promulgation of the new procedures occurred in 2013. The proposed rule change clarifies certain provisions of the Rule Book regarding Administrative Segregation, Counsel Substitutes, and the "72 Hour Rule".

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on the revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no estimated cost and/or economic benefit to directly affected persons or non-governmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III  
Undersecretary  
1402#037

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Transportation and Development  
Office of Operations**

Ferry Operations (LAC 70:XXV.Chapter 1)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq. and through the authority granted in R.S. 48:25, et seq., R.S. 17:157, R.S. 29:27, R.S. 33:1975, R.S. 40:1392, R.S. 48:999, R.S. 48:1000, and R.S. 17:158, that the Department of Transportation and Development, Office of Operations, proposes to repeal Chapter 1 of Part XXV, and replace it with a new Chapter 1. The rules are being replaced to reflect the expiration of tolls on the Crescent City Connection Bridge, and the legislative transfer of ferry operations from the Crescent City Connection Division to the Department of Transportation and Development, Office of Operations. The proposed rule replacement also address the legislative authority to contract with political subdivisions relative the Chalmette Ferry and renames Part XXV to "Ferry Operations."

**Title 70**  
**TRANSPORTATION**  
**Part XXV. Ferry Operations**

**Chapter 1. Toll Collections**

**§101. Applicability**

A. This Part shall apply to all ferries owned and operated by the Department of Transportation and Development (DOTD) within the state of Louisiana, including but not limited to, ferries operating in the Metropolitan New Orleans area. The Metropolitan New Orleans area ferries currently consist of those ferries, when in operation, that cross at the following locations:

1. Lower Algiers/Chalmette (Chalmette ferry);
2. Algiers Point/Canal Street ferry;
3. Gretna/Canal Street ferry;
4. Gretna/Jackson Avenue ferry.

B. Notwithstanding any other provision to contrary, R.S. 48:999, and R.S. 48:1000 shall not apply to ferry operations conducted pursuant to a contract for privatization in accordance with Chapter 1 of Title 48 of the Louisiana Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:25 et seq., and R.S. 47:7011, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations LR 40:

**§103. Ferry Toll Charges**

A. Tolls will be collected from only one side of the ferry landings.

B. Except as provided in Paragraph D of this Section, the following toll charges shall apply to all ferries owned and operated by DOTD.

Ferry Toll Classification Rate Schedule	
	Toll
Each Pedestrian	\$ 0.50
Each Vehicle	\$ 1.00

C. Each vehicle, its owner or operator, and all occupants of such vehicle shall be jointly and solidarily liable for the payment of the ferry tolls.

D. Notwithstanding any other provision to the contrary, if DOTD enters into a cooperative endeavor agreement with a political subdivision of the state for the continued operation of the Chalmette Ferry, the political subdivision and its ferry service contractor shall use best practices to operate and manage ferry service and to establish and collect ferry fares.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:25, et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations, LR 40:

**§105. Exemptions**

A. Unless otherwise indicated, the following exemptions from payments of tolls shall be applicable to ferry passengers using DOTD ferries, including ferries operating in the Metropolitan New Orleans area.

1. Students. Students attending a school, including universities, colleges, and secondary schools, shall have free passage during the hours of 6 a.m.-9:30 a.m., and 2:30 p.m.-9:30 p.m., for the purpose of traveling to and from school.

a. Procedures for Students

i. For ferries located in the Metropolitan New Orleans area, students who are majors or the parents or legal guardians of minor students may apply for exemptions at the Crescent City Connection Bridge Administration building located at 2001 Mardi Gras Boulevard, New Orleans, LA 70815.

ii. For metropolitan New Orleans area ferries, the appropriate school official, the registrar of the college or university attended by the student, or the principal, headmaster, or administrator of the school attended by the student, shall certify on the application that the student is enrolled at the school and the length of the school year.

iii. For all other DOTD ferries, the appropriate school official, the registrar of the college or university attended by the student, or the principal, headmaster, or administrator of the school attended by the student, shall provide DOTD with a letter certifying that the student is enrolled at the school and the length of the school year and mail same to the DOTD annex building located at 1212 E. Highway Drive, Baton Rouge, LA 70802, certifying that the student is enrolled at the school and the length of the school year.

iv. Upon approval, the student will receive a student pass for free passage.

v. Lost, stolen, or damaged vehicle passes will not be replaced.

vi. Loss of Privilege. Any prohibited use of student vehicle passes will result in the loss of the privilege to obtain and use passes and toll tags and any other remedy provided by law.

vii. Student exemptions shall expire with each school year.

2. School Buses. All easily identified and clearly marked school buses shall be exempt from the payment of tolls. This exemption shall include publicly-owned school buses, school buses carrying public students under contract, parochial school buses, and private school buses funded in a fashion that allows them to publicly display "school bus" thereon or identified in a like fashion.

3. Militia. Any person belonging to the organized militia of the state who is in uniform or presents an order for duty shall be allowed free passage for himself, his conveyance, and the military property of the state in his charge, on ferries while going to, engaged in, or returning from any parade, drill, or meeting which he is required to attend, or upon being called to, engaging in, or returning from any active state duty ordered by the governor.

4. Disabled Veterans. A disabled American veteran who provides proper identification shall be allowed free passage for himself, his conveyance, and his passengers. This exemption shall not apply to the Algiers Point/canal street ferry.

5. Firemen/Volunteer Firemen. Firemen as defined in R.S. 33:1991(A) shall have free and unhampered passage on and over toll bridges and ferries in this state, regardless of whether the firemen are in uniform or in civilian clothes, when the firemen are performing firefighting or related duties. For purposes of this Rule "related duties" shall

include traversing to and from their place of employment. Volunteer firemen as defined in R.S. 33:1975(B) shall have free and unhampered passage on and over toll bridges and ferries in this state only when such firemen are performing official firefighting or fire prevention services.

a. Procedures

i. Firemen and volunteer firemen wishing to obtain free passage over any ferry shall present a picture identification card for inspection by the toll collector. The identification card must be issued by the municipality, parish or district as referred to in R.S. 33:1991(A).

ii. Fireman and volunteer fireman shall be required to sign a register at the ferry station and shall provide the name of the agency, municipality, parish or district for which they are employed or engaged.

iii. Off-duty firemen are not exempt unless, as part of the off duty employee's official duties, he or she is on call for immediate duty.

6. Law Enforcement Personnel. Free passage shall be granted to all law enforcement personnel employed by a law enforcement agency on a full-time basis when operating law enforcement agency equipment.

a. Law enforcement agency means any agency of the state or its political subdivisions and the federal government, responsible for the prevention and detection of crime and the enforcement of the criminal, traffic, or highway laws of this state or similar federal laws and who are employed in this state. This exemption does not apply to officers who serve in a voluntary capacity or as honorary officers.

b. Agencies eligible for this exemption shall include the Louisiana State Police, enforcement division agents of the Louisiana Department of Wildlife and Fisheries, sheriff departments of the parishes of this state, municipal police departments, levee board police departments, port police departments, and United States law enforcement agencies such as United States Secret Service, the United States Marshal Service, United States Customs and Border Protection, and the Federal Bureau of Investigation if employed within Louisiana.

c. Law enforcement personnel wishing to gain free passage on ferries must sign a register at the toll collections site and must produce picture identification.

7. All emergency vehicles performing a public service that permits them, under existing laws and regulations, to display emergency vehicle lights in order to carry out police, fire and ambulance functions in accordance with the laws relative thereto, when such lights are in actual use. This exemption shall also apply to emergency vehicles privately owned but entitled to such public emergency usage. This exemption shall not apply to those vehicles operated by off duty personnel unless, as part of the off duty employee's official duties, he or she is on call for immediate duty.

8. Youth Groups. In accordance with R.S. 48:999, members of the Boy Scouts of America, the Girls Scouts of America, and Camp Fire Girls, when assembled in uniform in a parade or group consisting of not less than 15 and under the supervision of a scout master or other responsible person, shall have free and unhampered passage at all times. This exemption shall not apply to ferries operating under contract with the Department of Transportation and Development.

9. Parish Employees. In accordance with R.S. 48:1000, all employees of parish governing authorities in official parish governing authority vehicles in their passage to and from work, or on an official project of the parish governing authority, shall be exempt from the payment of ferry tolls provided the ferry landings are located in the same parish and leased or controlled by the state. This exemption shall not apply to ferries operating under contract with the Department of Transportation and Development.

10. DOTD official vehicles displaying the DOTD logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:157, R.S. 17:158, R.S. 29:27, R.S. 33:1975, R.S. 40:1392, R.S. 48:999, and R.S. 48:1000.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations, LR 40:

**Family Impact Statement**

Implementation of this proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically:

1. The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed Rule will have no known or foreseeable effect on the family earnings and family budget.

5. The implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or local government to perform this function.

**Poverty Impact Statement**

The implementation of this proposed Rule should not have any known or foreseeable impact on child, individual, or family poverty in relation to individual or community asset development as defined by R.S. 49:973. Specifically:

1. The implementation of this proposed Rule will have no known or foreseeable effect on household income, assets, and financial security.

2. The implementation of this proposed Rule will have no known or foreseeable effect on early childhood development and preschool through postsecondary education development.

3. The implementation of this proposed Rule will have no known or foreseeable effect on employment and workforce development.

4. The implementation of this proposed Rule will have no known or foreseeable effect on taxes and tax credits.

5. The implementation of this proposed Rule will have no known or foreseeable effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Small Business Statement**

The implementation of this proposed Rule on small businesses, as defined in the Regulatory Flexibility Act, has

been considered. The proposed Rule is not expected to have a significant adverse impact on small businesses. The department, consistent with health, safety, environmental and economic welfare factors, has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of the proposed statutes while minimizing the adverse impact of the Rule on small businesses.

#### Public Comments

All interested persons so desiring shall submit written data, views, comments or arguments no later than 30 days from the date of publication of this notice of intent to Kevin Reed, Ferry Administrator, Office of Operations, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245.

Sherri H. LeBas  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Ferry Operations**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units as a result of the proposed rule change. The proposed changes amend and codify rules associated with statewide ferry operations by the Department of Transportation and Development (DOTD) as per statutory requirements enacted in Acts 865 and 866 of the 2012 Regular Session of the Louisiana Legislature. Implementation of these rules will not require additional expenditures or result in additional savings, beyond those which would have been incurred or received pursuant to statutory requirements and previously-existing rules.

Act 865 required the governor to call an election to determine, by referendum of the voters, whether tolls should continue to be collected on the Crescent City Connection Bridge beginning January 1, 2013, through December 31, 2033. The outcome of the election was decided against extension of the tolls and the proposed rule change repeals all rules related to toll collection on the bridge.

Act 866 amended R.S. 36:5082, transferring all operations formerly conducted by the Crescent City Connection Division to the DOTD Office of Operations. The Act further authorizes the department to prescribe and collect such fees, tolls, fares, or ferry charges as it deems necessary to operate, maintain, and replace such ferry services and expressly authorizes the privatization of ferry services. Additionally, Act 866 enacted R.S. 48:1161.1, abolished the Mississippi River Bridge Authority and merged and consolidated bridge and ferry functions within DOTD.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule change beyond those incurred or received pursuant to the statutory provision related to the expiration of tolls on the Crescent City Connection Bridge, effective January 1, 2013. All ferry tolls specified in these rules are at rates previously established by statute and the prior version of these rules.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of these rules will not impact costs or economic benefits to directly affected persons or nongovernmental groups, beyond those incurred or received

pursuant to the statutory provision related to the expiration of tolls on the Crescent City Connection Bridge, effective January 1, 2013. All ferry tolls specified in these rules are at rates previously established by statute and the prior version of these rules.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no anticipated effect on competition and employment as a result of the adoption of this proposed rule.

Eric Kalivoda  
Deputy Secretary  
1402#002

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spanish Lake State Game and Fishing Preserve  
(LAC 76:III.329)

The Wildlife and Fisheries Commission does hereby give notice of its intent to remove netting restrictions on Spanish Lake (St. Martin and Iberia Parishes).

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part III. State Game and Fish Preserves and Sanctuaries Chapter 3. Particular Game and Fish Preserves, Wildlife Management Areas, Refuges and Conservation Areas

#### §329. Spanish Lake State Game and Fishing Preserve

##### A. General

1. Parking is restricted to designated parking areas.
2. ATVs (three wheelers and four wheelers) and motorbikes are prohibited on the levee.
3. Discharge of any firearms on the levees is prohibited.
4. Overnight camping is prohibited, except by special permit issued by Spanish Lake Game and Fishing Preserve Commission for supervised groups only.
5. No trapping of furbearing animals, except by special permit issued by the Louisiana Department of Wildlife and Fisheries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6, R.S. 56:721 et seq., R.S. 56:801 and R.S. 36:610.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 23:872 (July 1997), amended LR 30:1734 (August 2004), LR 35:968 (May 2009), LR 40:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

#### Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent

will have no impact on the six criteria set out at R.S. 49:972(B).

#### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### **Public Comments**

Interested persons may submit written comments of the Notice of Intent to Mr. Mike Wood, Director, Inland Fisheries Section, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., March 31, 2014.

Billy Broussard  
Chairman

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Spanish Lake State Game and Fishing Preserve**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change is expected to have no effect on implementation costs to state or local governmental units. The proposed rule change would rescind a ban on the possession or use of commercial nets, including hoop nets, trammel nets, gill nets, and fish seines, in Spanish Lake in Iberia and St. Martin parishes.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change is expected to have no effect on revenue collections of state or local governmental units because there is no fee associated with the permit.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule may result in a minor increase in commercial fishing activity, harvests, and revenues.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change is expected to have no effect on competition or employment.

Bryan McClinton  
Undersecretary  
1402#046

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Workforce Commission Office of Unemployment Insurance Administration**

Employment Security Law (LAC 40:IV.365)

Pursuant to the authority granted in R.S. 23:1653 and R.S. 23:1654, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Workforce Commission proposes to repeal §365. The purpose of repealing §365 is to limit appeal rights on tax determinations regarding employer status only to those deadlines set forth by statute.

### **Title 40**

### **LABOR AND EMPLOYMENT**

### **Part IV. Employment Security**

### **Subpart 1. Board of Review**

### **Chapter 3. Employment Security Law**

### **§365. Liability Determination Appeal Rights**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:495 (June 1989), amended by the Department of Employment and Training, Office of Employment Security, LR 17:47 (January 1991), repealed by the Workforce Commission, Office of Unemployment Insurance Administration, LR 40:

#### **Family Impact Statement**

Repeal of the Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on any family formation, stability, and autonomy. The proposed repeal of the Rule shall not have any impact on the six criteria set forth in R.S. 49:972(d).

#### **Poverty Impact Statement**

The proposed repeal of §365 will have no impact on poverty as described in R.S. 49:973.

#### **Small Business Statement**

The impact of the proposed repeal of §365 on small business has been considered in accordance with R.S. 49:965.6, and it is estimated that the proposed action will have negligible impact on small businesses as defined in the Regulatory Flexibility Act.

#### **Public Comments**

All interested parties are invited to submit views, arguments, information, or comments on the proposed repeal of the Rule to Director, Office of Unemployment Insurance Administration, Louisiana Workforce Commission, P.O. Box 94094, Baton Rouge, LA 70804-9040. Written comments must be submitted and received by the agency within 20 days from the publication of this notice.

#### **Public Hearing**

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the agency within 20 days of the publication of this notice.

Curt Eysink  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Employment Security Law**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule repeals Louisiana Administrative Code (LAC) Title 40, Labor and Employment, Part IV, Part 3, Section 365; Liability Determination Appeal Rights. Current law requires employers to appeal a liability determination within 90 days of the date of mailing the Notice to the employer. R.S. 23:1722 governs the delays for appeal;



therefore this Rule is duplicative and creates confusion regarding the delay to appeal the liability determination.

The Office of Unemployment Insurance Tax does not anticipate the repeal of the rule to have a fiscal impact for FY 13-14, FY 14-15, or FY 15-16. The only costs associated with this proposed repeal are administrative expenses necessary for the promulgation of the rule that is estimated at \$820.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed repeal will have no anticipated effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed repeal is not anticipated to have any fiscal impact on persons directly affect or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed repeal is not anticipated to have an impact on competition and employment.

Curt Eysink  
Executive Director  
1402#030

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Workforce Commission  
Office of Unemployment Insurance Administration**

**Overpayment Recovery; Civil Penalties (LAC 40:IV.371)**

Pursuant to the authority granted in R.S. 23:1653, R.S. 23:1654, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Workforce Commission proposes to amend §371. The purpose of the amendment is to reincorporate inadvertent omissions in prior amendments, to correct a typographical error in the repayment schedule, and to provide for uniformity in the timeframes for repayment. The heading of this Section has also been amended to more accurately reflect the contents of the Rule.

**Title 40**

**LABOR AND EMPLOYMENT**

**Part IV. Employment Security**

**Subpart 1. Board of Review**

**Chapter 3. Employment and Security Law**

**§371. Overpayment Recovery**

A. This Rule prescribes an acceptable repayment schedule for the purpose of collecting overpaid benefits pursuant to R.S. 23:1713.

1. The amount of overpayment is immediately due and payable on demand upon exhaustion of the right to appeal:

- a. a determination of overpayment; and/or
- b. a denial of waiver of overpayment.

2. If an individual is unable to immediately repay the overpayment in full upon demand, a repayment agreement in writing will be negotiated in compliance with the Repayment Table for Overpayments listed below.

Repayment Tables Total for Overpayments			
Total Overpayment Amount is: At Least	But Less Than:	Number of Months to Repay	Minimum Monthly Payment
\$1	\$500	12	\$42
\$501	\$1,000	12	\$84
\$1,001	\$1,500	18	\$84
\$1,501	\$2,000	18	\$112
\$2,001	\$2,500	24	\$105
\$2,501	\$3,000	24	\$125
\$3,001	\$3,500	30	\$117
\$3,501	\$4,000	30	\$134
\$4,001	\$4,500	36	\$125
\$4,501	\$5,000	36	\$139
\$5,001	\$5,500	42	\$131
\$5,501	\$6,000	42	\$143
\$6,001	\$6,500	48	\$136
\$6,501	\$7,000	48	\$146
\$7,001	\$7,500	54	\$139
\$7,501	\$8,000	54	\$149
\$8,001	\$8,500	60	\$142
\$8,501	\$9,000 or greater	60	\$150

B. The initial payment and signed repayment agreement must be received within 30 days from the day that the repayment agreement is mailed to the individual's last known address. Subsequent payments are to be paid in monthly installments which commence no later than 30 days after the initial payment is received, and are due thereafter each month until paid in full.

C. An adjustment of the repayment schedule may be granted at the written request of the claimant only if there has been material change in his or her financial condition.

D. Requests to adjust the repayment schedule will only be granted if warranted by the criteria set forth in §369.C, waiver of overpayment recovery, equity and good conscience determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1471-1713.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Employment Security, LR 15:1085 (December 1989), repromulgated LR 17:48 (January 1991), amended by the Workforce Commission, Office of Unemployment Insurance, LR 39:2316 (August 2013), amended by the Workforce Commission, Office of Unemployment Insurance Administration, LR 40:

**Family Impact Statement**

Implementation of the proposed Rule revisions should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on any family formation, stability, and autonomy. The proposed Rule and rule revisions shall not have any impact on the six criteria set forth in R.S. 49:972(d).

**Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

**Small Business Statement**

The proposed Rule's impact on small business has been considered in accordance with R.S. 49:965.6, and it is estimated that the proposed actions will have negligible impact on small businesses as defined in the Regulatory Flexibility Act.

**Public Comments**

All interested parties are invited to submit views, arguments, information, or comments on the proposed Rule and rule revisions to Director, Office of Unemployment Insurance Administration, Louisiana Workforce Commission, P.O. Box 94094, Baton Rouge, LA 70804-9040. Written comments must be submitted and received by the agency within 20 days from the publication of this notice.

**Public Hearing**

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the agency within 20 days of the publication of this notice.

Curt Eysink  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Overpayment Recovery; Civil Penalties**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This rule proposes to amend the Louisiana Administrative Code (LAC) Title 40–Labor and Employment, Part IV, Part 3, Section 371–Overpayment Recovery to clarify the requirements of Act 344 of the 2012 Regular Legislative

Session pertaining to penalties for overpayment. In addition, this rule proposes to correct an error in the repayment schedule and to clarify when the first payment is due.

The Office of Unemployment Insurance Administration does not anticipate the implementation of the amended rule to have a fiscal impact for FY 13-14, FY 14-15, or FY 15-16. The only costs associated with this proposed rule are administrative expenses necessary for the promulgation the rule that is estimated at \$820.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will have no anticipated effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule is not anticipated to have any fiscal impact on persons directly affect or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule is not anticipated to have an impact on competition and employment.

Curt Eysink  
Executive Director  
1402#031

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

# Potpourri

## POTPOURRI

### Department of Natural Resources Office of Conservation

#### Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
McCormick O & G & Crown Central	Wildcat-So LA Houma Dist	L	B Rosenberg & Sons Inc	001	137554
Mclain J. Forman	Wildcat-So LA New Orleans Dist	L	Elizabeth Stow etal	001	112386
S. D. Hunter Trustee	Monroe	M	Allison	002	2740
John W. Thomas	Caddo Pine Island	S	Glassell "A"	004	41920
John W. Thomas	Caddo Pine Island	S	Glassell "A"	005	42544
Alvin Johnson	Caddo Pine Island	S	Leopold	002	52689
Union Sulphur and Oil Corp.	Hackberry, East	L	Mary Doiron	014	29082(30)
Redman Operating Company	Perry Point	L	Bol M RA Sub;Zula Leger	002	177789(30)
Cody Energy, Inc.	Sherburne	L	9000 Stray RA SUA;Mera ux	001	53904
J.V.S. Oil Company	Tullos Urania	M	State Lease 1912	004	72882(30)
Davis Asset Management, Inc.	Sherburne	L	U CKF RA SUA;V J Kurzweg	002	42512(30)
Davis Asset Management, Inc.	Sherburne	L	9250 RA Sua;Kurzweg	006	162229(30)
DRD Operating Company	Grand Cane	L	Turner E	001	168689
DRD Operating Company	Johnson Branch	L	Modean Osburn	001	230699

Operator	Field	District	Well Name	Well Number	Serial Number
DRD Operating Company	Cheniery Creek	L	Hoss B RB Sub; Van Zile	001	232807
Houston Oil & Minerals Corp.	Bayou Des Glaises	L	Wilbert Mineral Corp B	016	48553(30)
Ouachita Development Corp.	Monroe	M	Layton Trust	001	136032
Ouachita Development Corp.	Monroe	M	Wall	001	154068
Ouachita Development Corp.	Monroe	M	Jinks	001	154129
Ouachita Development Corp.	Monroe	M	Wilson	005	156988
Ouachita Development Corp.	Monroe	M	Hill	001	164965
Ouachita Development Corp.	Monroe	M	Hill	002	164966
Ouachita Development Corp.	Monroe	M	W T Lee	001	167748
Ouachita Development Corp.	Monroe	M	Union Power C	003	168762
Ouachita Development Corp.	Monroe	M	Union Power C	004	168763
Ouachita Development Corp.	Monroe	M	Rea Green	001	171020
Ouachita Development Corp.	Monroe	M	Rea Green	002	171021
Ouachita Development Corp.	Monroe	M	Dean	001	171409
Ouachita Development Corp.	Monroe	M	Wilson	001	177278
Ouachita Development Corp.	Monroe	M	Wilson	002	177279
Ouachita Development Corp.	Monroe	M	Wilson	003	177280

Operator	Field	District	Well Name	Well Number	Serial Number
Ouachita Development Corp.	Monroe	M	Wilson	004	177281
Ouachita Development Corp.	Monroe	M	Dean	002	184364

James H. Welsh  
Commissioner

1402#024

**POTPOURRI**

**Department of Natural Resources  
Office of the Secretary  
Fishermen's Gear Compensation Fund**

Underwater Obstruction Latitude/Longitude Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 5 claims in the amount of \$22,923.50

were received for payment during the period January 1, 2014-January 31, 2014

There were 3 paid and 2 denied.

Latitude/Longitude Coordinates, in Degree Decimal Minutes, of reported underwater obstructions are:

29 15.307	89 06.715	Plaquemines
29 18.550	89 51.287	Plaquemines
29 38.758	89 31.957	Plaquemines
29 39.040	92 53.840	Cameron
29 40.634	89 30.394	Saint Bernard

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225)342-9388.

Stephen Chustz  
Secretary

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